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New York State Civil Service Review

For

Tompkins County

Workforce Diversity and Inclusion Committee

~

City and Regional Planning 6311:
Consulting for Nonprofit and Government Organizations

A Project of the CIPA Public Service Exchange

December 2, 2009

OVERALL

EXECUTIVE SUMMARY

AND

MAJOR

RECOMMENDATIONS

EXECUTIVE SUMMARY

CIPA Civil Service Review Project for Tompkins County
December 2009

The Tompkins County Workforce Diversity and Inclusion Committee (WDIC) requested that graduate students in the Cornell Institute for Public Affairs (CIPA) Master of Public Administration program, and enrolled in the CIPA Public Service Exchange, review the current civil service hiring system in New York State to determine the need for reforms.

In the WDIC proposal it stated:

> *In spite of good faith efforts made by local government employers, minorities remain underrepresented in many, and perhaps most, local governments in New York State. While various factors may contribute to low workforce diversity rates, there are concerns that the State's Civil Service Tests are culturally biased and that the "Rule of 3" that governs hiring off a Civil Service list makes it difficult for an employer to consider skills and abilities that cannot be measured by a test score. Even a local government fully committed to a diverse, inclusive workplace often finds itself unable to reach applicants who have passed the relevant Civil Service exam and have strong credentials for the position.*

Given these concerns, the WDIC requested a study to determine if reforms were needed and, if that were the case, the feasibility of a pass/fail pilot in Tompkins County.

The main research questions were:

1) **"Should Tompkins County propose a pilot pass/fail test for hiring civil service employees?"**

2) **"Is a pass/fail test warranted and would such a change increase diversity in hiring?**

Twenty-four students on five teams studied the issue. The teams were:

Current System Team:	Looked at the history and development of the current New York State Civil Service system to assess the development of the current system and the implications associated with the possible alteration of key elements within the system.
Demographics Team:	Analyzed the current composition of the Tompkins County population to assess whether the civil service workforce successfully represents a cross-section of the overall population. Attempted to determine if the public service exam process effectively selects the most qualified candidates for job placement and evaluate the internal and structural rationales that may be inhibiting diversity in civil service positions.

Benchmark Team:	Examined best practices in civil service reform in states other than New York. Compared reforms in neighboring states, high population states, and uniquely reforming states. Each state's reforms were analyzed in terms of reforms implemented, implementation failure, the impetus for reform and the outcomes following reform.
Legal/Political Team:	Assessed the legal and political implications of changing the New York Civil Service exam or the hiring process. The team examined issues such as legal opportunities and challenges, relevant court cases, prospective legal and political allies and opposition, and diversity and meritocracy.
Cost-Benefit Analysis Team:	Conducted a budget analysis to evaluate the costs of future change to the current civil service hiring system. The team also conducted interviews with experts in the field of demographics, the CSEA, and the Tompkins County community.

Major Findings:

- Reforms have been attempted and suggested in the past, including attempts at a pass/fail system which the current Tompkins County WDIC proposed. However, the Commissioner that proposed the system did not take action of the initiative.
- All successful reforms in New York State have been non-legislative, with particular emphasis on decentralization. The inclusion of band scoring as part of the reform is non-legislative.
- The largest and conceivably the most powerful opponent to reform initiatives will be the Civil Service Employee Association (CSEA).
- Most officials within the Department of Civil Service of the State of New York refused to participate in the study. In fact, one team contacted 41 Personnel Directors. Eight of these agreed to participate, but, soon after verbal agreement was achieved and written consent was requested, five rescinded their participation and three have not responded to numerous calls and interview reminders.
- Should Tompkins County desire to conduct a pilot program, it will be necessary to consult with experts in civil service law as applicable to New York State.
- There are minimal differences between the "Rule of Three" and the pass/fail method in the percentage of diverse candidates who would be selected for interviews. (See Demographics Report for details)
- In Tompkins County, there is a large gap between minority applicants that apply for civil service positions and those that take the test.

- The diversity of the applicant pool is not reflected in the workforce.
- The percentage of minority applicants that take the test is only 45% (85% of White applicants take the test).
- Reforms in other states aimed at decentralization of the system allowed agencies greater autonomy in terms of management decisions, such as flexibility in hiring, firing and promotions.
- Decentralized systems in other states were overseen by a central board to keep the process fair and consistent.
- Decentralization in other states expanded the number of people eligible to be hired after taking the exam.
- Successful reforms in other states involved working with all stakeholders (unions, agencies and political parties).
- Three critical obstacles exist for potential reform in New York State: 1) the lack of constituencies advocating for reform; 2) conflicts with concepts such as diversity and inclusion vs. meritocracy; and 3) a widespread perception by powerful groups that one's merits can be captured in a single exam.
- States that implemented radical reforms (Georgia, Texas and Florida) had some successes, but also face issues of favoritism and criticisms regarding cronyism.
- Efforts of Tompkins County to bring changes to the "Rule of Three" have faced legislative hurdles both locally and at the state level.
- Strong local and state support will be needed for the pass/fail system prior to approaching state legislators about the issue.
- Relevant court case findings show that previous attempts to propose a wider range of band scoring failed in New York State. Court cases related to specific positions (firefighters in New York City) might be relevant to specific positions or very specific conditions.
- Many organizations that were assumed to be potential allies declined to be interviewed.
- Definitions of diversity differ widely and concepts of diversity and meritocracy often are at odds.
- Some of the states that were successful at reform do not have the same structure and political climate as New York State.
- Increased recruitment efforts and follow-up strategies such as test taking strategy training may be more effective ways to increase the minority applicant pool than instituting a pass/fail test.

CIPA Civil Service Review Project for Tompkins County
December 2009
Main Recommendations

1. Before attempting to implement a pass/fail pilot or any change to the NYS Civil Service hiring system requiring state approval, build strong coalitions with groups that have the ability to further the issue.

2. Recognize that coalitions will be necessary to counter opposition from strong unions such as CSEA. Consensus bargaining may be a way to address issues of common concern (i.e. inappropriate or ineffective exams, time needed for entire hiring process, testing and provisional hires, etc.).

3. Increase recruitment efforts by presenting civil service career information to high schools, colleges and local job fairs to educate people, particularly younger populations and target populations.

4. Collect exam data that might provide evidence of problems in hiring diverse candidates (i.e. evidence of adverse impact in the hiring process). Understand that attitudes toward increasing diversity and maintaining meritocracy are often debated, with meritocracy winning many of the legal battles.

5. If change could occur at the state or local level, decentralization in the hiring process would provide more flexibility and autonomy and would increase timeliness in the process. To avoid nepotism and cronyism, there should be a central review board to oversee the process and maintain consistency.

6. If a pass/fail system were to be attempted in a broad fashion, the reform is likely to fail. Also, the sweeping reforms of Georgia, Texas and Florida are not likely to succeed in New York State. If a pass/fail system were to be attempted in a limited fashion, a pilot might be possible, especially if it addressed a common concern that the unions and other groups share.

7. If a pass/fail system were attempted, we recommend that the WDIC:

   a. focus on issues other than or in addition to diversity as the impetus for reform,
   b. attempt reform on a limited basis in which pass/fail would apply only to certain conditions (i.e. provisional or temporary hires meeting minimum qualifications who are employed for at least six months and who received above average performance ratings, and
   c. consider the political factors related to reform and the importance of timing. Right now the big issues are healthcare, budget cuts, job security and the economy, two major wars, etc. In a few years, however, a major issue will be the retirement of the Baby Boomers and shortages in all levels of government.

CURRENT

SYSTEM

REPORT

Tompkins County
Workforce Diversity
and Inclusion
Committee

Analysis of the Current Local and State Civil Service System of New York and Tompkins County

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December 2, 2009

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EXECUTIVE

SUMMARY

EXECUTIVE SUMMARY

Although issues with efficacy and efficiency of the New York State Civil Service System have continually been voiced throughout the years, implementing changes to enhance the system and to garner support have been sparse and rather difficult. This report in particular delves into the history and development of the current New York State Civil Service System. Looking through a historical lens, this research initiative aimed to assess the development of the current New York State Civil Service System and the implications associated with the possible alteration of key elements within the system.

Utilizing extensive databases within the State of New York, in addition to the Cornell University and Ivy League Library System, our group researched the growth of the Civil Service System from a spoils system to its current meritocratic state. Particular focus was placed on historical events and previous attempts at reform, leading to the implications of how and why the current system is structured as it is today. Moreover, infusing the commentary of field workers and interested parties, we elaborated on the complexity of the Civil Service issues, especially in the realm of reform.

From our research, our major findings include:

- Reforms have been attempted and suggested before, including attempts at a pass/fail system which the current Tompkins County Workforce Diversity and Inclusion Committee proposed. Specifically, Commissioner Schuler heeded talks on a 1977 measure proposed to alter the NYS Civil Service program to include a pass/fail approach in hiring. However, the Commissioner never proceeded to take action on the initiative.
- All successful reforms have been non-legislative. With the tight and difficult wording and interpretation of the New York State Constitution, all successful reforms have been

outside of the jurisdiction of the Constitution and focused primarily on decentralization. Even the inclusion of band-scoring as part of reform is non-legislative.

- For future reform initiatives, the largest opponent will be the Civil Service Employee Association (CSEA). The CSEA has extensive resources, as well as represents well over 300,000 workers, weighing heavily on any reform attempts to the Civil Service System. Moreover, even within legislative grounds, the CSEA maintains heavy lobbying capacity, which may deter legislation from moving through the government.
- The Department of Civil Service of the State of New York has refused to participate in any part of this study on the current state of the system. With numerous attempts to contact both Department of Civil Service employees as well as local District Personnel Directors, the overwhelming majority declined comment or participation in any part of this study. We contacted 41 Personnel Directors, eight of which agreed to participate in our research. However, five out of eight rescinded their participation, one has not responded to numerous calls and reminders, and only two were able to participate in interviews.
- Should Tompkins County like to move for a pilot program, it will be necessary to consult with experts from the New York State Civil Service Law for the duration of the program. Current New York State Civil Service Law would more than likely not allow a pass/fail pilot program without approval.

Through our research we recommend that the Tompkins County WDIC:

- Before taking further action, conduct further and more extensive research. In particular, research on the professional opinions of personnel directors, executives within the

Department of Civil Service, as well as opinions of current civil service employees must be documented. Extensive surveys with qualitative answer sections would be especially helpful.

- Increase the recruitment effort. To improve diversity, the avenues of recruitment must be enhanced as well as new procedures developed to hold the current agencies accountable.
- Try non-legislative reforms. Research has identified many benefits from such reforms that may be able to offer solutions to the issues with which the Tompkins County WDIC has concerns. The use of non-legislative reforms eliminates the need to obtain approval of a pilot program from New York Civil Service Law experts.
- Find support! CSEA is an extremely powerful and opinionated union very much against any decentralization of civil service reform. Should Tompkins County like to develop a pilot program, support from other local municipalities and interest groups is absolutely necessary.

To further elaborate on both our findings and recommendations, the following report outlines the research and how we came to these conclusions.

INTRODUCTION

INTRODUCTION

Current New York State Civil Service Law, fundamentally unchanged since 1958, has strongly deterred nepotism and cronyism. However, for a number of years, concerns regarding the ability to determine the most capable candidates through the current testing and hiring process have been voiced and currently linger as a topic of discussion amongst Civil Service departments, agents, and interest groups. As the current Civil Service Law stands, Section 61 reads:

> *An appointment or promotion from an eligible list to a position in the competitive class shall be made by the selection of one of the three persons certified by the appropriate civil service commission as standing highest on such eligible list who are willing to accept such appointment or promotion.*

At the request of the Tompkins County Workforce Diversity and Inclusion Committee (WDIC), the Public Service Exchange program of the Cornell Institute for Public Affairs (CIPA) agreed to conduct a study to review the current system and possible alternatives of the current Civil Service selection process. In particular, the research project aimed to understand the complexities of hiring for Civil Service jobs, as concerns regarding the current single facet testing process heeded criticism to its capability of choosing the best overall candidate, especially in considering skills not often quantifiable from standardized tests (e.g. social skills). In order to draw conclusions and form recommendations addressing future possible reforms on the Civil Service system, information was gathered and interviews were conducted during the research process.

This section of the study discusses the history of the New York State Civil Service system. It examines the current system by looking at the testing and hiring processes, past reforms and lingering issues. This particular section primarily focused on the following

questions: How did the New York State Civil Service system evolve? What are the basic selection and testing rules? How is the current Civil Service system achieving its intended goal in evaluating candidates' capabilities? Would changes be necessary in the testing and hiring process to allow for comprehensive evaluation of candidates? Through the research and analysis of these questions, a better understanding of the history and development of the New York State Civil Service system can be determined. In addition, with sufficient understanding on the historical changes and implications of current proposals, proposals on moves to action can be adequately defined. However, we put forth that this analysis was limited by time and resource constraints. The key potential interviewees chose not to participate in interviews. In addition, the time constraints limited opportunity for further research. Given these methodological limitations, further study on this issue must be conducted to form a thorough evaluation of the current Civil Service system.

METHODOLOGY

METHODOLOGY AND LIMITATIONS

To further enhance our team's understanding of the NYS Civil Service system, we embarked on research through a number of different primary and secondary sources. Our research objectives were to provide pertinent background information that led to the establishment of the civil service system; research reform initiatives and analyze what became of them; solicit primary sources, to include personnel directors and members of the CSEA, in an effort to obtain expert opinions; and report on the actual testing and hiring procedures that are presently being employed in NYS. The subsequent research occurred from October to November of 2009. Mentioned further in this report are the correlating limitations we encountered throughout the research process.

Our foremost objective was to research both the history behind NYS Civil Service and past reform initiatives. To accomplish this, we utilized a number of secondary sources to include NYS reports, magazine articles, online catalogs, and books. After we received IRB approval, the team began contacting knowledgeable persons familiar with the Civil Service system in an effort to obtain insight and opinions regarding current operation versus reform. We generated a list of people from two distinct areas; personnel directors from various counties throughout NYS and high-ranking officials in the CSEA.

Our first attempt at contacting personnel directors involved a general email to 12 of the larger counties across NYS in which we stated the purpose of our study and asked if they would be willing to participate. We only received one response via the email attempt. Recognizing that email solicitation may not be the best avenue to make contact, we decided to make phone calls to the personnel departments. We widened our pool to include 41 personnel directors and began making calls. Initially, we received eight "yes" responses. However, since then, five have

elected to rescind their agreement to participate. Furthermore, only two of the remaining three personnel directors were actually able to participate in an interview, leaving us with limited information from this group of professionals.

However, the team has been successful in contacting representatives from the CSEA and has conducted phone interviews. Our team first contacted the CSEA using the phone number provided on the CSEA website. After explaining the research objectives, we were forwarded to the Director of Communications, who participated in a phone interview. As a result of this interview, we were directed to the Director of Research as well.

Our current limitations are primarily in the inability to interview key individuals to further understand the complexity and breadth of the Civil Service reform issue. Whether by workplace pressure or other reasons, we have received numerous denials from potential interviewees. Moreover, there is minimal documentation of pre-1990 legislative reform, as well as failed legislative initiatives. We have looked for this documentation in the NYS Assembly Bill Search. With limited documentation, it has been difficult to correctly follow the movement of legislation once in the House for review, particularly failed legislation. Moreover, historically, we find two "lost" periods of time, 1900-1958 and the 1960s-mid 1970s, where either little action on Civil Service reform was taken or failed to be documented.

LITERATURE REVIEW

History of Civil Service in New York State

Prior to the implementation of the Civil Service system, public employees in New York State were hired through the spoils system of political patronage between 1777 to 1883. Hiring took place via Albany's Council of Appointment until 1821 and later by the Governor's office.[1] After the assassination of President Garfield by a disgruntled postal office job applicant, a new federal law came about to reform the spoils system. As a result of this, in 1883 Governor Cleveland signed into law a bill requiring that tests of merit and fitness be required as qualifiers for appointment to state service in New York State.[2]

In 1890, to eliminate any possible abuses of the appointive power, the State Commission required all appointing officers to appoint the person who placed first on an eligible list. This rule took away any discretion the appointing officer had when making appointments. Ten years later, in 1900, the Court of Appeals ruled in *People ex rel. Balcom v. Mosher*[3] that this restriction of the discretionary power of the appointing officer was unconstitutional. As a result, the Commission amended its rules to provide a choice, establishing the current "rule of three."[4] In 1894, Article V, Section 6 of the New York State Constitution came into effect, providing the basis for which the State Commission implemented a competitive testing program.

> *Appointments and promotions in the civil service of the state and all civil divisions shall be made according to merit and fitness as to be ascertained, as fas as practicable, by examination which, as far as practicable, shall be competitive.*[5]

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[1] Vernon B. Stanton. The Administration of The New York State Civil Service Law 1883-1917, p. 4-5
[2] ibid, p. 14-15
[3] People ex rel. Balcom v. Mosher. 163 N.Y. 23
[4] Vernon B. Stanton. The Administration of The New York State Civil Service Law 1883-1917, p. 88-89
[5] New York State Constitution, Article V, Section 6.

In 1897, Govenor Black enacted a reform through the Black Law which divorced the examining process from the Civil Service Commission and gave it to the appointing officer. The appointing officer had the power to conduct examinations of merit and fitness which had equal weight with those examinations previously conducted by the Civil Service Commission.[6] The bill was controversial and was not adopted as quickly by many dissenting municipalities. When Theodore Roosevelt became Governor of New York, he repealed the Black Law with the White Law of 1899, which returned the examining power in its entirety to the State Commission.[7]

While the "rule-of-three" was not officially part of the New York State Civil Service Law until 1958, it was the common practice when hiring a civil servant after the Court of Appeals decision in *Balcom v. Mosher*[8]. When the "rule-of-three" was placed in the New York State Civil Service Law, it allowed for no possibility of achieving any substantial change to the Civil Service appointments system without additional legislative sessions. Furthermore, politicians have been reluctant to alter this fundamental document, making it even more difficult to enact a change.[9] As shown below, the wording of the Civil Service Law, Section 61, subsection 1 made the "rule-of-three" binding.

> *An appointment or promotion from an eligible list to a position in the competitive class shall be made by the selection of one of the three persons certified by the appropriate civil service commission as standing highest on such eligible list who are willing to accept such appointment or promotion...or may come from any eligible applicant whose final examination rating is equal or higher than the final examination rating of the third highest standing eligible applicant willing to accept such an appointment/promotion.*[10]

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[6] Vernon B. Stanton. The Administration of The New York State Civil Service Law 1883-1917, p. 72-73
[7] ibid, p. 78-79
[8] People ex rel. Balcom v. Mosher. 163 N.Y. 23
[9] Steve Estes, Tompkins County Workforce Diversity and Inclusion Committee. Civil Service in New York State. August, 2008.
[10] The New York State Civil Service Law: Section 61, subsection 1.

Attempted Reforms

Many reforms have been attempted since 1958 when the "rule-of-three" became part of the Civil Service Law. While the initial reasoning for establishing such a rule helped to eliminate cronyism and the spoils system, the result has left the appointing officers with a limited ability to hire who they believe to be the best candidate. It was for this very reason that reforms were suggested in the 1970s. The New York State Personnel Council sponsored a workshop in 1976 on "Improving the Civil Service System," in which it developed a report with 21 recommendations.[11] This report claimed that the fear of returning to a spoils system is moot, as appointing officers are kept in check by unions, interest groups, taxpayers and the press. Furthermore, the report stated the system must be modified so that "dedication, motivation, job interest, past-performance, etc." could be taken into consideration when hiring new employees.[12] However, as mentioned previously, the Civil Service Law requires the use of the "rule-of-three," making reforms toward increased hiring flexibility difficult.

The New York State Personnel Council felt reform was possible because it interpreted the "merit and fitness" requirement much differently, claiming that many state jurisdictions, along with federal jurisdictions, rarely use examinations. According to the Council, exams do not always provide the most capable candidate, and the exams do not help the system to attain Affirmative Action principles.[13] The Council criticized the "rule-of-three," claiming that it makes the false assumption that someone who scores one point above another is more capable of

[11] New York State Personnel Council Report to the President of the New York State Civil Service Commission. An Evaluation of Our Merit System – Twenty-One Recommendations for Change, January 1977.
[12] ibid, pg. 18
[13] ibid, pg. 19

performing a certain job. It then recommended the use of alternatives[14] to the "rule-of-three," such as:

- Block Certification: candidates within a certain block of scores could be considered equally (band scoring)
- Zone Scoring: candidates would be scored in a range, not by a specific individual score
- Rule of the List: all candidates who pass an examination are considered for appointment (pass/fail)

These suggestions were not implemented during the 1970s, though, as discussed later, block certification ("band scoring") was implemented in the late 1980s and mid-1990s. The establishment of a "pass/fail" system was supported by many, including the Commissioner of Education in 1977, the State Education Department, and the New York State Department of Social Services.[15]

The next significant reform attempt came during the 1980s with a movement toward "band scoring" as opposed to the "rule-of-three." This reform was successful; the state and local government Civil Service administrations adopted it. "Band Scoring" is a method of creating an eligible list based on bands of scores in five-grade increments. For example, candidates who scored between 90 and 94 would be considered to have a score of 90, those with scores between 95 and 99 would be considered to have a score of 95, and those with 100's would keep their score as is. This method provides a more practical evaluation of a candidate's performance on a written test because it takes into account that no point-scoring system perfectly measures all

[14] New York State Personnel Council Report to the President of the New York State Civil Service Commission. An Evaluation of Our Merit System – Twenty-One Recommendations for Change, January 1977, pg. 21-23.
[15] Testimony/Statements Re: Public Hearings on Civil Service Reform in New York State. Conducted by NYS Commission on Management and Productivity, NYS Assembly Committee on Governmental Employees, and NYS Senate Committee on Civil Service and Pensions, May 1977.

abilities.[16] Most importantly, "band scoring" allows for more candidates to be considered for appointment.

Unions have typically not supported any reform that allows for the hiring official to have more flexibility. The implementation of "band scoring" was challenged by the Civil Service Employee Association (CSEA) in 1988 during *McGowan v. Burstein*. The CSEA claimed "band scoring" was too broad and allowed for favoritism and subjectivity when hiring.[17] The CSEA strongly supports the "merit and fitness" requirement and has claimed for decades that broadening the definition of the "rule-of-three" is unconstitutional and a step backward toward the "spoils system." Even during the reform movement of 1977, the President of the CSEA spoke against all types of selection reforms at the public hearings on Civil Service Reform in New York, stating "making available to appointing officers a large body of qualified candidates opens the way for political and favored employee appointments."[18] The Court ruled that "band scoring" was not unconstitutional; however the widths of the bands must be reasonable, with bands of five or fewer grades.[19] This method continued to be used, but was not the preferred method of local municipalities until reforms in the 1990s.

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[16] Questions and Answers about Municipal Civil Service Examinations. Department of State, New York. www.dos.state.ny.us

[17] McGowan v. Burstein. 130 AD2D 123 (1988).

[18] Testimony/Statements Re: Public Hearings on Civil Service Reform in New York State. Conducted by NYS Commission on Management and Productivity, NYS Assembly Committee on Governmental Employees, NYS Senate Committee on Civil Service and Pensions, May 1977.

[19] McGowan v. Burstein. 130 AD2D 123 (1988).

FINDINGS

FINDINGS AND ANALYSIS

Past Initiatives

Legislative Reforms

While Civil Service reform has been repeatedly suggested in NYS, the bills that were drafted have not found favor with politicians. Two program bills were drafted during the 1992 legislative session that would have drastically changed the organization behind Civil Service. These bills proposed to merge the Civil Service Commission and the Governor's Office of Employee Relations (GOER).[20] The purpose of the proposal was to merge merit and fitness with personnel management functions in an effort to reduce costs and create a system that would be more responsive to the users. Neither bill was reported out of committee.[21]

Multiple bills were drafted in 1994 and 1995 as well, but most were not reported out of committee. In January of 1994, the NYS Association of Personnel Officers and Civil Service Administrators (APOCSA) proposed legislation to modify the "rule-of-three."[22] The bill was introduced but not reported out of committee. Similarly in March of 1994, APOCSA proposed legislation to modify the "rule-of-three" to a "rule-of-ten" for initial appointments but retain the "rule-of-three" for promotional lists, but this bill also was not reported out of committee.[23] At the same time, the Tompkins County Personnel Department passed resolution #82 in support of the "rule-of-ten."[24] Many supported this proposed expansion of the "rule-of-three," including the NYS Personnel Officers' Association, the New York State Association of Counties, and Tioga

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[20] New York State's Civil Service System: A Time for Change? Conducted by State of New York Office of the State Comptroller Division of Management Audit, November 1994.
[21] ibid.
[22] Wendall Bellamy. New York State Association of Personnel Officers and Civil Service Administrators. Letter to Personnel/Civil Service Official, February 1994. NY Senate Bill 6563.
[23] Wendall Bellamy. New York State Association of Personnel Officers and Civil Service Administrators. Letter to Personnel/Civil Service Official, February 1994. NY Assembly Bill 9675.
[24] Stephen Estes. Tompkins County Personnel Department. Letter to the Municipal Services Division of the NYS Civil Service, November 1994.

and Suffolk County's Department of Personnel.[25] According to Don Kelly, Director of Research at the CSEA, these bills were not passed because the CSEA was able to successfully lobby against any reform.[26]

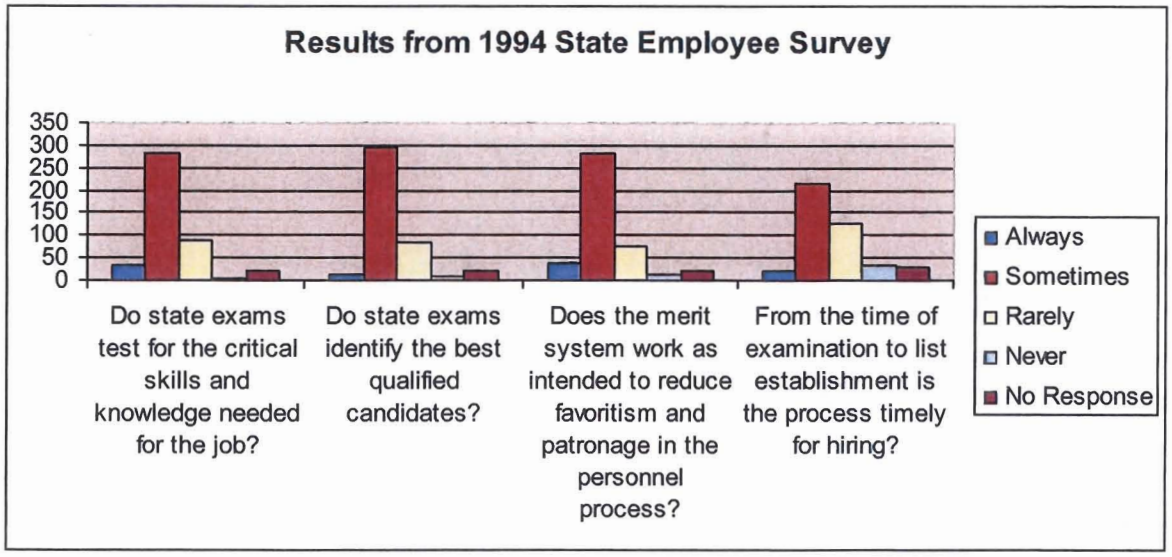
Extensive Civil Service Evaluation of 1994

All of the above mentioned proposals would require some form of legislative reform, making them unlikely to be passed or implemented due to the inherent complications of changing the state Civil Service Law. So even when the counties of NY had a lot of support for reform, the combination of CSEA opposition and the reluctance of politicians to change the Civil Service Law have made it unlikely that significant legislative reform will happen. However, in 1995 a few non-legislative reforms were proposed. In 1994, the NYS Office of the State Comptroller Division of Management Audit produced a report that questioned the NYS Civil Service System. The report proposed a series of non-legislative reforms to alter the Civil Service system.[27] The auditing committee recognized that a legislative change would be much more difficult to obtain than non-legislative proposals. A few non-legislative reforms proposed in this report include the increased use of zone scoring and non-traditional examinations to include such factors as training and experience. Additionally, the auditing committee recommended the decentralization of the testing process. In 1978, the state's central personnel agency organized a task force that conclusively found that the decentralization of the system could improve the candidate selection process and the quality of selected employees.[28] A few expected improvements were more timely exams, more relevant tests, and more manager input in the

[25] Alan Schnieder. Suffolk County Personnel Director. Letter to Anita Fitzpatrick, Commissioner of Personnel Tompkins County, January 1995.
[26] Don Kelly, Director of Research, CSEA, Interview conducted on October 30, 2009.
[27] New York State's Civil Service System: A Time for Change? Conducted by State of New York Office of the State Comptroller Division of Management Audit, November 1994.
[28] ibid.

employee selection process. Furthermore, in an effort to streamline system administration and enhance employee mobility, the report suggested a decrease in the number of job titles and corresponding examinations.[29]

The report documented two different surveys to analyze the NYS Civil Service system. Eight personnel directors from large state agencies were interviewed in an effort to solicit their level of satisfaction with the system. The personnel directors stated that the examination process was inflexible, cumbersome and subject to significant delays, the proliferation of titles limited transferability, and the system was costly in time and money.[30] Additionally, 500 state employees within the classified system were surveyed to determine if the system satisfied their needs. The results of the employee survey indicated that employees did not always feel that the system accomplished the intended purposes in relation to examining, hiring and promoting.[31] This report was influential during Governor Pataki's reform initiatives. Shown below is a sample of questions from the employee survey and their corresponding answers.[32]



[29] New York State's Civil Service System: A Time for Change? Conducted by State of New York Office of the State Comptroller Division of Management Audit, November 1994.
[30] ibid.
[31] ibid.
[32] ibid.

Governor Pataki's Reforms of 1996

The most recent reforms occurred during Governor Pataki's term in 1995. Responding to the unheeded calls and proposals requesting improvement of the Civil Service system in New York State for some 20 years, New York Governor George Pataki took initiative and named Civil Service Commissioner George Sinnott as chair of a task force to look at reform in September 1995.[33] Finally responding to approximately 27 major reports calling for improvements of the New York State Civil Service system, Governor Pataki's task force sought creative ways to improve the entire system to the benefit of state employees, state managers and the tax-paying public.[34] In all, eight initiatives were successfully passed and enacted through Governor Pataki's task force. Specifically, they address the following issues:

- Initiative One: Inter-agency Transfer Legislation

Before this initiative passed in 1996, thousands of productive state employees were laid off during reductions in force. The primary issue was the existing Civil Service Law that barred employees from transferring to other state agencies. In response, Governor Pataki established the Task Force on State Work Force Management and Employee Deployment to lessen the need for layoffs, to maximize redeployment opportunities for state employees during work force reductions, and to save taxpayers' money. The group subsequently passed two bills. One allowed for retirement incentives for state employees, and a second bill provided transfer opportunities to state service workers. Immediate effects were seen. In 1996, the year of the reduction in work

[33] George Pataki. Getting Connected: Extending the Department of Civil Service's Electronic Network to New York State's Municipal Civil Service Agencies. New York State Department of Civil Service, January 2000.
[34] George Sinnott. Civil Service – Bully, Bully. The Chief Leader, November 1996.

force, 7400 employees were cut. However, due in part to the new transfer program, all but 285 were reemployed by 1997.[35]

- Initiative Two: Provisional Reduction

Employees serving in provisional positions, pending successful testing for competitive positions, were causing excessive burden and weight on the Civil Service system. The New York State Constitution and Civil Service Law required that permanent appointment be established within nine months of provisional status, yet some had served for up to 20 years beyond the time allowed due to issues with the testing process. In December 1995, over 5500 State employees were serving provisionally. After improving processing times and using a promotion test battery, both initiatives implemented by the Task Force, the number of provisional employees was reduced to 988 by September 1997.[36]

- Initiative Three: On-time Test Results

Exam results from the State Civil Service Test were lackluster at best. The average time in 1994 to receive results was 150 days.[37] In taking such long periods to assess the tests, qualified candidates often struggled to find other work while awaiting the results. Moreover, the lack of efficiency in the assessment process hindered smooth operation of agency programs. New procedures in assessing the tests allowed for more than two-fold improvement in time, as well as the institutionalization of personal computer-based tests that allowed instantaneous results.

- Initiative Four: Innovative Promotion Testing

New York State required state employees wishing to be promoted to complete a competitive examination for the openings. A statute required that for promotions, title-by-title

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[35] George Pataki. Getting Connected: Extending the Department of Civil Service's Electronic Network to New York State's Municipal Civil Service Agencies. New York State Department of Civil Service, January 2000.
[36] George Sinnott. Civil Service – Bully, Bully. The Chief Leader, November 1996.
[37] George Pataki. Getting Connected: Extending the Department of Civil Service's Electronic Network to New York State's Municipal Civil Service Agencies. New York State Department of Civil Service, January 2000.

testing was required; this proved to be labor-intensive, expensive, slow and backlogged. Employees were discouraged by the slow response times and failed to optimize chances for advancement in their careers. In response, the task force established grouped-level testing, eradicating many issues such as inconsistent titles, as well as allowing scores to be valid for ten years. Moreover, eligibility lists, annual promotion testing, and test standardization for like positions, in addition to the previously mentioned Promotion Test Batteries, allowed a smooth transition and eliminated most backlog and logistical problems in the system.[38]

- Initiative Five: Title Reduction

As previously mentioned, the New York State Civil Service system had too many titles in the state's structure. Each title required a different test, though tasks may be similar, and hindered timely testing and career mobility. More importantly, the structure cost taxpayers a large sum of money. The Task Force set out to eradicate excessive titles and consolidated approximately 2,000 titles by the year 2000.[39]

- Initiative Six: Customer Service

The Civil Service System lacked customer service. There was no functioning and easily accessible website or electronically transmitted notifications or forms. Exam scores were inaccessible and slow. The Task Force succeeded in establishing an easily accessible website and computer-based testing.

- Initiative Seven: Enhanced Hiring Flexibility

Battling the "rule-of-three," Governor Pataki's Task Force tackled the point-by-point scoring method by moving with the department to a broader "band scoring" for all state Civil Service tests. This resulted in more flexibility in the hiring process, allowing for a larger group of

[38] New York Governor's Task Force on the New York State Civil Service System. Quality Standards, Innovative Applications: Award Winning Performance from New York State's New Civil Service, January 1999.
[39] George Sinnott. Civil Service – Bully, Bully. The Chief Leader, November 1996.

candidates to be actively considered.[40] While "band scoring" was in place prior to Pataki's initiatives, his reforms allowed "band scoring" to become the norm when establishing an eligible list.

- Initiative Eight: Attracting New Talent

Even as early as 1995, the New York State Civil Service system needed measures to attract creative talent. The institution lacked attractive internship programs and public management opportunities for young individuals interested in public administration. As such, Pataki's Task Force incorporated divisions such as environmental sciences and criminal justice services to attract talented leadership internships and re-established the Public Management Internship Program that was affiliated with the Rockefeller Institute of Government.[41]

These initiatives were recognized with numerous awards for redeveloping the Department of Civil Service, including the 1998 Roundtable Public Service Excellence Award. However, though Pataki's initiatives did bring about a change in the New York State Civil Service system, the proceeding years continued to yield complaints and grievances of inadequacies in the Civil Service system.

Current State of Affairs

Current Testing and Hiring Process

The process of testing and hiring Civil Service employees can be complicated and time consuming for all parties involved. There have been reforms to increase the timeliness of the test scoring and eligible list preparation, which have been discussed previously. However, this section will examine the current testing and hiring processes being used by municipalities and NY state agencies.

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[40] New York Governor's Task Force on the New York State Civil Service System. Quality Standards, Innovative Applications: Award Winning Performance from New York State's New Civil Service, January 1999.
[41] ibid.

Typically, when a Civil Service position becomes available, the Department of Civil Service determines a list of required duties and tasks for that position. The Civil Service staff then meets with the local agency staff to decide which type of examination will be used. The test is then publicly announced and recruitment begins. The announcement is usually published approximately nine weeks prior to the test. The announcement is a valuable resource for candidates because it provides important information like the job title, salary, working location, type of test, system of rating, and minimum educational/experience requirements. The position is advertised in numerous locations, such as the library, local newspapers and county website. [42]

A candidate must first apply to take the test. The application is typically due one month prior to the examination. Candidates must mail their application forms and filing fees (if required) to Albany, NY. Generally, a candidate does not need to be a U.S. citizen to apply for a Civil Service position in New York. After the application is received, there is a process to determine approval or rejection of an application based on whether the candidate meets the minimum qualifications. The candidate is then informed of the decision approximately ten days prior to the examination.[43]

The frequency of exams is dependent on the nature of the position. For some positions, exams are held periodically; for example once a year. Other exams may be held through a system of continuous recruitment, which means applicants are accepted on a rolling basis with no strict deadlines. In addition, there is a difference between assembled and unassembled examinations. If a test is assembled, candidates gather together at the same place and time to take the test. Unassembled positions have no test at all; candidates can be rated based on their qualifications, experience, or some other merit. Similarly, the type of exam used is also determined by the

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[42] Getting a Job with New York States, New York Department of Civil Service. Governor David Paterson.
[43] ibid.

nature of the position. Frequent formats used are written multiple-choice, essay or simulation, oral test and performance tests which are usually conducted on a computer. In New York, Civil Service exams are often held at local schools or colleges, administered by state-appointed monitors. Oral exams are usually conducted in Albany or New York City.[44]

After the tests are administered, exam materials are shipped to the Civil Service Department in Albany to be processed. Tests are analyzed and graded without the names of the candidates. Final scores are determined, an eligible list is created and the list is sent to the local agency. Candidates typically are informed of their final score via email within 60 days. This process may take longer if there are several thousand applicants or if the test is open to review and appeal.[45]Additionally, a process of "content and construct validation" is conducted to determine if each question on an exam is valid.[46] For example, if 90 percent of the test-takers answered "D" when the correct answer was "A," the question will be eliminated. Processes such as these may delay the final results being sent.

After the eligible list is created and delivered to the local agency, a canvass letter is sent to the top-ranking candidates to determine who is still interested in interviewing. After the interview process the final selection and appointment are made. The new employee must then serve a probationary term of approximately 26-52 weeks. During this process, the employee is evaluated by the supervisor on performance.[47]

Lingering Issues

At both the state and local levels, lingering issues such as limited selection of candidates, even with the broad "band scoring" initiative, continue. Additionally, the ability of local groups

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[44] Getting a Job with New York States, New York Department of Civil Service. Governor David Paterson.
[45] ibid.
[46] John Garvey, HR Director of Ontario County. Interview conducted on October 31, 2009.
[47] Getting a Job with New York States, New York Department of Civil Service. Governor David Paterson.

to attract diverse groups within the realm of Civil Service remains a topic of debate. Furthermore, the Baby-Boomer Generation disproportionately remains the majority of civil servants and as they approach retirement age, the issues of adequate knowledge transfer and staff shortages are ever present.[48]

The New York State workforce is divided into two categories: classified and unclassified. The unclassified category includes elected officials, heads of departments, offices filled by appointment or elections, appointees to the Governor, legislative officers and employees, officers, members, and employees of the Board of Elections, teachers and supervisory personnel in public schools. The classified system includes all other positions within the NYS system and pertains to the information below.[49]

A large subject of concern is the pipeline problem, which refers to the aging of the Baby-Boomer Generation. As of January 2009, 61% of the workforce was over the age of 45, whereas only 14% of the workforce was under 35. In a typical workforce dynamic, it is expected that a pool of eligible candidates would exist to replace the retiring Baby Boomers. However, it takes time and experience to be promoted under the present Civil Service system. Furthermore, the average age of new hires in 2008 was 38.2 years old. This indicates that agencies are no longer hiring people right out of school, which is a contributing factor to the pipeline problem. The Department of Civil Service has taken measures to combat the pipeline problem to include succession planning.[50]

Keeping all of these lingering issues in mind, groups such as the Tompkins County Workforce Diversity and Inclusion Committee have proposed pilot programs to issue reform on the Civil Service process, including propositions of changes to a "pass-fail" approach for testing.

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[48] New York State Workforce Management Report, May 2009.
[49] ibid.
[50] ibid.

This is not the first time a pilot program has been suggested. Commissioner Raymond Schuler spoke at the 1977 hearings on New York State Civil Service Reforms in support of pilot programs to determine whether or not recommendations will work better than the current system.[51] While Pataki's reforms were very successful, there are still concerns over the hiring process. Groups that believe in increased hiring flexibility, such as the Tompkins County Diversity and Inclusion Committee, are willing to be a pilot program for a "pass/fail" system. With persisting complaints about the Civil Service in New York State (unions being the exception), it seems the general sentiment continues to be,

> *The time has come to seriously consider the viability of alternative methods of selection which could be used in the New York State civil service system, methods which would support the principles of merit and fitness while injecting management flexibility, and add to, rather than subtract from, the original intentions, goals and purposes of a civil service system.*[52]

In addition, the New York State Department of Civil Service 2009 Study suggests that while the acceptance and institution of Governor Pataki's reforms in 1996 have indeed increased efficiency in the Department, the overall effect is marginal as backlogs of candidates continue. Similarly, lingering issues, such as excessive testing time, are causing interest groups to demand reform.

Future Considerations

While there are many supporters of reforming New York's Civil Service system, there are also those who vehemently oppose reform. An important example of this occurred in 1988 when the New York Court of Appeals ruled that band-scoring is constitutional. In *McGowan v.*

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[51] Testimony/Statements Re: Public Hearings on Civil Service Reform in New York State. Conducted by NYS Commission on Management and Productivity, NYS Assembly Committee on Governmental Employees, and NYS Senate Committee on Civil Service and Pensions, May 1977.

[52] The Selection Process: Problems and Alternatives in Eligible List Certification. New York State Commission on Management and Productivity in the Public Sector, August 1978.

Burstein, the constitutionality of band-scoring was challenged by the Civil Service Employee Association (CSEA) when agencies began using band-scoring with increments of 10. The CSEA's stance was that the agency's interpretation of band-scoring (70-80, 80-90, 90-100) put into effect a pseudo pass/fail system. The courts agreed with the CSEA on this point and ruled that the band widths must be reasonable.[53] This ambiguous term of band-scoring has been consistently interpreted to mean five or fewer grades within one band.

The message of *McGowan v. Burstein* was that the "rule-of-three" is binding. As mentioned previously, the "rule-of-three" is established in the Civil Service Law, Section 61, subsection 1. Any major reforms to the "rule-of-three," such as implementing a pass/fail system, would likely require the calling of additional legislative sessions and perhaps even a constitutional convention. The reason for this is because the New York Constitution requires public employees to be hired based on merit and fitness through the process of examination where applicable. The interpretation has been that a pass/fail system would not properly assess merit and fitness when hiring. In order to implement a true pass/fail system, the wording of the Constitution may have to be changed, which most politicians have been reluctant to do.[54]

Furthermore, the CSEA has a huge voice in the New York State Legislature. Whenever a bill to reform the "rule-of-three" has been proposed, the CSEA has lobbied enough to convince legislators to vote against reform.[55] The CSEA fears that band-scoring and other reforms to broaden the flexibility of hiring officials allows for favoritism and subjectivity when hiring. The CSEA continues to feel that the broadening of the "rule-of-three" is unconstitutional and a step

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[53] McGowan v. Burstein. 130 AD2D 123 (1988).
[54] Stephen Estes, Tompkins County Workforce Diversity and Inclusion Committee. Civil Service in New York State. August, 2008.
[55] Don Kelly, Deputy Director for Contract Administration for Research, CSEA. Interview conducted on October 30, 2009.

backward toward the "spoils system."[56] During an interview with the Director of Communications at the CSEA, Stephen Madarasz spoke about his concerns regarding a pass/fail system, taking the same position that any reform giving the hiring official more flexibility when hiring would be a return to cronyism.[57] With approximately 300,000 employees being represented by the CSEA, their voice is loud in the reform debate, making reform difficult to be accepted.[58]

[56] Stephen Madarasz, Director of Communications, CSEA. Interview conducted on October 27, 2009.
[57] Stephen Madarasz, Director of Communications, CSEA. Interview conducted on October 27, 2009.
[58] ibid.

CONCLUSIONS

AND

RECOMMENDATIONS

CONCLUSIONS AND RECOMMENDATIONS

- Further research must be conducted before any actions are taken. Due to the limitations mentioned previously, the professional opinions of personnel directors and members of the Civil Service Commission were difficult to obtain. Inquiries should be made as to why certain professionals in the field were so adamant against speaking with members of our team and further probing as to their thoughts on the Civil Service system needs to occur. Past evidence has supported the assertion that many counties had serious complaints regarding the Civil Service system. It would be conducive to investigate if the same issues exist or if unidentified solutions have mitigated them. This process will better inform the Tompkins County WDIC as to whom they can rely on for support should their ideas for reform be proposed to the State at some future date. For example, Tioga County has affirmed that numerous criticisms of the Civil Service system continue to exist.[59] Bethany O'Rourke, Personnel Director of Tioga County, listed many similar complaints as Tompkins County regarding the overall NYS Civil Service system.[60] This furthers the need for additional research to be conducted.

- The efforts being made to recruit new and diverse talent needs to be increased. To improve diversity, the avenues of recruitment must be enhanced as well as new procedures developed to hold the current agencies accountable. More agencies need to be distributors of civil service job availabilities in more localities and areas of access. Examples may be the addition of recruitment at all college campuses in Tompkins County and information seminars at the local high schools to jumpstart interest at an

[59] Bethany O'Rourke, Personnel Officer of Tioga County. Interview conducted on November 12, 2009.
[60] Ibid.

earlier age. Similarly, Tompkins County must actively follow up with distribution providers to ensure timely and accurate representation of new civil service jobs. Tompkins County could consider recruiting in magazines, community announcements, at speaking events, career fairs, and special interest group meetings. These suggestions are currently being used in Ontario County.[61] However, it should be noted that Ontario County has a much larger HR staff to help with recruitment efforts, which may be a limitation for Tompkins County.[62]

- Research the gains that can be achieved through non-legislative reforms. As indicated in the findings, many benefits were identified that would arise from the passage of non-legislative reforms. Equally important is the fact that non-legislative reforms do not require a legislative change. Research provides reason to believe that it will be more difficult to garner support for proposals concerning legislative changes, such as a pass/fail system. An example of a non-legislative reform would involve offering more local exams. This would allow grading to become local and could offer a solution to combat the current response-time issue. Similarly, revamping the Tompkins County website to be more attractive and user friendly would make it far more accessible to the general public.

- Finding additional support is critical. As highlighted in this report, the CSEA is strongly opposed to any changes regarding the Civil Service system. This union has a strong presence, both in numbers and political clout and it will make a formidable opponent

[61] John Garvey, HR Director of Ontario County. Interview conducted on October 31, 2009.
[62] Ibid.

should the Tompkins County WDIC propose a pass/fail system. Having the support of other counties throughout NYS as well as appropriate special interest groups will certainly behoove the Tompkins County WDIC.

REFERENCES

REFERENCES

Alan Schnieder. Suffolk County Personnel Director. Letter to Anita Fitzpatrick, Commissioner of Personnel Tompkins County, January 1995.

Bethan O'Rourke, Personnel Officer of Tioga County. Interview conducted on November 12, 2009.

Culhane, Thomas J. "The Selection Process: Problems and Alternatives in Eligible List Certification." 1978.

Department of Civil Service. "New York State's Civil Service System: A Time for Change?" 1994.

Don Kelly, Director of Research, CSEA, Interview conducted on October 30, 2009.

Getting a Job with New York State, New York Department of Civil Service. Governor David Paterson.

John Garvey, HR Director of Ontario County. Interview conducted on October 31, 2009.

McGowan v. Burstein. 130 AD2D 123 (1988).

New York Governor's Task Force on the New York State Civil Service System. "Quality Standards. Innovative Applications: Award Winning Performance from New York State's New Civil Service." 1999.

New York State Civil Service Law: Section 61, subsection 1

New York State Constitution, Article V, Section 6.

New York State Department of Civil Service. "Getting Connected: Extending the Department of Civil Service's Electronic Network to New York State's Municipal Civil Service Agencies." Albany, NY, 2000.

New York State Legislative Gazette. "Bring in the best with the Rule of 10." 1995.

New York State Personnel Council. "An Evaluation of Our Merit System – Twenty-One Recommendations for Change." Report to the President of the New York State Civil Service Commission, January 1977.

New York State Workforce Management Report, May 2009.

NYS Commission on Management & Productivity et al. "Testimony/Statements Re: Public Hearings on Civil Service Reform in New York State." May 2-3, 1977.

People ex rel. Balcom v. Mosher. 163 N.Y. 23

Questions and Answers about Municipal Civil Service Examinations. Department of State, New York. www.dos.state.ny.us

State of New York Office of the State Comptroller Division of Management Audit. "Civil Service – Bully, Bully." *1996*

Stephen Estes. Tompkins County Personnel Department. Letter to the Municipal Services Division of the NYS Civil Service, November 1994.

Stephen Estes, Tompkins County Workforce Diversity and Inclusion Committee. Civil Service in New York State. August, 2008.

Stephen Madarasz, Director of Communications, CSEA. Interview conducted on October 27, 2009.

Vernon B. Stanton. The Administration of The New York State Civil Service Law 1883-1917.

Wendall Bellamy. New York State Association of Personnel Officers and Civil Service Administrators. Letter to Personnel/Civil Service Official, February 1994. NY Senate Bill 6563 and NY Assembly Bill 9675.

APPENDICES

DEMOGRAPHICS

REPORT

CIPA PUBLIC SERVICE EXCHANGE

Civil Service Review Project

Final Report

Demographic Analysis Team

Melissa Minto, Jeremy Pevner, Bikash Rai, Diego Rios Zertuche, Tomomi Tagawa

12/2/2009

CRP 6311: Consulting for Nonprofit and Government Organizations

EXECUTIVE

SUMMARY

Executive Summary

This study analyzes the current composition of the Tompkins County population to assess whether the civil service workforce successfully represents a cross-section of the overall population. The main objective is to determine if the civil service system effectively selects the most qualified candidates for job placement and to evaluate internal and structural rationales that may be inhibiting diversity in New York State public service.

The New York State Constitution mandates that the civil service hire and promote qualified employees based on principles of merit and fitness. The current system requires that all applicants pass through an examination process that evaluates their capabilities, skills and relevant knowledge that is needed to successfully achieve the duties of a given job. This system, however, has been scrutinized as a restrictive and inflexible process that has hindered advancements in workforce diversity throughout Tompkins County, New York. The current policy requires that in order to enter the interview process, an applicant must receive one of the top three test scores for the specific exam. This "Rule of Three" is the determining factor that allows an applicant a chance to enter the civil service. The civil service exam requirements are thought to be a serious barrier into public sector jobs, especially for minority groups, which have greatly influenced the demographic make-up of the Tompkins County Civil Service workforce.

Demographic data and relevant literature are used to further investigate the current trends across the county as well as to evaluate the underlying societal barriers that may be contributing to a lack of workforce diversity in Tompkins County. This analysis seeks to understand the demographic trends of the civil service recruitment and application process in order to determine if the implementation of a Pass/Fail approach would improve the rates of diversity in the workforce.

Primary Findings

The major findings of this report are:

Finding 1: There are minimal differences between the "Rule of Three" and the Pass/Fail method in the percentage of diverse candidates who are selected for interviews

- Implementation of a Pass/Fail approach seems unlikely to increase workforce diversity
- Pass/Fail method would permit more test takers through to the interview process
- Interviewees from the Pass/Fail approach are unlikely to be more diverse

Finding 2: The diversity of the applicant pool is not reflected in the workforce

- Many applicants do not make it to the test
- Of all test-takers, African Americans are the least likely to pass the test
- The data are inconclusive as to whether or not the exam is the limiting factor

Finding 3: The percentage of minority applicants that take the test is only 45%

- In comparison, 85% of White applicants take the test
- Barriers may exist that influence the test-taking rates of minority groups

Recommendations

Recommendation 1: Further study is needed

- Additional demographic data would provide more reliable results
- Focus groups and surveys would help explain low application and test rates

Recommendation 2: Develop a strong minority recruitment program

- Recruitment must focus on increasing the diversity of the applicant pool
- Strengthen and develop new recruitment efforts at the high school and college level
- Promote the civil service through intensive educational outreach in minority communities

Recommendation 3: Use an alternative justification for the Pass/Fail pilot other than diversity

- The results do not support diversity as a reason for implementation
- Pass/Fail approach disproportionately increases the number of White candidates interviewed

This report highlights these findings and recommendations with a detailed analysis of the current demographic situation of Tompkins County. The Results and Analysis section describes the trends in workforce diversity by categories of race, gender and age. The results presented illustrate the differences in hiring for both the "Rule of Three" and Pass/Fail approaches, shedding light on the fact that there would be minimal differences in hiring a more diverse workforce if the Pass/Fail approach were to be implemented. The Literature Review addresses the main societal barriers that might be limiting diversity within the civil service workforce, and that may be significantly hindering the application rates of minority groups. These factors present critical obstacles to creating a fully diverse workforce. This report seeks to clarify and understand the underlying issues that may be influencing the rates of diversity throughout the Tompkins County Civil Service workforce.

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INTRODUCTION

Within the civil service, the minimum qualification for administrative positions is a high school diploma. The American Fact Finder shows that the proportion of minorities who are high school graduates is about 30 percent less than the proportion of the existing minority population in Tompkins County.[22]

Geographic Diversity

The geographic distribution of minorities in the United States may be an important determinant of representation in the workforce. According to Grofmand and Handley, for example, the difference in geographic distribution among African Americans was the most important factor to explain the election of an African-American congressional candidate.[23] The same issue has been noted by other authors for Latino populations in which representation may be affected by the relative size of the population.[24] This, however, does not necessarily reflect discrimination, but an increased probability of minority participation in the election. It is reasonable to believe that the relative size of minority groups would have a similar effect on workforce representation. Considering all things equal, such as income and education, the higher the share of a minority in the population, it would be expected to see a higher representation in the workforce. Nevertheless, minorities are not distributed equally throughout the country, with large variations existing within regions. In 1990, Whites represented about three-quarters of the overall population, but only 72% in the South and as much as 83% in the North, whilst as low as 67% in the West. In metropolitan areas with populations higher than one million, White

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[22] U.S. Census Bureau. *Data Set: 2005-2007 American Community Survey 3-Year Estimates in Tompkins County, New York*, http://factfinder.census.gov/servlet/STTable?_bm=y&context=st&-qr_name=ACS_2007_3YR_G00_S1501&ds_name=ACS_2007_3YR_G00_&tree_id=3307&redoLog=true&-_caller=geoselect&-geo_id=05000US36109&-format=&_lang=en (accessed October 15, 2009).

[23] Bernard Grofman and Lisa Handley. "Black representation: making sense of electoral geography at different levels of government." *Legislative Studies Quarterly*, vol. 14, no. 2 (1989); 269.

[24] John D, Griffin and Brian Newman. The unequal representation of Latinos and Whites. Prepared for the Annual Meeting of the Midwest Political Science Association (2005): 6.

populations represented only 63% of the total populations in contrast to 96% in nonmetropolitan areas in the North.[25] The three largest minority groups (African Americans, Latinos, and Asians) are concentrated in metropolitan areas.[26] In broader terms, these patterns are similar for 2000, with the non-Latino White population representing up to 70% of the population.[27]

The dynamic process of internal and international migration continues to be a relevant factor in addressing the differences in population distribution. Latinos tend to be concentrated in Southern metropolitan areas that are also the main destinations for Mexican immigrants. Asian immigrants are usually more educated and skilled and are concentrated in larger metropolitan areas in all regions. African Americans are migrating from the Northeast and Midwest to large metropolitan areas in the South, as well as moving to the West.[28] This trend represents the integration of more middle class, college-educated African Americans who migrate looking for professional opportunities in Southern metropolitan areas.[29] The issue of migration is especially relevant for New York State: in the period between 1995 and 2000, 874,248 people migrated to other states without counterparts replacing them.[30]

Literature on migration indicates that different demographic characteristics play an important role in the individual's decision to migrate, such as age, education and race. Potential migrants would probably be younger, because of having less family ties and job security. In addition, studies show that the decision to migrate in non-white populations would be influenced

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[25] William Frey and Elaine Fielding. "Changing urban populations: regional restructuring, racial polarization, and poverty concentration." *Cityscape: A Journal of Policy Development and Research*1, no. 2 (1995):9. http://www.huduser.org/periodicals/cityscape/vol1num2/ch1.pdf (accessed October 20, 2009).
[26] Ibid., 11.
[27] U.S. Census Bureau. *Census 2000 Brief: The White Population 2000.* (Washington, DC: GPO, 2001): 8.
[28] Frey and Fielding, 1.
[29] William H. Frey, Bill Abresch, and Jonathan Yeasting. *A field guide to the U.S. population: america by the numbers* (New York: The New Press, 2001): 40.
[30] U.S. Census Bureau. *Census 2000 special reports: domestic migration across regions, divisions and states: 1995-2000.* (Washington, DC: GPO, 2003): 4.

more by income opportunities rather than available job offers.[31] Increased education also may make individuals more apt to migrate because people may have fewer attachments to family and tradition and have a larger outlook of opportunities.[32] As a result, better educated members of minority groups may follow the migration trend for better opportunities in metropolitan areas.

Socioeconomic Barriers

In addition to institutional, educational, and geographic barriers, disparities between income and socioeconomic status among minority groups may be limiting their access to higher positions in the workforce. In 1990, the household median income of African-American communities was only 58% of the income of Caucasian populations. The median income in Latino populations was slightly higher at 69% and Asians performed better than other non-white minorities with a median income of 118%.[33] Poverty rates for African American populations, at 25%, are only lower than Native American populations. Non-Hispanic Whites, on the contrary, had poverty rates lower than 8.1%.[34] These socioeconomic barriers have traditionally constrained minorities to clerical positions. African-Americans and Latinos are over-represented in blue collar positions and under-represented in professional, administrative, and technical job categories. It is therefore expected to observe a relationship between the percentage of clerical and blue-collar jobs in an organization and the shares of minority participation. Inversely, when

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[31] U.S. Census Bureau. *Census 2000 special reports: domestic migration across regions, divisions and states: 1995-2000.* (Washington, DC: GPO, 2003): 4.
[32] Michael J. Greenwood. "Research on Internal Migration in the United States: A Survey." *Journal of Economic Literature* 13, no. 2 (1975): 406.
[33] Frey and Fielding, 4.
[34] U.S. Census Bureau. 2003. *Census 2000 brief: poverty: 1999.* (Washington, DC: GPO, 2003): 5.

observing higher percentages of professional, administrative, and technical occupations more variation should be expected.[35]

As with clerical jobs, it might be more challenging for people living with less funding to become public sector employees. Application fees for the Civil Service Exam may prove to be a constraint to applicants as they enter the hiring process.[36] Positions such as keyboard specialist and associates in nursing education require non-refundable processing fees of $25 and $45, respectively.[37] There also may be educational expenses in order to nurture academic and professional experiences which may be requirements for some positions. These costs may be a greater obstacle to face for low-income residents.

In order to support low-income residents, Tompkins County provides Workforce Investment Act (WIA) funding, guaranteeing individualized training services for residents who meet specific low-income and other criteria.[38] Furthermore, PACE (Public Assistance Comprehensive Employment), STEPS (Support Training and Education for Placement Success), and other supporting programs also expand the academic and employment opportunities to low-income families and individuals.[39] These programs have empowered low-income individuals to become eligible for their desired civil service positions, but the efforts have not yet affected the number of workers employed in Tompkins County public administration.[40] In 2000, 2.6% of the workforce was in public administration, which is the smallest of all New York Counties.[41]

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[35] Christopher Cornwell and Edward J. Kellough. "Women and minorities in federal government agencies: examining new evidence from panel data." *Public Administration Review* 54, no. 3 (1994): 266.
[36] Tompkins County Personnel. *The Civil Service Rules for Tompkins County.* (Ithaca: GPO, 2008): 6.
[37] New York State Department of Civil Service. "Scheduled examinations open to all qualified individuals, http://www.cs.state.ny.us/examannouncements/types/oc/ (accessed October 16, 2009).
[38] Tompkins Workforce New York. "Pre-employment Questions." http://tompkinsworkforceny.org/faqs.html. (accessed October 20, 2009).
[39] Ibid.
[40] Paul R. Eberts and Kris Merschrod. *Socioeconomic trends and well-being indicators in New York State, 1950-2000.* (Albany, NY: NYS Legislative Commission on Rural Resources, 2004): 82.
[41] Ibid.

Considering these results, Eberts and Merschrod found it interesting because counties having large facilities (including colleges and universities) within their borders usually have higher percentages employed in public administration than those that have only regional offices.[42]

Another socioeconomic barrier is the high cost of living throughout the county. Living expenses generally include costs of housing, utilities, property taxes, transportation, and food. Compared with New York City, the cost of living is moderate.[43] Yet, Tompkins is a rapidly growing county and housing and other property costs and school taxes have been constantly increasing with respect to the demographic growth.[44] An increase in the cost of living will be more difficult for low-income families and individuals to cope with.

The recent economic crisis is becoming another obstacle for entering the candidate pool in the public sector. Similar to the global economic phenomena, the recession has affected local unemployment rates and belt-tightening by employers, including local governments. The Quarterly Indicators Report, submitted in April 2009, reasserts that "The deepening recession is eroding [Tompkins] County, particularly in projected State Aid, sales taxes, and investment earnings."[45] Even such earnest effort has not markedly affected its expenditure growth.[46] Peter A. Neenan, Director of the Division of Research and Statistics, suggests that the recession will not greatly affect the hiring and firing behavior of employers in New York State, compared with the nationwide average.[47] Nevertheless, the statewide service work count, including both public

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[42] Paul R. Eberts and Kris Merschrod. *Socioeconomic Trends and Well-Being Indicators in New York State, 1950-2000.* (Albany, NY: NYS Legislative Commission on Rural Resources, 2004); 82.
[43] Ibid., 35.
[44] Jake McNamara. "Job Numbers Growing." *Ithaca Times,* December 2005, 14: 3.
[45] Tompkins County Legislature. "Approved Minutes of Government Performance and Workforce Relations Committee." April 10, 2009, http://tompkins-co.org/legislature/committee/govoper/4-10-09/pdf (accessed October 20, 2009).
[46] Ibid.
[47] New York State Department of Labor. "New York State loses 18, 300 private sector jobs in September." October 15, 2009. http://www.labor.state.ny.us/pressreleases/2009/October15_2009.html (accessed October 20, 2009).

and private, decreased between August and September by 0.9% (81,700 people).[48] The public sector job count also decreased over the same months (August and September 2009) due to reductions at the local government level related to the end of the summer youth employment program.[49]

Defining Diversity

One of the primary difficulties throughout this project is the many different definitions of diversity found throughout the literature and the field of human resources. Each company, organization, and government agency has a slightly different definition of diversity. These differences can have a great affect on the reliability of the analysis and subsequent findings.

The concept of workforce diversity is a relatively recent phenomenon in American employment. In fact, prior to the enactment of Title VII, there is no reference to employment diversity at all. One source, written in 1948, references diversity in negative tones, mentioning how "there is an unfortunate tendency to abolish age requirements."[50] The source goes even further, including real application forms from state civil service commissions that request that a jobseeker identify as "White/Oriental/Col.,"[51] labels that today would be inappropriate.

In modern sources the wide array of definitions for diversity can be observed in employment literature. The problem, then, becomes identifying which definition to use in our study.

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[48] New York State Department of Labor. "New York State loses 18, 300 private sector jobs in September." October 15, 2009. http://www.labor.state.ny.us/pressreleases/2009/October15_2009.html (accessed October 20, 2009).
[49] Ibid.
[50] Civil Service Assembly of the United States and Canada, *Recruiting Applicants for the Public Service.* (Chicago: 1942): 116.
[51] Ibid., 189.

Under Title VII of the Civil Rights Act of 1964 (Title VII), employers are forbidden from discriminating based on race, color, religion, sex, or national origin.[52] In the literature, however, it is clear that most of the demographic information falls along the lines of race and gender.[53] In looking at the Equal Employment Opportunity Commission (EEOC) requirements for reporting employment data, the EEO-100, the standard form required of organizations, requires a breakdown of the number of male and female employees who fall under the following categories: "White (not of Hispanic origin)," "Black (not of Hispanic origin)," "Hispanic," "Asian or Pacific Islander," and "American Indian or Alaskan Native."[54]

Changes in the way that group identification is captured and registered in public records, especially in the U.S. Census, have an important impact for describing diversity. Codification changes of race or ethnic identity, altering questions and changing who answers the query, will modify results. For example, if a person identifies as White Latino, he may choose Latino if given only one choice, which would reduce the number of White people; this same person would be classified as White by an interviewer, decreasing the number of Latinos.

The impact of similar changes can be exemplified by the growth of the Native American population after 1960. This year was the first time in the U.S. Census where respondents selected their race instead of having a census taker decide for them. The Native American population experienced an increase of 46.5% between 1950 and 1960, which is mainly explained by the number of people that identified themselves as Native Americans and were not identified as such

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[52] U.S. Equal Employment Opportunity Commission. "Federal Equal Employment Opportunity Laws." http://www.eeoc.gov/abouteeo/overview_laws.html (accessed October 19, 2009).
[53] Norma Riccucci. *Managing diversity in public sector workforces.* (Boulder: Westview Press, 2002): 4-5.
[54] U.S. Equal Employment Opportunity Commission, "Employer Information Report EE0-1," http://www.eeoc.gov/stats/jobpat/eeo1.pdf (accessed October 20, 2009).

beforehand.[55] In other words, the change does not necessarily mean that the Native American population increased, but that more people met the criteria for qualification.

While it is believed that a broader definition of diversity would be best for capturing the true makeup of the county and its applicants, this study has a limited availability of datasets. In particular, the definition of diversity is restricted by the reporting requirements of the Federal Equal Employment Opportunity Commission (EEOC), which appears to be the standard throughout government organizations. This means that the definition of diversity is restricted to the categories reported on the EEOC's Standard Form 100: race and gender.[56] The specific races recorded on the Standard Form 100 differ slightly from other records, restricting our ability to precisely analyze the data.

Riccucci notes that "changes to the labor force and workforce go well beyond race, ethnicity, gender, and age" and that there will be greater diversity based on such characteristics or factors as ability, sexual orientation, foreign-born status, and so forth."[57] While the EEO Commission reporting data is clearly not the best indicator of a diverse workforce, its proliferation in government data reports is apparent,[58] and the division by gender and race seems to be the primary method of determining diversity. This, therefore, does not provide us with a true sense of the diversity of the workforce, but as the seeming standard in federal reporting, this provides us with a good definition of diversity.

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[55]William H. Frey, Bill Abresch, and Jonathan Yeasting. *A field guide to the U.S. population: america by the numbers* (New York: The New Press, 2001): 40.
[56]U.S. Equal Employment Opportunity Commission, "Employer Information Report EEO-1," http://www. eeoc.gov/stats/jobpat/eeo1.pdf (accessed October 20, 2009).
[57] Norma Riccucci. *Managing diversity in public sector workforces.* (Boulder: Westview Press, 2002): 5
[58] U.S. General Accounting Office. *Equal Employment Opportunity: Women and Minority Representation at Interior, Agriculture, Navy, and State* (Washington, DC: GPO, 1995), http://www.gao.gov/archive/1995/gg95211.pdf (accessed October 20, 2009).

Diversity Standards in the Workforce

After a definition of diversity for the study has been determined, it is necessary to understand the standards of diversity that are generally aimed for in a diverse workforce.

Current population data are easy to find within the literature. The New York State's 2009 report on the "Diversity in the New York State Government Workforce" showed that "minorities comprised 33% of New York State's population in 1995.[59] By 2025, however, the U.S. Census Bureau estimates that minorities will comprise nearly 47% of the State's population.[60] New York State cannot simply wait and hope its workforce changes along with the population.[61]

New York State aims specifically to match as closely as possible the percentage of minority employees in the civil service to the corresponding percentage in the statewide labor force (if sorted by job category), and/or the corresponding percentage in the statewide population.[62] Critically in this report, there is already the issue in the distribution of minority candidates in the workforce: "while 15.4% of all New York State [Civil Service] positions are in New York City, 71.0% of the State's minority labor force is located there."[63]

Given the fact that the New York State Civil Service Commission uses current population data as the criteria for determining the degree of diversity in the workforce, these criteria will work well for this study. There is no hard and fast percentage that is advocated, but instead there is a focus on developing a "workforce that is reflective of the statewide demographics."[64] From this, comparisons can be made between the Tompkins County workforce rates and those of the county population and, if possible, to those of the state at large.

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[59] New York State Department of Civil Service. "Diversity in the New York State government workforce." (Albany, New York: Government of New York State, 2009): 4.
[60] Ibid., 5-6.
[61] Ibid., 5-6.
[62] Ibid., 21.
[63] Ibid., 4.
[64] Ibid., 4.

METHODOLOGY

Methodology

This study will attempt to determine if the civil service examination process recruits and hires a proportional cross-section of the population in Tompkins County and New York State. To do this, multiple factors must be considered. Although the initial reaction suggests that the examination limits diversity in the workforce, there may be underlying conditions that constrain a minority population's ability to enter the civil service workforce. These constraints may be based on the recruitment process itself, with barriers existing within the recruitment strategies of the civil service system. Other constraints may reflect the awareness and capabilities of the local population, including applicants' self-evaluation of their own qualifications for a position, access to the application process, knowledge of job openings, as well as other conditions such as access to education and socioeconomic status. Through the evaluation of demographic data and available literature, this study will investigate the existing demographic trends of the civil service hiring process and evaluate the underlying barriers to employment within the Tompkins County Civil Service.

Data Sources

Demographic data of civil service applicants were provided by the Tompkins County Workforce Diversity and Inclusion Committee (WDIC). The time frame ranges from September 26, 1999 to September 26, 2009, which includes 16,071 candidates. Of the total number of applicants, there are 9,843 valid cases with applicants reporting their racial identification. The database includes information, such as job titles, dates of birth, gender, race, and examination dates. The instrument used was a questionnaire requested together with the employment application and participation was voluntary. Racial identification of applicants was recorded

according to EEOC guidelines required by federal law. Survey results were matched together with each applicant's educational background and test results.

Additionally, data from the WDIC with information of the civil service workforce from 2005 to 2009 were analyzed. The information included percentages of racial identity from Tompkins County Civil Service public employees.

A third database used was the overall makeup of the Tompkins County population, which was obtained from the American Community Survey (ACS), published by the US Census Bureau.[65] The ACS is an annual nationwide survey that collects socio-economic and demographic data describing population and housing in the United States.[66] This study exclusively uses the population survey of the ACS that provides demographics of race, age, and gender with respect to the whole population in Tompkins County. Regarding categories of race, however, the survey does not follow EEOC guidelines but uses different categories. The detailed information regarding this can be found in the Limitations section. The survey is conducted based on a sample of group quarters (GQs). The U.S. Census Bureau selects sampled GQs, and individuals from the GQs are randomly selected to take the ACS.[67] Once chosen as a sample, it is required by law to take the survey.[68] The database includes only the data from 2005, the year when the U.S. Census Bureau started a one-year estimate of demographics, to 2007.

Lastly, the data for New York State's civil service workforce were obtained from *Diversity in the New York State Government Workforce 2009*, published by New York State Department of Civil Service. The dataset includes percentages of race and gender in workforce

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[65]The U.S. Census Bureau. *American Community Survey,* http://factfinder.census.gov/servlet/Dataset MainPageServlet?_program=ACS&_submenuId=datasets_2&_lang=en (accessed October 16, 2009).
[66] The US Census Bureau. *Design and Methodology: American Community Survey,* (The US Census Bureau, GPO, 2006), http://www.census.gov/acs/www/Downloads/tp67.pdf. (accessed October 16, 2009).
[67] Ibid.
[68] The US Code. Title 13, Sections 141, 193 and 221.

for New York State Civil Service. The department collects the data by questionnaire similar to that of Tompkins County.[69]

In addition, it is important to note that the information provided by Tompkins County makes a distinction between *applicants* and *test takers*. The category of applicants includes all individuals who respond to the position announcement. On the other hand, test takers include those who continue through the process and take the civil service exam.

Data Treatment: "Rule of Three" versus Pass/Fail

The database of civil service applicants did not include which test takers were selected by the "Rule of Three" criteria to be interviewed; therefore this information was derived from the test scores. The top three candidates with the highest scores were selected. When two or more candidates had equivalent scores, and there were less than two candidates in upper positions, all the candidates with the same score were selected. When three or more candidates attained the highest score, no other test takers were considered. The selection was based on the exam number and month of application; in other words, candidates applying for the same position in the same month.

In addition, educational levels in the database were not codified. Therefore, manual codification divided data into four categories according to the information provided: middle school or below; high school; undergraduate degree and graduate degree. These categories, however, included both completed and incomplete education, and were subject to a higher degree of error than the rest of the database.

[69] New York State Department of Civil Service, "Diversity in the New York State government workforce." (Albany, New York: Government of New York State, 2009): 5.

Finally, in the original database ex-offenders and veterans were codified in the same category as race; therefore, racial identification was not available for these cases. All these cases were coded as missing values for this study. There were only 32 cases with these characteristics.

Data Treatment: Representation Index

Another portion of this study focuses on examining whether the Tompkins County workforce successfully represents the racial mix of the whole population. Based on the source, this study referred to Peter M. Blau's *Inequality and Heterogeneity* and David W. Pitts's study, titled *Diversity, Representation & Performance: Evidence about Race & Ethnicity in Public Organizations.* Blau created the Index of Diversity to calculate the overall variation in racial makeup.[70] The Blau Index shows the level of racial diversity among a group of individuals. The Blau Index of Diversity (D) is mathematically expressed as follows:

$$D = 1 - \sum P_i^2$$

where P_i means the proportion of group members in a given category i.[71] A perfectly homogeneous group would have a score of 0, while a perfectly heterogeneous group would have a score of 1. This index is modified by Pitts to compare the racial representation in a specific organization. Pitt's Representation Index (R) is as follows:

$$R = \left\{1 - \sqrt{(Li - Lj)^2 + (Wi - Wj)^2 + (Bi - Bj)^2 + (Ai - Aj)^2}\right\} * 100,$$

where L refers to percentage of Latino/a, W is White, B is Black, A is Asian in a particular category i and j.[72] Pitts's Representation Index R shows how closely each racial group of a

[70] Peter W. Blau. *Inequality and heterogeneity: A primitive theory of social structure.* (New York: The Free Press, 1977): 28.
[71] Ibid.
[72] David W. Pitts. *Diversity, Representation & Performance: Evidence about Race & Ethnicity in Public Organizations.* (Athens, University of Georgia, 2003), 9.

certain category *i* is matched by differently categorized group *j* of the same race. Based on Blau and Pitts' studies, this study created a Representation Index (*r*) as follows:

$$r = \left\{1 - \sqrt{(WP - WW)^2 + (BP - BW)^2 + (AP - AW)^2 + (AIP - AIW)^2 + (OP - OW)^2}\right\} * 100,$$

where *WP* is percentage of the White population in an area, *WW* is percentage of the White civil service workers, *BP* is percentage of the Black population, *BW* is percentage of the Black workers, *AP* is percentage of the Asian population, *AW* is percentage of the Asian workers, *AIP* is percentage of the American Indian population, *AIW* is percentage of the American Indian workers, *OP* is percentage of the population of other races, *OW* is percentage of the workers of other races. Specifically, other races include Alaskan Natives, Native Hawaiian and Other Pacific Islanders, two or more major race groups, and some other races. This formula does not include the Hispanic or Latino/a population as one of the major racial groups because of data limitations.

Based on Pitts's Representation Index, the Representation Index *r* will demonstrate how closely each racial group of citizens is matched by civil service workers of the same race. Moreover, referring to the Blau Index, the product is a variable that cannot exceed a value of 100, where 100 represents an area with perfectly matched racial groups. Let us assume an area with 80% White citizens, 15% Black citizens, and 5% Asian citizens. If the particular area employed public service workers with the exact same racial mix, the *r* score will be 100. If that area employed 90% White workers, 10% Black workers, and no Asian workers, however, the score will be 87.75.[73] In this study, two dependent variables are designed to examine the representation in a specific area. r_1 includes the percentages of racial groups in Tompkins

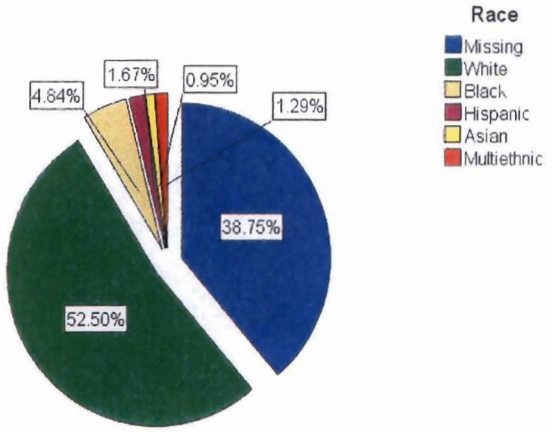
[73] $r = \left\{1 - \sqrt{(.8 - .9)^2 + (.15 - .1)^2 + (.5 - .0)^2}\right\} * 100 = 87.75$

County Civil Service workforce with respect to population; r_2 includes the percentages of racial groups in applicants for the Tompkins County Civil Service with respect to population; and finally, r_3 includes New York States' Civil Service workforce and population.

Limitations

This study is constrained by a high percentage of missing values, complications in data collection, and limited data. Racial identification during the application process was voluntary; therefore, the information was not available for every applicant. This means that the sample was not random, and there could be self-selection problems; a situation that is reinforced because the questionnaire was not anonymous. This implies that there is a high probability that the group who did not answer the survey may have common characteristics.

Figure 1: Racial Identification and Missing Values 1999-2009



Source: Tompkins County WDIC, 2009

This situation is exemplified in *Figure 1*, where nearly 40% of the applicants did not report their racial identity. Unfortunately, it is not possible to estimate if minority groups would be underrepresented. This limits the ability to define and analyze diversity through applicants'

racial identity. In addition, this may produce an immeasurable bias in the data if applicants from a certain race or gender continually refused to take the survey. While it would be useful to look beyond defined categories into areas such as religion, sexual orientation, and socioeconomic status, data on these categories are currently not part of the available information.

Another limitation in this study lies in racial categories. Data are limited by the fact that in 2006 the EEOC changed the makeup of Standard Form 100, which had been unchanged since 1966[74]. Most importantly in this revision, the category of "two or more races" was introduced, and other categories were divided.[75] This creates a variation in the data around the 2006-2007 reporting years, and must be taken into account when analyzing any trend lines around that period.

In addition to newly introduced categories of race, there exist differences in the racial categories, depending on diverse institutions. The workforce data are based on the five ethnic/racial categories, noted earlier. In contrast to the workforce data, the U.S. Census Bureau uses different racial categories: White, Black or African American, American Indian, Alaska Native, Asian, Native Hawaiian and Other Pacific Islander, two or more major race groups, and other races. Unlike the EEOC racial categories, Hispanic or Latino is not included in the Census Bureau's racial categories. The rationale behind this is that "people who identify their origin as Spanish, Hispanic, or Latino may be of any race" because this origin can be "viewed as the heritage, nationality, or country of birth of the person or person's parents or ancestors before their arrival in the United States."[76] To derive the results from the limited data, especially when

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[74] Business and Legal Reports, Inc. "Are you ready for the new EEO-1?" http://hr.blr.com/news.aspx?id=19166 (accessed October 20, 2009).
[75] Ibid.
[76] U.S. Census Bureau. *American Community Survey,* http://factfinder.census.gov/servlet/Dataset MainPageServlet?_program=ACS&_submenuId=datasets_2&_lang=en (accessed October 16, 2009).

this study calculated the representation indices, Hispanic, two or more major race groups, and other minority groups are labeled as "Other Races." The differences in categorization, however, may affect the accuracy of the data. For instance, some Hispanic-origin people may identify themselves as part of major racial categories, such as Whites or Blacks, rather than the mix of two or more races or other races.

It is also necessary to recognize that the census data will include a large number of transitory residents, namely graduate students. While Cornell and Ithaca College undergraduates living in Ithaca will generally be counted at their permanent, home addresses, long-term graduate students listing Ithaca as their permanent address will sway the counts. Given the diversity of the local universities, it would be expected that the census data will reveal a slightly more diverse population than what will show up in the workforce. Unless the difference between the population and the workforce is very dramatic, hasty conclusions about the difference between the diversity of the county and its workforce should be avoided. The approximately 6,200 graduate students at Cornell could have a great effect on the county's overall population numbers.[77]

The availability of historical data is also a limitation in this study. Although the Tompkins County applicants and workforce data have a consecutive time series including more than five years, the census data are available only from 2005 to 2007. More importantly, the latest available Census update is 2007, yet the New York State workforce data covers only 2008. The year difference indicates that these data are incomparable in a strict sense. This research, however, attempts to provide the best possible estimation from the limited data through the time series from 2005 to 2007.

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[77] Enrollment figure from the Cornell Graduate and Professional Student Association, 2009. http://assembly.cornell.edu/GPSA/About (accessed on October 26, 2009).

In order to present well-reasoned recommendations, this study attempted to seek out sources that provide additional background in demographic analysis. To accomplish this objective, the study sought to use expert interviews, as well the experts' published literature, as a way of analyzing resulting data. In particular, it is expected that expert opinions would help to determine whether or not the diversity results obtained for Tompkins County were within the range of acceptable, or if those results were far outside of that range. Furthermore, expert opinions would provide rationale for final recommendations as to whether or not this issue needs further study, a new trial program as suggested by the WDIC, or no concrete action.

While expert interviews would be beneficial in analyzing data results, there were obstacles to the original study that substantially changed the focus of the report. Originally, the research plan included expert interviews with individuals in the fields of exam analysis and demographics. Along with the changes that excluded the analysis of the exam, the Cornell University Office of Research Integrity and Assurance (ORIA), which manages the Institutional Review Board (IRB), was concerned about the possibility that individuals interviewed could be exposed to adverse employment actions. In particular, they were concerned about the possibility of issues for Civil Service Commission employees. They also requested letters of approval from all Universities that employ expert faculty members interviewed for the study. Therefore, due to project time constraints, the report does not include expert interviews for further data analysis. Instead, the report uses published works and other secondary sources to reinforce the conclusions.

FINDINGS

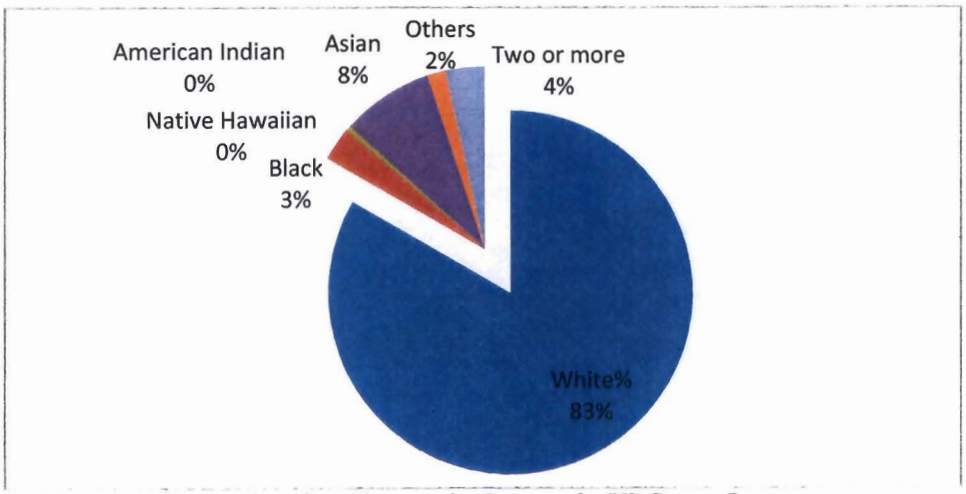
Results and Analysis

This section presents an analysis of the current civil service workforce and hiring process and a comparison between the "Rule of Three" and Pass/Fail approach. Specifically, the first portion of this section is divided into separate categories: race, gender, and age.

Race

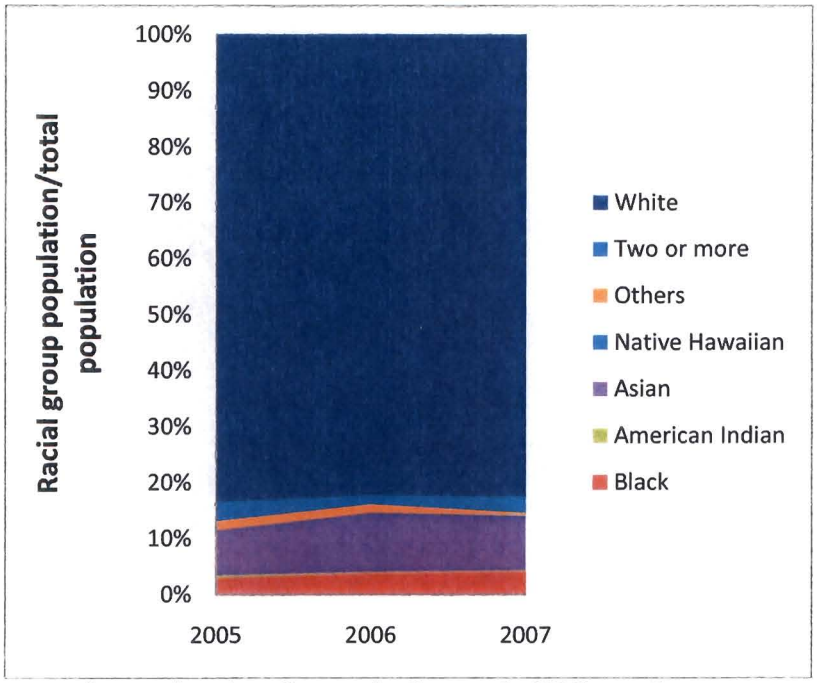
According to the data regarding racial identification, Tompkins County can be identified as a White-dominated community. Both *Figure 2* and *Figure 3* illustrate percentages of racial group population with respect to the entire population in the county. Figure 2 clearly shows that the majority of the Tompkins County residents are White. *Figure 3* demonstrates the demographic characteristics of the whole population in Tompkins County, adding the annual trend of the demographics. The time series shows that the minority population has remained constant. Nevertheless, because there are only three consecutive periods, it is not possible to conclude that this trend will continue in the long term (See *Figure 3*)

Figure 2: Tompkins County Population by Race in 2007



Source: American Community Survey, *the US Census Bureau.*

Figure 3: Tompkins County Population by Race, 2005-2007

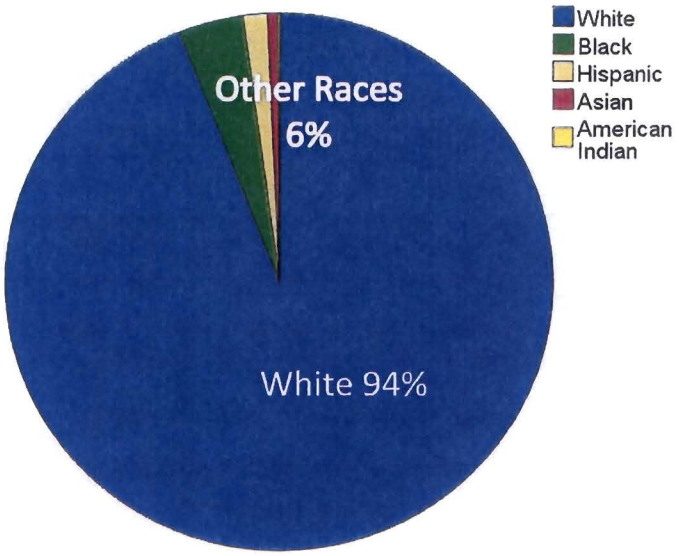


Source: American Community Survey, *the US Census Bureau.*

As noted earlier, the majority of the population is White. Following that, the second largest population is Asian, and the third largest is African American. According to the U.S. Census Bureau, each estimate is subject to sampling variability, summarized by sampling errors.[78] It can be assumed that the margins of error impact the percentages of population. The Bureau publishes the margins of error with the American Community Survey. The data and their margins of error can be found in Appendix A.

[78] The US Census Bureau. "Accuracy of the Data 2007." (GPO, 2007): 15. http://www.census.gov/acs/www/Downloads/ACS/accuracy2007.pdf (accessed October 26, 2009).

Figure 4: Tompkins County Civil Service Workforce Demographics 2005-2009



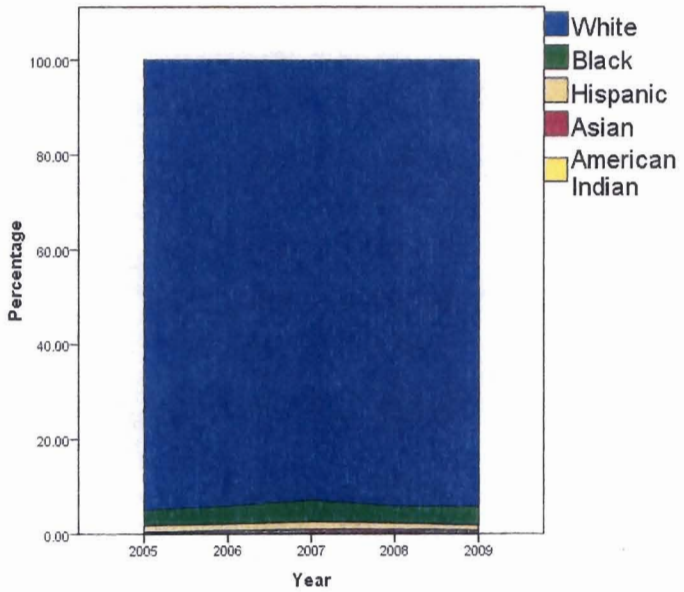
Source: the Tompkins County WDIC, 2009

After comparing the population of Tompkins County and the civil service workforce in the county over the past 10 years, some differences were evident. As *Figure 4* shows, the majority of the county workforce remains White, but the second largest category is actually African American, as compared to Asian in the overall population. As the graph indicates, the percentage of the Tompkins County workforce that is White is 12% higher compared to the overall population.

Further, when analyzing the workforce across a five-year reporting period, there is no noticeable upward trend in the diversity of the workforce. As Figure 5 shows, the demographics of the county workforce have remained virtually unchanged, maintaining an average of 94% of White employees and 6% of other races. According to Rice, as a population continues to become more diverse, the availability of workers that an organization can hire should also reflect the

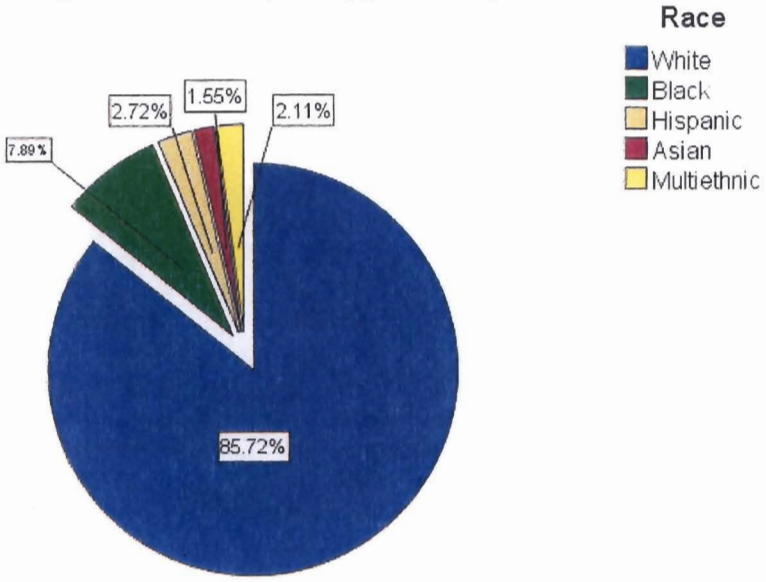
same diversity.[79] It would be expected that the Tompkins County workforce would increase along with the changing population dynamics; however, it has remained virtually unchanged over the past few years.

Figure 5: Tompkins County Workforce Demographics from 2005-2009



Source: the Tompkins County WDIC, 2009

Figure 6: Diversity in Applicants by Race. 1999-2009



Source: the Tompkins County WDIC, 2009

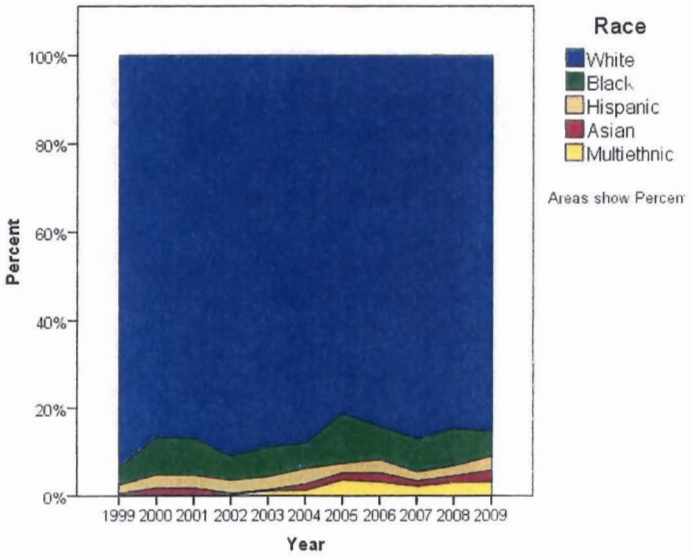
[79] Mitchell F. Rice. Ed. *Diversity and public administration: theory, issues, and perspectives.* (New York: 2005), 4.

The percentage of diverse applicants across this time period is actually closer to the U.S. Census data than the Tompkins County Civil Service workforce. As is shown in Figure 6, the percentage of White applicants is approximately 86%, leaving 14% divided up throughout the other races. This is a significant difference from the 94% white workforce.

Indeed, it appears that there is a serious inconsistency between the diversity of those applying for civil service positions and the actual employed workforce. The county civil service is attracting a more diverse pool of applicants than its current employed workforce, and the applicant pool is roughly as diverse as the county's overall population.

As observed in the time series diagram of current employees (See *Figure 5*), it would be expected that diversity in the workforce would reflect the increasing diversity of the overall population. The county workforce diversity, however, has hardly changed in the observed period. Anyhow, the time frame is small and it could be expected that changes occur at a slow pace, so a conclusive observation cannot be made. Nevertheless, this result is of concern because the rate of change appears to be nil.

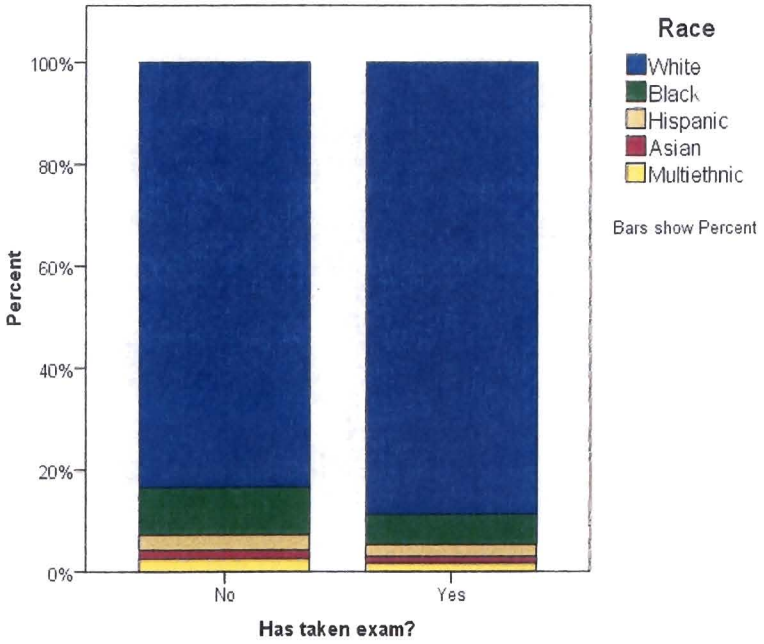
Figure 7: Applicants by Race and Year of Application 1999-2009



Source: the Tompkins County WDIC, 2009

Figure 7 shows the change in percentage of racial mix over a decade from 1999 to 2009. The time series shows that the proportion of applicants of each minority group does not significantly vary throughout the years. The percentages of minority populations vary over time between 81.2% and 93.4%, with an average value of 87%. In addition, the introduction of the multiethnic category, which is illustrated as yellow area, seems to open an avenue for individuals that beforehand did not identify as White, Black, Hispanic or Asian to identify with a minority group.

Figure 8: Applicants by Who Has Taken the Exam and Race 1999-2009



Source: Tompkins County WDIC, 2009

This study also examined how applicants are selected through the hiring process. *Figure 8*, for instance, compares the number of applicants who identify to racial groups and applied for the Tompkins County Civil Service and those who actually took the test. According to *Figure 8*, more than half of the applicants (56%) did not take the test. Another interesting finding is that applicants from minority groups are less likely to take the exam than White applicants. The left

column in *Figure 8* shows that the proportion of applicants identified as Black who did not take the test is higher than that of those who did take the test compared to applicants from other racial groups.

Lastly, this study compared how well the civil service workforce and applicants represent the entire population of Tompkins County in terms of race. *Table 1* shows the percentages of racial groups in the Tompkins County Civil Service workforce and population from 2005 to 2007 and the respective Representation Indices. The Representation Indices r_1 for these years are 86.16, 84.46, and 86.40, respectively. The average score of r_1 for these three years is 85.681.[80] These indices suggest that the racial mix of the Tompkins County workforce would be 85.681 on average if the racial mix of the whole population is assumed as 100. Moreover, *Table 2* shows that the Representation Indices r_2 for applicants of the Tompkins County Civil Service and population from 2005 to 2007. They are 89.11, 90.56, and 90.63, respectively, and the average score of r_2 is 90.100.[81] Again, these scores indicate that the racial mix of applicants for the Tompkins County Civil Service are 90.100 on average if the population accounts for the representation score of 100. Comparing r_1 and r_2, it is more clear that r_2, or the applicants' racial mix better reflects the Tompkins County's population than the county's Civil Service workforce. This result mathematically strengthens one of the major findings for this study. The indices also have neither increasing nor decreasing trends. This implies that the next year's racial proportions of both applicants for and workforce in the Tompkins County Civil Service are highly likely to be unchanged. With this assumption, these indices will also be compared with New York State's Representation Index.

Table 1: Representation Index of Tompkins County Workforce

---

80 $\frac{0.8616+0.8446+0.8640}{3} = 0.85681$

81 $\frac{0.8911+0.9050+0.9063}{3} * 100 = 90.100$

with Respect to Tompkins County Citizens 2005-2007 (% of Total)

Data, Year	Population, 05	Workforce, 05	Population, 06	Workforce, 06	Population, 07	Workforce, 07
%White/total	83.3395	94.87	82.1108	94.08	82.3561	92.7
%Black/total	2.9536	3.29	3.8404	3.77	4.1562	4.56
%Hispanic/total	NA	1.45*	NA	1.48*	NA	1.69*
%Asian/total	8.1328	0.26	10.6138	0.67	9.6423	0.78
%American Indian/total	0.4513	0.13	0.2181	0	0.1603	0.13
%Other Races/total	5.1229	1.45	3.2169	1.48	3.6851	1.83
Representation Index	***r 1***	86.1653	***r 1***	84.4676	***r 1***	86.4073

Source: the American Community Survey, *the US Census Bureau*.
* Percentage of Hispanic is also included in Other Races

Table 2: Representation Index of Applicants for Tompkins County Civil Service with Respect to Tompkins County Citizens 2005-2007 (% of Total)

Data, Year	Population, 05	Applicants, 05	Population, 06	Applicants, 06	Population, 07	Applicants, 07
%White/total	83.3395	81.0156	82.1108	84.1384	82.3561	86.8944
%Black/total	2.9536	11.3281	3.8404	7.5703	4.1562	7.6251
%Hispanic/total	NA	2.1875*	NA	2.956*	NA	1.2708*
%Asian/total	8.1328	1.5625	10.6138	2.0908	9.6423	2.1446
%American Indian/total	0.4513	0	0.2181	0	0.1603	0
%Other Races/total	5.1229	6.0938	3.2169	6.2004	3.6851	1.2708
Representation Index	***r 2***	89.1051	***r 2***	90.5647	***r 2***	90.6312

Source: the American Community Survey, *the US Census Bureau*.
* Percentage of Hispanic is also included in Other Races

Table 3: Representation Index:
New York Workforce vs. New York Citizens in 2008

Data, Year	Population, 08	Workforce, 08
%White/total	67.1762	73.5029
%Black/total	15.9117	15.1187
%Hispanic/total	NA	4.2795*
%Asian/total	6.9879	3.0599
%American Indian/total	0.3724	0.3785
%Other Races/total	9.5519	7.94
Representation Index	***r 3***	92.537

Source: the American Community Survey, *the US Census Bureau*; "Diversity in the New York State Government Workforce, New York State Department of Civil Service
* Percentage of Hispanic is also included in Other Races

Table 3 shows the percentages of racial groups in New York States civil service workforce and population and the Representation Index in 2008. As noted above, the Representation Index for the New York State Civil Service workforce is 92.537, which is approximately an 8% better result than the Tompkins County workforce's average results in terms of racial diversity.[82] In other words, the result suggests that the Tompkins County Civil Service workforce represents the county population less than the New York State Civil Service Workforce, with respect to the state population in terms of race.

Gender

The data sources also provide information on the gender breakdown of the population, the current workforce, and the applicants of Tompkins County. A disparity between the three is observed.

[82] $\frac{0.92537-0.85681}{0.85681} * 100 = 8.0029$

The overall population for Tompkins County in 2008 was 50.1% male and 49.9% female.[83] The Tompkins County Civil Service workforce, by comparison, was 36% male and 64% female. The applicants for county positions were 30% male and 70% female. These numbers reflect that a higher proportion of women are both applying and being selected for civil service jobs in Tompkins County. However, while these numbers seem to show that women are favored in civil service positions, there may be underlying factors related to the types of positions being offered and the duties required of each position. More jobs may be offered that attract female workers, not necessarily demonstrating a bias against males.

Figure 9 shows applicants by age and gender. Of the total applicants, 69% are women and 31% male. Of the 31% male applicants, the majority are between 21 and 39 years old. *Figure 10* further incorporates a cross-sectional selection by race, which mainly suggests that women represent the majority of applicants for all races but multiethnic.

Lastly, *Figure 11* compares the number of applicants that have taken or did not take the exam by age. This suggest that younger applicants were less likely to take the exam than older applicants.

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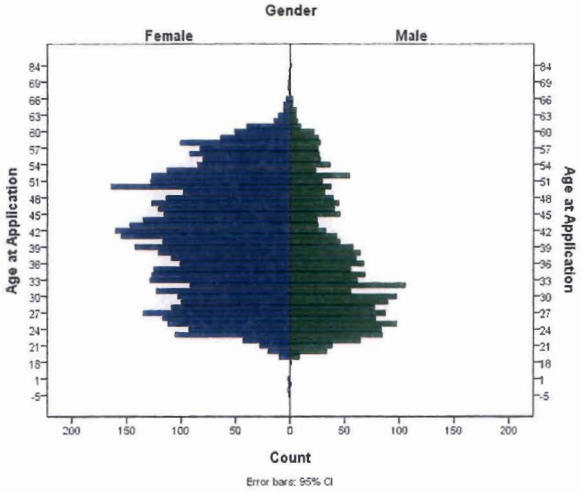
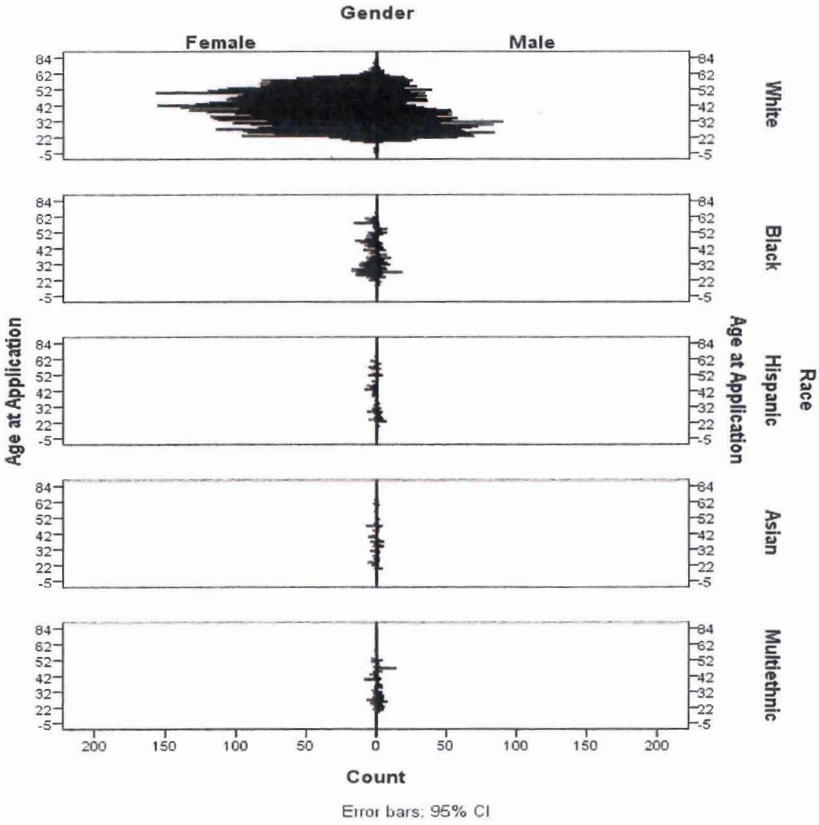
[83]U.S. Census Bureau. *American Community Survey,* http://factfinder.census.gov/servlet/Dataset MainPageServlet?_program=ACS&_submenuId=datasets_2&_lang=en (accessed October 16, 2009).

Figure 9: Applicants by Age and Gender 1999-2009



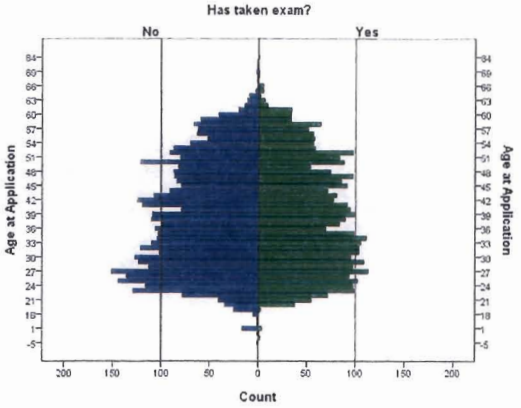
Source: the Tompkins County WDIC, 2009

Figure 10: Applicants by Age, Gender, Race 1999-2009



Source: Tompkins County WDIC, 2009

Figure 11: Applicants and Test Takers by Age and Rule of Three



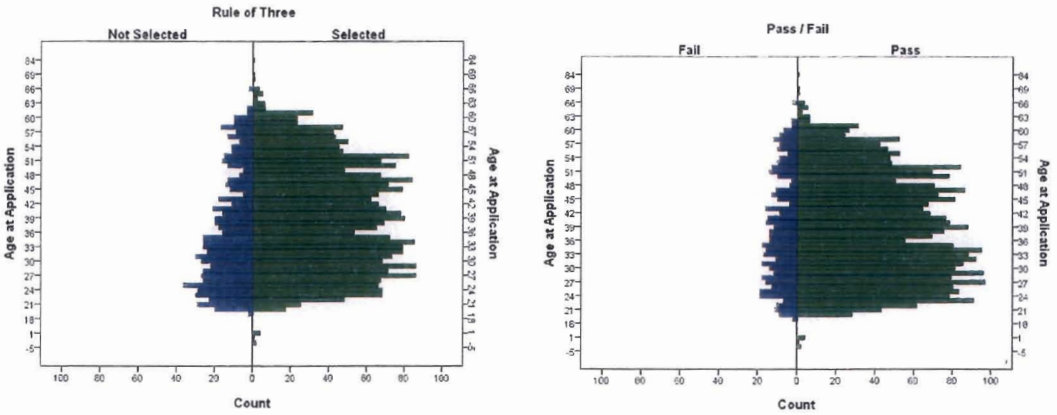
Source: Tompkins County WDIC, 2009

Age

Finally, the study compared the "Rule of Three" and Pass/Fail criteria by age of application. *Figure 12* shows that younger test takers are less likely to be selected by "Rule of Three," in contrast, the frequency of test takers that pass is constant through all age groups.

Figure 12: Applicants by Age and Pass/Fail

Rule of Three Pass/Fail

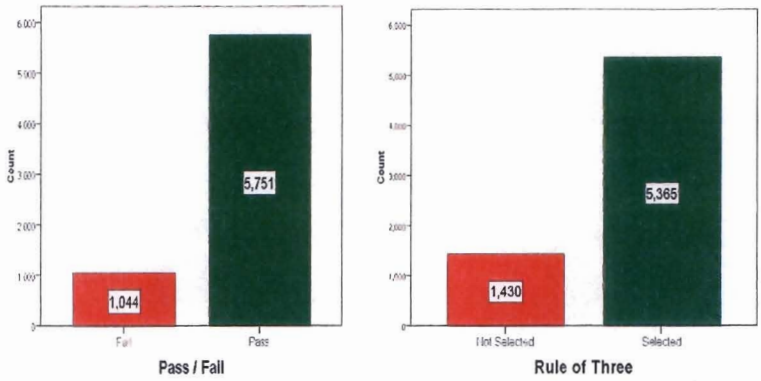


Source: the Tompkins County WDIC, 2009

"Rule of Three" versus Pass/Fail

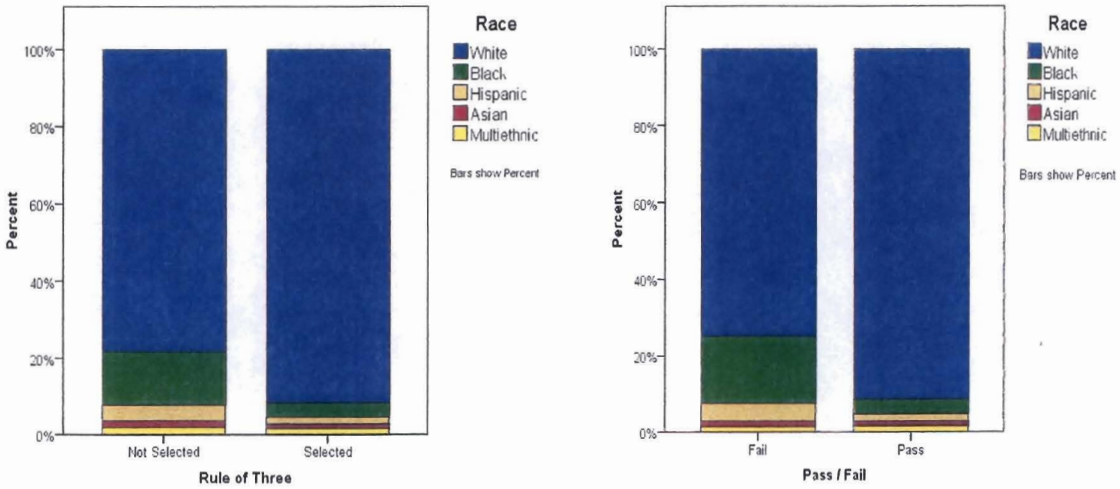
In this study, "Rule of Three" and Pass/Fail selection methods are compared. The graphs in *Figure 13* show the number of test takers who will be chosen by these selection methods. These graphs illustrate that the Pass/Fail method selects nearly 1.48 times more applicants than the "Rule of Three" method.[84]

Figure 13: Test Takers by Selection Methods 1999-2009



Source: Tompkins County WDIC, 2009

Figure 14: Exam Takers Selected by Rule of Three or Pass/Fail 1999-2009



Source: Tompkins County WDIC, 2009

84 $\frac{5751}{3883} = 1.481071$

Regardless of the differences in the number of those who are selected and not selected, the graphs in *Figure 14* compare the proportions of test takers by race if the "Rule of Three" or the Pass/Fail criteria were implemented. According to *Figure 13*, 6 of every 10 exam takers are selected by the "Rule of Three." However, Black exam takers are less likely to be selected than the rest of the exam takers. Although more test takers are estimated to be selected by the Pass/Fail approach than by the "Rule of Three," the proportion of minority test takers selected does not change. Therefore, the Pass/Fail approach increases the overall number of selected exam takers, but does not increase the proportion of selected minority candidates.

Findings

There are a few critical issues that the review of historical data discovered. Of particular interest, there were findings that indicated that the test is not the only issue in the hiring of diverse candidates.

Specifically, there are minimal differences between the "Rule of Three" and the Pass/Fail method in the percentage of diverse candidates who are selected for interviews. The data show that the implementation of a Pass/Fail approach seems unlikely to increase workforce diversity, because the proportion of minority candidates that pass the exam does not increase through the Pass/Fail approach. While it would be expected that a Pass/Fail approach would permit more minority candidates through to the interview process, the percent increase of White candidates with this method is greater than the percent increase of Black candidates. This accounts for only a slight increase in minority candidates being interviewed, compared to high rates of White candidates passing through to the interview process.

Furthermore, the diversity of the applicant pool is not reflected in the workforce, although the applicant pool itself reflects the diversity of the population. Many individuals that

submitted an application did not take the test, including a disproportionate number of minority applicants. In addition, of all test-takers from the past decade, African Americans were the least likely to pass the test. In this case, the data is inconclusive as to whether or not the exam was the limiting factor.

Other factors exist that may limit the diversity of the applicant pool, including the large array of civil service job descriptions and the minimum qualifications that exist for each position. As applicants enter the exam process, the positions they seek will have a specific exam that relates to the job description. While Black applicants tend to be applying more for administrative support positions overall, it becomes apparent that these applicants are likely competing against each other throughout the selection process. This could very well be a contributing factor that is reducing the representation of minority groups in the workforce.

Finally, the percentage of minority applicants that take the test was far below that of White applicants. While 85% of White applicants continued through the process to take the test, only 45% of the minority applicants did the same. This suggests that there may be barriers that influence the test-taking rates of minority groups and may contribute to the lack of diversity in the Tompkins County workforce.

CONCLUSIONS

AND

RECOMMENDATIONS

Recommendations

Further Study

In order to better understand the demographic breakdown of Tompkins County and the best possible strategies for increasing workforce diversity, additional studies are needed to fully investigate the effects and limitations of the examination process. Missing information left several holes in the study, prohibiting a concrete analysis of the data. Several databases came from information taken from voluntary surveys during the application process, which could have created misconceptions of bias according to the levels of reporting by different minority applicants. The implementation of anonymous surveys, focus groups, and other research methods is recommended to understand why minority applicants are not taking the exam, and to investigate the factors that prohibit them from applying at all. It would be beneficial to collect additional information regarding income, educational levels, and sexual orientation, among others.

Recruitment

An important way to enhance recruitment strategies would be to increase and strengthen the attention given to the promotion of civil service positions and the application process. While individuals seeking jobs can find civil service postings in newspapers, online, on bulletin boards, by word-of-mouth, or through employment agencies, they may not be aware of the employment opportunities available within the public sector for people with their skills and abilities. Continuous educational activities in and around Tompkins County could raise local awareness and help alleviate any preconceived notions about the application and exam process.

The main recruitment principles of the civil service explicitly require that the "selection for appointment to the civil service be on merit on the basis of fair and open competition."[85] While this implies that any person has an equal opportunity to seek a public service job, issues exist within the recruitment process that may play a key role in the number of minority applicants seeking civil service positions. These issues, including the lack of employment resources and job information in minority communities, may have a greater impact on the numbers of diverse, qualified candidates entering the public service than the limitations of the exam itself.

As the rate of civil service employee retirement continues to rise, it is clear that promoting civil service jobs to younger populations could help attract new employees to the public workforce. While many positions require a college degree for qualification, many entry level positions require only a high school diploma or equivalent. Education and promotion to college and high school students could prove valuable as students begin job searches within their community. As students prepare to enter the workforce, they should be aware of the products and services provided by the civil service, as well as understand the variety of positions that exist within the public sector. While the Tompkins County Civil Service Human Resources Department depends on minimal staffing and resources for current recruitment activities, it is clear that there should be stronger civil service representation at community and promotional events to provide face-to-face contact with prospective applicants. Many of the current recruitment techniques are based on Internet exposure, focusing on electronic distribution lists and websites to post job positions and to directly reach a variety of known job-seekers. Other recruitment activities include participation in career and job fairs in the Tompkins County

[85] Civil Service Commission. "Civil Service recruitment principles." April, 2009, http://www.civilservicecommissioners.org/Reference_Documents/Recruitment_Principles/ (accessed November 3, 2009).

vicinity, as well as community presentations and test preparatory courses offered to the public. However, budget limitations for staffing time and resources greatly limit recruitment activities and prevent the Human Resources Department from fully engaging in intensive recruitment efforts.

Skill-building activities would benefit future civil service applicants. Internships, summer and part-time jobs for students, and even volunteering opportunities within the local government will provide valuable experiences that may encourage young people to enter the civil service. If possible, internships or volunteer opportunities could be developed to utilize the time and energy of high school and college students for assisting in recruitment efforts. Opportunities need to exist for young people that allow them to acquire skills needed for employment in any setting. If they are exposed to these activities before searching for employment, they will feel confident in their capabilities and be qualified for the positions they seek.

Recruiting strategies must be implemented with a focus on reaching all populations throughout Tompkins County in order to attract a diverse pool of applicants to the civil service. With increased exposure and education, the application process will become easier and more attractive to young and new candidates. With a continuous presence throughout the county, local public service representatives can help encourage diverse applicants and stimulate their interest in civil service positions.

Pass/Fail Approach

The implementation of a pass/fail approach does not appear to be a likely pathway toward increasing the workforce diversity of Tompkins County. It is recommended not to employ the

pass/fail approach from a diversity perspective, because it is unlikely to have much effect on changing the diversity within the applicant pool. If the Tompkins County Civil Service were to use a Pass/Fail approach, it would most likely influence a greater number of White candidates. Alternative approaches should be investigated to determine if other methods would in fact benefit the rates of diversity throughout the Tompkins County Civil Service.

Conclusion

As the study shows, while the applicant pool represents a diverse cross-section of the population, the current workforce does not. This implies that there are issues within the hiring process that may be obstructing the path of minority groups into the civil service. It is imperative to examine the entire hiring process, not only the test, to determine an effective way to hire qualified minority candidates.

Implementing the Pass/Fail approach may not produce a significant increase in workforce diversity. According to this Team's study, the proportion of minority applicants that pass the test through a Pass/Fail approach was not greater when compared to the "Rule of Three." Although the number of interviewees increases, there is only a slight increase in minority candidates when compared to high rates of White candidates.

Literature suggests that there exist a variety of societal barriers that may be limiting access of minority groups to civil service employment, including institutional, socioeconomic, and educational disparities within the population. The evidence of these societal barriers shows that the test is not the only limiting factor that inhibits diversity in the hiring process and the workforce.

REFERENCES

Bibliography

Arons, Elizabeth, Peter Cannito, Peter Goldmark, and Ann Williams-Isom. *Solving the talent challenge: brain drain or magnet for excellence?* New York City: Research Center for Leadership in Action NYU Wagner, 2006.

Blau, Peter W. *Inequality and heterogeneity: A primitive theory of social structure.* New York: The Free Press, 1977.

Business and Legal Reports, Inc. "Are you ready for the new EEO-1?" http://hr.blr.com/news.aspx?id=19166 (accessed October 20, 2009).

Charles, Joann. "Diversity Management: An Exploratory Assessment of Minority Group Representation in State Government." *Public Personnel Management* 32, no. 4 (2003): 561-577.

Civil Service Assembly of the United States and Canada, *Recruiting Applicants for the Public Service*. Chicago, 1942.

Civil Service Commission. "Civil Service recruitment principles." April, 2009, http://www.civilservicecommissioners.org/Reference_Documents/Recruitment_Principles/ (accessed November 3, 2009).

Cornell Graduate and Professional Student Association. Enrollment Figures, 2009, http://assembly.cornell.edu/GPSA/About (accessed on October 26, 2009).

Cornwell, Christopher and Edward J Kellough. "Women and minorities in federal government agencies: Examining new evidence from panel data." *Public Administration Review* 54, no. 3 (1994): 265-270.

Cox, Taylor Jr. "Problems with research by organizational scholars on issues of race and ethnicity." *Journal of Applied Behavior Science* 26, no.1 (1990): 5-24.

Eberts, Paul R. and Kris Merschrod. *Socioeconomic trends and well-being indicators in New York State, 1950-2000.* Albany: NYS Legislative Commission on Rural Resources, 2004.

European Center for Minority Issues. "Minority Needs Analyses and Minority Issues" (2006). http://www.heinonline.org/HOL/Page?handle=hein.ecmi/minissms0001&id=70&type=text&collection=ecmi (accessed October 16, 2009).

Frey, William H, Bill Abresch, and Jonathan Yeasting. *A field guide to the U.S. population: america by the numbers*. New York: The New Press, 2001.

Frey, William H. and Fielding, Elaine L. "Changing Urban Populations: Regional Restructuring, Racial Polarization, and Poverty Concentration." *Cityscape: A Journal of Policy Development and Research* 1, no. 2 (1995): 1-66,

Table 2: Tompkins County Population Data Tables, continued (p. 28-29)

Year	Two or more races; Two races excluding Some other race, and three or more races (Estimate)	Two or more races; Two races excluding Some other race, and three or more races(Margin of Error (+/-))
2005	2760	1,362
2006	1678	690
2007	2804	886

Source: "American Community Survey," *The US Census Bureau.*

Year	Total	White%	Black%	American Indian%	Asian%	Native Hawaiian %	Others %	Two or more%
2005	1	0.83339458	0.029536059	0.004513091	0.081327515	0	0.016272393	0.034956362
2006	1	0.82110809	0.038403697	0.002181123	0.106138018	0	0.015008914	0.017160158
2007	1	0.823561427	0.041561526	0.001603087	0.09642274	0.001751521	0.005254564	0.029845134

Source: "American Community Survey," *The US Census Bureau.*

Table 3: Applicants by Age and Gender 1999-2009 (P. 38)

	Count	Column N %
Female	6,804	69.2%
Male	3,026	30.8%
Total	9,830	100.0%

Source: Tompkins County WDIC, 2009

Table 4: Applicants by Age, Gender, Race in 1999-2009 (P. 39)

	Gender			
Race	Female		Male	
	Count	Row N %	Count	Row N %
White	5,978	70.9%	2,459	29.1%
Black	514	66.2%	263	33.8%
Hispanic	153	60.0%	102	40.0%
Asian	81	52.9%	72	47.1%
Multiethnic	78	37.5%	130	62.5%

Source: Tompkins County WDIC, 2009

Table 5: Applicants by Who Has Taken the Exam and Race 1999-2009 (P. 34)

	Has taken exam?					
Race	**No**			**Yes**		
	Count	**Column N %**	**Row N %**	**Count**	**Column N %**	**Row N %**
White	4,567	83.4%	54.1%	3,870	88.7%	45.9%
Black	515	9.4%	66.3%	262	6.0%	33.7%
Hispanic	165	3.0%	61.6%	103	2.4%	38.4%
Asian	95	1.7%	62.1%	58	1.3%	37.9%
Multiethnic	137	2.5%	65.9%	71	1.6%	34.1%

Source: Tompkins County WDIC, 2009

Table 6: Exam Takers Selected by Rule of Three or Pass/Fail 1999-2009 (P. 40)

	Rule of Three by Year					
Race	Not Selected			Selected		
	Count	Row N %	Column N %	Count	Row N %	Column N %
White	1,582	40.9%	86.1%	2,288	59.1%	90.6%
Black	164	62.6%	8.9%	98	37.4%	3.9%
Hispanic	44	42.7%	2.4%	59	57.3%	2.3%
Asian	24	41.4%	1.3%	34	58.6%	1.3%
Multiethnic	24	33.8%	1.3%	47	66.2%	1.9%

Source: Tompkins County WDIC, 2009

	Pass / Fail					
Race	Fail			Pass		
	Count	Column N %	Row N %	Count	Column N %	Row N %
White	527	74.9%	13.6%	3,343	91.3%	86.4%
Black	123	17.5%	46.9%	139	3.8%	53.1%
Hispanic	33	4.7%	32.0%	70	1.9%	68.0%
Asian	11	1.6%	19.0%	47	1.3%	81.0%
Multiethnic	10	1.4%	14.1%	61	1.7%	85.9%

Source: Tompkins County WDIC, 2009

BENCHMARK

REPORT

New York State Civil Service Review

Final Report

Benchmark Team

CRP 6311: Consulting for Nonprofit and Government Organizations

Saptarshi Basu
Margaret Heveron
Jennifer Hill
Randall Watkins

December 2, 2009

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EXECUTIVE

SUMMARY

Executive Summary

The Benchmark Team was given the task of looking at the best practices in civil service reform in states other than New York. The Team delineated those states into three major categories: neighboring states, high population states, and uniquely reforming states. Each state within the categories was analyzed with regard to the reforms they have implemented (or have attempted and failed to implement), the impetus for such reforms, and outcomes as a result of any changes.

In seeking such information, the Team's methodology consisted of a two-pronged approach. First, the Team conducted secondary research in a broad literature review. This research included analysis of changes from experts in human resource management. Further, the Team conducted interviews with uniquely reforming states and neighboring states to gain a management perspective on changes uncovered in the literature, rather than simply gaining an outsider's perspective provided by the literature. The Team used the aforementioned sources to uncover several important findings about civil service. First, the Team found that reforms aimed at decentralization of the system allowed agencies greater autonomy in terms of management decisions, such as power in hiring, firing, and promotions. However, even under decentralized systems, an overarching review board was created to keep the process fair and consistent. Further, such reforms expanded the number of people eligible to be hired after taking the exam. Finally, working with all stakeholders (unions, agencies, political parties, etc.) to reform within a given state allowed the reforms to take place smoothly. Thus, at the state level, the team would recommend the following in order to maximize the chances of civil service reform in New York: (1) a level of decentralization in the hiring process, giving agencies the ability to make major human resource decisions while still maintaining a central review board to oversee decisions;

(2) the ability to expand certification pools as agencies consider applicants for given positions, allowing qualitative factors to be considered in hiring decisions; and (3) working with all stakeholders in proposals for reform, which has proven beneficial in other states where reform has been achieved.

INTRODUCTION

Introduction

Benchmarking provides realistic examples of success for proposed policy changes in other localities; such examples can provide credibility to policy proposals and insulate such proposals against criticism that an action is simply based on theoretical arguments. With particular respect to civil service reform in New York State, the goal of the benchmark team was to research best practices in the civil service system of other states. This information provided the team with a set of parameters with which to analyze possible strategies for reform and predict possible obstacles to reforming the New York State Civil Service. The scope of the research involves three categories of states specifically highlighted by the Workforce Diversity and Inclusion Committee (WDIC): (1) uniquely reforming states, which can predict results of specific reforms sought by New York; (2) high population states, which indicate the breadth of issues associated with change in civil service; and (3) neighboring states, which can be used to relate the experiences of states that face similar socio-political attitudes as New York. Two of the three aforementioned categories of states, uniquely reforming and high population states, have all attempted reform, and can be used as examples in the WDIC's quest for civil service reform. The states examined by the Benchmark Team include Georgia, Florida, California, South Carolina, Wisconsin, Oklahoma, Texas, Pennsylvania, Massachusetts and New Jersey.

Literature Review

Examining relevant literature on the topic, the team analyzed various aspects of the states that have implemented some sort of civil service reform: why they reformed, how they reformed, and the outcomes and consequences of reform. For the non-reforming states, the team examined the basic structure of their civil service administration system.

There are several reasons why states have sought reform. In some cases, as in Tompkins County, there was a desire to increase diversity in the workforce. In particular, the exam (by its structure) was blamed for systematically excluding minority candidates vis-à-vis low exam scores. Other states sought further flexibility for agencies in personnel decisions. This includes ordinary hiring procedures such as at-will hiring in which an agency manager is empowered with hiring somebody based on any criteria they find reasonable, which may qualify the candidate for the position. Further, some states sought such flexibility for relieving personnel; that is, managers are able to make termination decisions without having to go through complex bureaucratic processes. The pursuit of flexibility parallels the overall philosophy of government of several states, which err toward a lack of centralized government in general (Walters 2003).

Reasons for Reform:

In Georgia, reform was desired because of the lengthy process of hiring and firing. The Merit System was seen as protecting incompetent employees, while offering no rewards to high-performance workers (Walters 2003). The system lacked incentives for high performance. Further, it discouraged managers from disciplining employees because of the large amount of documentation and time to process, because the employee had the ability to appeal to the Georgia State Personnel Board. The Merit System had a civil service exam requirement, which limited hiring authorities to consider only the top three scorers as candidates. Finally, advocates

affirmative action, which are implemented on an agency-by-agency basis by a Civil Rights Administrator. In a general sense, this Administrator ensures the agency in question is in compliance with state guidelines on diversity. Further, Oklahoma has an Affirmative Action Review Council, which is empowered to oversee all agencies and ensure that the decentralized hiring process is working, and can recommend sanctions to be levied against individual agencies not in compliance with state goals ("Best Practices in Diversity Management" 2001).

In Texas, agency hiring is completely decentralized; the only agency hiring processes regulated by the state at-large are with regard to job titles and the pay structure. Due to Texas's philosophy in favor of limited government, the state legislature consistently votes down bills to standardize and centralize agency hiring procedures, which gives such agencies a great deal of flexibility. In terms of evaluating candidates, agencies use general "degree requirements" to eliminate unqualified candidates rather than a standard, statewide examination. Such degree requirements encourage candidates to apply to positions only for which they meet base requirements. This increases the quality of candidates being considered for any given position. In order to ensure diversity, the Texas Commission on Human Rights provides general guidelines to agencies on how to maximize diversity and avoid discrimination suits. The Commission also conducts its own audits regarding personnel management issues and certifies agencies that meet their standards (Walters 2003).

There is negligible information in the literature on flexibility of hiring and diversity in the civil service system for neighboring states and high-population states that have *not* reformed, with the notable exception of California.

From the literature, the team's researchers found that the states that allow for the most flexibility and diversity in their hiring are those that have a decentralized system, at-will hiring,

or have completely abolished the system. There are also some obstacles to reform, which are exemplified in California's attempts at reform. Some of the best criteria by which to judge a state's civil service system were created by the UN report on "Best Practices in Diversity Management." These criteria are:

1. Successful over a period of time;

2. Produced quantitative and/or qualitative results;

3. Developed recognized or recognizable positive outcomes including customer satisfaction or some type of definitive positive impact;

4. Innovative;

5. Replicable, portable and/or transferable to other organizations with modifications. The best practice should also add value by improving service, quality and/or productivity; and

6. Meaningful to users of the benchmarking project data.

METHODOLOGY

Methodology

To begin the research, the Benchmark Team was charged with deciding which states to consider. The scope of the research was narrowed to three different categories of states. The first category was neighboring states, which can be used to relate the experiences of states that face similar socio-political attitudes as New York. The second category was high-population states, which can provide an indication of the breadth of issues associated with change in civil service. And the third, and most important category of states examined, is uniquely reforming states.

The neighboring states the Benchmark Team identified were Pennsylvania, New Jersey, and Massachusetts. The large-population states and reformed states are Georgia, Florida, California, South Carolina, Wisconsin, Oklahoma, and Texas. Having identified these reformed states, the Benchmark Team looked at reasons the states decided to reform their systems, what they did to reform, and what the outcomes were of this reform. The Benchmark Team's research was qualitative and gained through sources that were primary and secondary. The Benchmark Team received an exemption from Cornell University's Institutional Review Board and was able to start interviews and proceed with research.

Sources:

The Benchmark Team used both primary and secondary sources in the project. The primary research included qualitative interviews with human resources management or administration in reforming states, especially in states where substantial secondary data could not be found. Because many of the states surrounding New York have not reformed, the team relied

heavily on interviews. The team conducted interviews to supplement the secondary data collected from uniquely reforming states and high population states.

Most of the data collected have come from secondary sources. One of the important sources is a UN Report from 2001 on "Best Practices in Diversity Management." From this report useful information was obtained on both Oklahoma and Wisconsin. The Walter's Report from 2003 also was useful in examining the experiences of Georgia, Florida, and Texas. The book *Civil Service Reform in the States* helped to examine trends and reforms that have taken place at the state level in states such as South Carolina, Wisconsin, and California. "Civil Service Reform in Florida State Government: Employee Attitudes One Year Later" helped to more closely investigate Florida's experience with reform. The sources used by the Benchmark Team to analyze Georgia's experience were "Examining State and Local Government Cases," "The Case of Georgia," and "An Operating Agency's Perspective." For California, the team found further information from an article titled, "Prospects for Civil Service Reform in California."

The Team also has conducted interviews with Pennsylvania, Massachusetts, South Carolina, Georgia, Florida, Texas, Wisconsin, Oklahoma, and California. The team counted on this information to supplement the secondary sources and provide different viewpoints.

Data Collected:

The states included are Georgia, Florida, California, South Carolina, Wisconsin, Oklahoma, and Texas. The information was sorted into the reasons for reform, the actual reforms, and the outcomes or consequences of those reforms. Different states have different definitions of diversity; therefore a column detailing each state's definition has been included for clarification purposes. It is important to identify both the positive and negative consequences of the reforms, which will be more detailed later in the section on findings.

Conclusion:

Looking at different states and their methods for reform is a large task. The team included the states it determined to be the most relevant to the project as described by the Tompkins County WDIC. While some states have not been included in the research, the team focused on the scope determined by the WDIC, making the scope more reasonable and allowing a robust investigation of civil service reforms that are highly applicable to New York's. These states are relatable to New York State for a number of reasons. These reasons include similar reform goals of diversity in the workforce or flexibility in hiring as well as similar obstacles to reform such as union opposition. The Team is confident that its three categories of states will provide a comprehensive view of civil service reforms in the United States. The different states have shown the researchers some obstacles that could reasonably be thought to affect reform efforts in New York. The Benchmark Team has been able to learn some of the best options for reform, depending on the specific goals of the organization. These will be described in more detail later in the report in the Findings Section.

FINDINGS

Findings

Introduction:

The UN Report on Best Practices in Diversity Management identifies six criteria that can be used to evaluate best practices ("Best Practices in Diversity Management" 2001). The criteria are:

- Successful over a period of time
- Qualitative/quantitative results
- Recognizable positive outcomes
- Innovative
- Replicable
- Meaningful to users of benchmark project data

The Benchmark Team used these criteria to analyze research on reform in other states. From this analysis, it was discovered that in reformed states any resulting diversity or flexibility is largely due to decentralizing the civil service system or abolishing it altogether.

States:

In Georgia, the Merit System Reform Act became effective July 1, 1996. The Act implemented substantial reforms to the civil service system (Gossett 2002, 97). The reforms included largely decentralizing the current system, granting autonomy for recruitment, and allowed individual agencies to set their own job classifications. The Act also made all employees hired after the Act's implementation at-will employees, meaning the employee or employer can end the employment relationship at any time. It also allowed for current classified employees to be made at-will if they changed to an at-will position (Gossett 2002, 106). In addition, the Act allowed agencies to create new jobs and set the pay rates for those jobs (Lasseter 2002, 127). In

1999, a merit pay plan was adopted called GeorgiaGain. This allowed agencies to give different pay increases for employees based on their performance (Gossett 2002, 103). Additionally, the civil service exam as a requirement was eliminated, making it available simply as an option for agencies. These reforms resulted in an expedited process of hiring, firing, and disciplinary actions. The flexibility in pay rates allowed agencies to compete more with the private sector for talent, expanding the applicant pool. Some negative results reported from Georgia's reform are inconsistent pay rates for similar positions at different agencies and concern that salary raises and promotions are a result of favoritism rather than performance (Lasseter 2002, 127).

Florida's state legislature decided to create two categories of employees separate from the permanent civil service system's body of employees in the 1980s. This was due to the desirability of political loyalty in certain high-ranking positions. These two categories are the Senior Management Service, created in 1980, and the Selected Professional Service, created in 1985 (Bowman 2003, 4).

Service First, Florida's most recent reform in 2001, is a comprehensive effort to reform the civil service by altering the status of midlevel and confidential personnel and changing the way they are managed. The effects of the Service First program were threefold: "It converted all supervisory positions in the state personnel system to at-will status; it substantially simplified the state's classification and compensation system by broad banding job titles and pay; and it eliminated the concept of seniority for everyone in the state personnel system" (Walters 2003). The Service First program enabled managers to avoid difficult personnel processes and gave agencies more flexibility in compensating high performers. The reforms essentially created a private sector model of hiring and recruiting practices, where managers are no longer strictly tied to specified minimum requirements or to creating and administering tests of competency. The

agencies thus have the flexibility to hire at their own discretion, fire incompetent employees in a suitable amount of time, and use their own recruiting methods. Flexibility in pay rates and recruiting methods also allowed for a greater pool of applicants to be considered. Negative results of the reforms in Florida are decreased job security and lower employee morale (Bowman 2003, 295-299).

In South Carolina, reforms include performance-based salary adjustments, scheduling innovations, and expanded probationary periods from six months to one year to weed out problems early. South Carolina reforms resulted in one of the most prominent cutbacks in staff, simultaneously making operating processes more efficient which allowed the state to maintain its ability to perform at the same level. There was a high level of both customer and employee satisfaction, and labor-management disputes were resolved mostly internally. Flexibility in setting wages and classifying/reclassifying jobs provided agencies with more autonomy in assigning pay rates and titles, thus providing increased competition and performance.

In Wisconsin, there is a Council on Affirmative Action, and each agency is responsible for developing and implementing a plan within the standards set by the Council. To help ensure diversity, the civil service allows certification pools to be expanded when less than the desired number of racial and ethnic minorities or women appears in the first pool. Up to three additional names of women or racial/ethnic minorities can be added. There is also a handicapped extension that is allowed so qualified persons with disabilities can be represented. These efforts have led to minorities being hired at twice the rate available statewide ("Best Practices in Diversity Management" 2001). Wisconsin reformed its system and retained its merit principles and cooperative labor relations. It also reformed the hiring system to attract more talent. Some of the hiring innovations include:

- Giving line agencies more decision-making authority
- Modernizing civil service laws to improve flexibility and responsiveness
- Developing more creative and user-friendly ways to evaluate job candidates
- Expanding recruiting to attract more and better candidates
- Conducting on-site (immediate) job interviews
- Using technology to provide better access, efficiency, and timeliness

Almost 90% of Wisconsin's permanent civil service employees are represented by labor unions (Kellough and Nigro 2005, 281). Wisconsin's reforms resulted in the implementation of "Working Together," which allowed for better labor-management cooperation. This improved productivity, working conditions, and service. Unions and management were able to reach agreements more quickly, and more employee grievances were solved internally. Consensus bargaining, which is based on the belief that both parties can be winners, provided for more trust with labor-management relations and allowed problems to be solved in a timely, cost-effective manner. Also, management and the union met regularly outside of bargaining sessions to deal with issues before they become major problems. Management flexibility in recruitment and setting classifications and pay structure attracted more and better candidates and allowed for expedient hiring. Finally, pay flexibility provided incentives for high performance for which employees could be rewarded with raises and promotions (Kellough and Nigro 2005, 282-300).

In Oklahoma, the major reform goal in civil service practices was to maximize diversity. Oklahoma's standard for diversity is very clearly laid out by the state: the method to determine if diversity is being achieved is to compare the percentage of minorities employed by the State of Oklahoma to the percentage employed by the private sector in Oklahoma. To that end, Oklahoma's reforms certainly achieved diversity (as of 2001), with a rate of 19.2% minority

employment by the State versus a 16.7% rate by the private sector. Further, three administrative bodies are utilized by the State to ensure diversity goals are being met: (1) a State-level Office of Personnel Management (OPM), which sets and enforces standards for affirmative action; (2) Civil Rights Administrators, employed on an agency-by-agency basis, who ensure compliance of such standards; and (3) a central-level Affirmative Action Review Council, which ensures that the decentralized process is working with regard to meeting diversity goals of the State. This agency levies sanctions against agencies not in compliance with such goals ("Best Practices in Diversity Management" 2001).

In Texas, the pursuit of decentralization was reflected in the civil service process by allowing greater operational control over human resources actions at the agency level; that is to say, managers were given greater (and near-total) control over hiring, firing, reassignment, and promotional decisions. Specifically, Texas shifted its exam requirement to a "degree requirement," in which base-level qualification standards were set for each position being offered by an agency. Only after such base standards were met could candidates be initially considered for the position. This also had the added benefit of encouraging candidates to self-eliminate based on an objective standard clearly set forth in job postings, enhancing the quality of applicants for a given position. Additionally, the Texas Commission on Human Rights was empowered with advising individual agencies with regard to avoiding court litigation on diversity matters (Walters 2003). Due to the decentralization in Texas, there has been criticism that smaller state agencies do not have the experience, expertise, and resources for being in control of their own human resources.

The Benchmark Team also has identified possible major obstacles to reforming the civil service system. The major obstacles have been most apparent in California, where, despite the

desire for reform, it has not yet been possible. California's inability to reform can be attributed to three major factors: first, the power of the state labor unions has hindered any major push for reform; second, the existence of two agencies involved in civil service management (DPA and SPB), and the unwillingness of these two agencies to cooperate on comprehensive reform; and third, the lack of consensus via executive leadership (Naff 2002, 22). Finally, in the article "Prospects for Civil Service Reform in California: A Triumph of Technique Over Purpose?" it is noted that deregulatory measures have the best chance of being enacted with Republican control of government (Naff 2002, 18). See Appendices A and B.

Findings Gained from Interviews:

According to Frank Heiny, the Assistant Commissioner of Programs, Policies and Legislative Affairs in the Georgia State Personnel Administration, prior to reform Georgia did not allow collective bargaining, and therefore union opposition was not a problem. The state also did not face other forms of opposition because the system had become so cumbersome that most everybody recognized it needed to be changed. The reform was a cooperative move between the state agencies, the Merit System, the Governors office, and the legislature.

The law mandates that each year each agency makes a workforce plan which is submitted to the central personnel administration for approval. Diversity (racial, ethnic, gender) is a factor in this plan. Each agency is held accountable for meeting acceptable levels of diversity in the workforce (A reasonable deviation based on the population). Acceptable levels of diversity for each agency differ depending on the geographic area of said agency. In areas where there is a higher minority population the workforce balance should be higher. Also, data is based on the US Census and Department of Labor statistics. The methodology for deciding acceptable percentages includes gap analysis, which recognizes any imbalances based on empirical data

(what the numbers should be). If the numbers are not being met, the agency must develop a plan to achieve acceptable levels for the following year.

When asked about any problems resulting from the reforms, Mr. Heiny noted that the transition of the workforce from classified to unclassified employees happened much more quickly than was expected. As this happened, it was recognized that no one had the legal authority to set policy for all employees. This was an issue because if someone moved from one agency to another, policies would be different. These were policies such as amount of sick time administration.

This issue was addressed and the legislature empowered the State Personnel Board to set policy for all employees in the Executive Branch of government. Now the basic rules, such as amount of sick and vacation time are the same, but the process for approval may differ from agency to agency.

Some of the issues that have developed regarding favoritism are that a pay plan is in place to allow bonuses, but those people who do not receive bonuses are, naturally, unhappy. While this is an issue of inequity it is the very nature of the bonus system to reward those who are higher performers. It is difficult to determine if it will be a larger issue in the future because in the past two years there have been no bonuses due to the state of the economy. Concerning the issue of cronyism, the state has qualifications that must be met for a person to be hired for a certain position. Also, once an applicant has qualified there is an interview process with different interviewers who score the applicant on answers to pre-determined questions. The different interviewers provide a system of checks and balances that protects against cronyism. In one relevant court case in March 2006, *Service Employees International Union et al. v. Perdue et al.*, the constitutionality of merit reform was challenged. The Service Employees International

Union (SEIU) charged that the reforms took away constitutional rights such as tenure and right to appeal. The Georgia Supreme Court found that the merit reform was not a violation of the constitution.

According to the SPB in California, the state exam measures many qualitative factors already. However, from SPB's standpoint, its main impetus for reform was to simplify the application process and recruit better talent.

According the South Carolina State Office of Human Resources, there is no test given to applicants to positions in state or local agencies. State and local government hiring, firing, and promoting is at-will in South Carolina, meaning that agencies post minimum qualifications for vacant positions and interview those who appear most qualified and hire the applicant of their choice. Diversity was not a major impetus for reform at the state level and any consideration in employment based upon diversity is left to the discretion of each individual agency. Instances of alleged nepotism in the hiring of individuals into government positions at the state or local level is overseen by the State's Ethics Commission, which reviews complaints and appeals on a case-by-case basis. The Office of Human Resources also provides training and consulting with state and local agencies across South Carolina to ensure that they are in compliance with state and federal laws, especially in hiring rates and any disciplinary actions that are taken by an agency. It is against state law for members of the same family to work in the same department, in an effort to reduce instances of nepotism.

According to the Oklahoma OPM, the state has a rule of 10 in considering top exam scorers who evaluated on a sliding scale. Applicants are subject to review by individual agencies who may be interested in them regardless of their placement on the statewide exam. Further, all

agencies are required to submit to OPM an affirmative action plan to be approved by OPM and followed by the agency.

In Pennsylvania, there has been no movement to reform the civil service system, and the Civil Service Commission has experienced no significant issues regarding diversity management other than to maintain non-discriminatory hiring practices. Recruitment is done by the agencies themselves by contacting people who have taken the exam for specific job titles, or through a state job website called *JobNet*. When a vacancy is advertised, individuals can schedule to take the civil service exam for that job, and will receive a score and ranking. The agency will then send out one-page surveys to people who scored highest on the test and see if they are still available for the position. If they are still available, they are asked to come in for an interview.

The Pennsylvania State Civil Service Commission has established the rule of three for hiring qualified applicants, unless dealing with veterans, who can be hired from anywhere on the list regardless of rank and are given appointment preference if they fall within the top three. Veterans' preference policy also allows them to receive ten extra points on their civil service exam, but after a 2008 court decision in *Gregory L. Cutler v. State Civil Service Commission*, veterans are no longer eligible to use the extra ten points when being considered for a promotion. This case was the most significant reform in Pennsylvania's civil service system in recent years, and required the civil service commission to closely audit all HR decisions involving veterans for the first few months after its implementation until they were convinced that agencies were in compliance with the new state civil service law.

The only other instances in which diversity is favored in the Pennsylvania civil service system are when female applicants are sought for gender-specific jobs such as correctional officers, or when knowledge of a second language, usually Spanish, is a required qualification of a specific job.

The New Jersey Civil Service System is organized in a centralized manner, with the State Civil Service Commission overseeing all aspects of the civil service process at the state and local levels. The state has not set any specific goals of diversity, although discrimination of any kind is illegal under state civil service law. The recruitment process is done through the state civil service commission's website, where announcements of job vacancies are posted. Individuals seeking employment in the civil service can then take the corresponding exam, and will be ranked according to the score they received. The Rule of Three applies to everyone except for veterans, who are automatically placed at the top of the list once they have passed the exam. If there is more than one veteran on the list, disabled veterans are given preference over non-disabled veterans. Hiring is then left up to the agencies themselves, with any appeals from applicants going directly to the State Civil Service Commission.

Conclusion:

Overall, it is clear that decentralization, or allowing individual agencies more freedom, led to increased flexibility and diversity in the civil service. Of course, these reforms also had their problems. It is important to consider the applicability of these reforms for the State of New York. For example, while South Carolina was successful in achieving its goals, it already had a decentralized program, which mitigated the magnitude of the reforms. This does not mean that South Carolina's reforms should not be considered, though. Adopting these reform strategies can result in smoother and more efficient administration of personnel systems, a flexibility that

provides for qualitative evaluation of candidates in addition to solely quantitative aspects being measured by the exam, the opportunity to increase diversity in civil service positions and incentives for high performance in the form of merit based pay. Potential drawbacks include increased employee insecurity following the removal of certain protections, the potential for nepotism or cronyism in hiring decisions, and the lack of a set of standardized guidelines by which to evaluate a candidate.

The specific outcomes discovered by the Benchmark Team were:

- In Georgia, the changes resulted in more expedient processing for hiring and firing. Additionally, flexibility for management in recruiting and hiring helped the state to compete with the private sector for talent. Some problems of the changes included the issue of how to offer salaries which would make it possible for administrators to hire talent while keeping equity in pay for current employees (Lasseter 2002, 127-131). While the changes achieved flexibility, management faced accusations of hiring based on favoritism rather than performance (Kellough and Nigro 2005, 131-132).

- In Florida, the changes resulted in greater flexibility in recruitment, pay, and promotion decisions for managers, as well as in reassignment and downsizing decisions. Further, it provided for timelier hiring for qualified applicants. However, the changes resulted in less job security for employees (Walters 2003).

- South Carolina reforms resulted in one of the most prominent cutbacks in staff, simultaneously making operating processes more efficient which allowed the state to maintain its ability to perform at the same level. There was a high level of both customer and employee satisfaction, and labor-management disputes were resolved mostly internally.

Flexibility in setting wages and classifying/reclassifying jobs allowed for managers to better maneuver in times of financial instability (Kellough and Nigro 2005, 189-199).

- Wisconsin's reforms resulted in the implementation for "Working Together," which allowed for better labor-management cooperation. This improved productivity, working conditions and service. Unions and management were able to reach agreements more quickly, and more employee grievances were solved internally. This saved time for both management and employees, and saved money for agencies. Management flexibility in recruitment and setting classifications and pay structure attracted more and better candidates and allowed for expedient hiring. Finally, pay flexibility provided incentives for high performance for which employees could be rewarded with raises and promotions (Kellough and Nigro 2005, 282-300).

- In Oklahoma, the changes resulted in a significant increase in diversity. Oklahoma's measurement of diversity is a comparison of the percentage of state-employed minority workers to those employed in the private sector. To that end, Oklahoma met its diversity goals, with 19.2% minorities employed by the state versus 16.7% employed by the private sector ("Best Practices in Diversity Management" 2001).

- In Texas, reforms achieved the philosophical desire for decentralized government. This enables great flexibility for agency hiring managers, while maintaining the integrity of the hiring process, i.e. no significant increase in patronage hiring. However, a significant criticism has been levied against the reform due to the lack of expertise and resources of smaller state agencies, which are inexperienced in HR work (Walters 2003).

CONCLUSIONS

AND

RECOMMENDATIONS

Recommendations

Based on the findings, the Benchmark Team is able to make recommendations that would most likely occur at the state level, though some aspects of them may be able to be implemented at a local level. The Team recommends some form of decentralization in the hiring process to give agencies more autonomy in HR decision-making. To avoid complaints of nepotism or cronyism, though, there should also be a central review board to oversee the processes and maintain consistency. This recommendation mainly focuses on the issue of flexibility and timeliness in the hiring process.

To help with the issue of diversity in the workforce, the team would recommend expanding the certification pools when the desired amount of women, racial, and ethnic minorities are not present. Adding five to ten more names to the list might allow for more diversity in the pool of candidates, thereby allowing more diversity in hiring. Qualitative factors should also be considered when making hiring decisions.

To help the reform process proceed smoothly, the Team recommends working with all stakeholders in a process of coalition building. Such a process would allow all parties to realize that reforms can be beneficial to all involved and that the reformers care about union views. Consensus bargaining would be a good way to proceed with the unions and ensure that every interested party has a voice in the process. This would forge a better relationship between management and labor and help solve problems now and in the future.

REFERENCES

References

Interviews:

- Georgia State Personnel Administration
- California State Personnel Board
- South Carolina State Office of Human Resources
- Oklahoma Office of Personnel Management
- Pennsylvania State Civil Service Commission
- New Jersey State Civil Service System

Works Cited:

Battaglio, R. P., and S. E. Condrey. "Civil Service Reform: Examining State and Local Government Cases." Review of Public Personnel Administration. 26. 2 (2006): 118-138.

"Best Practices in Diversity Management." United Nations Expert Group Meeting on Managing Diversity in the Civil Service. United Nations Headquarters. New York, 3 - 4 May 2001. <http://unpan1.un.org/intradoc/groups/public/documents/UN/UNPAN000715.pdf>.

Bowman, James S., Marc G. Gertz, Sally C. Gertz, and Russell L. Williams. "Civil Service Reform in Florida State Government: Employee Attitudes One Year Later." Review of Public Personnel Administration. 23. 4 (2003): 286-304.

Kellough, Edward J. and Nigro, Lloyd G., Eds. Civil Service Reform in the States: Personnel Policy and Politics at the Subnational Level. Albany: State University of New York, 2005. Print.

Gossett, Charles W. "Civil Service Reform: The Case of Georgia." Review of Public Personnel Administration. 22. 2 (2002): 94-113.

Lasseter, Reuben W. "Georgia's Merit System Reform 1996-2001: An Operating Agency's Perspective." Review of Public Personnel Administration. 22. 2 (2002): 125-132.

Naff, Katherine, C. "Prospects for Civil Service Reform in California: A Triumph of

Technique Over Purpose?" 2002.
<http://74.125.113.132/search?q=cache:GuO-WQam3fEJ:bss.sfsu.edu/naff/HRM/calif_%2520paper.pdf+Civil+Service+in+California&cd=7&hl=en&ct=clnk&gl=us&client=safari>

Walters, Jonathan. "Life after Civil Service Reform: The Texas, Georgia, and Florida Experiences." Governing Magazine. October 2003.
<http://www.businessofgovernment.org/pdfs/Walters_report.pdf>.

APPENDICES

Appendix A

States	Reasons	Reforms	Outcomes	Definition of Diversity
Georgia	Bureaucracy, lack of employee incentives, difficulties hiring qualified minorities	Merit System Reform Act, GeorgiaGain, elimination of exam as requirement	Pros-Expedited hiring, firing, and discipline, competition for talent Cons-inconsistent pay, favoritism	Traditionally underrepresented groups (minorities, women)
Florida	High employee turnover rates	Service First	Flexible recruiting, hiring, pay, promotions, reassignment and downsizing	N/A
California	Criticism about tests, competing agency views, lack of guidance from central authority	N/A	N/A	N/A
South Carolina	Flexibility in hiring and firing, restricted recruitment methods, no flexibility in payment structure	Performance-based salary adjustments, scheduling innovations, and expanded probationary periods	High level of customer and employee satisfaction, efficient operations	N/A
Wisconsin	Diversify employment base, recruitment, simplify application process	Creation of Council on Affirmative Action, expanded certifications pools if necessary	Better labor/management cooperation, performance rewards, flexibility to set pay classifications, recruit more and better employees	Racial and ethnic minorities, women, disabled
Oklahoma	Diversity	Following required exam agencies can do their own hiring, OPM oversees hiring and enforces state standards	Increase in diversity, 19.2% minorities in state versus 16.7% in private sector	Racial/ethnic minorities, women
Texas	Limited government, flexibility in hiring and firing, diversity	Degree requirements, Texas Commission on Human Rights which conducts audits	Pros- flexibility through decentralization, no patronage problems Cons- lack of expertise in small agency management	Racial/ethnic minorities, women, age

Appendix B

State	Year(s) of Reform / Changes in Civil Service System	Control of Government
Georgia	1996, 1999	Democrat
Florida	2001	Republican
South Carolina	1993	Republican
Wisconsin	1998	Republican
Oklahoma	1982	Democrat
Texas	1985	Democrat

LEGAL/POLITICAL

REPORT

Civil Service Review

Final Report

The Legal/Political Team

CRP 6311: Consulting for Nonprofit and Government Organizations

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December 2, 2009

EXECUTIVE

SUMMARY

Executive Summary

Conditions in the external environment are always important factors that both public and private organizations must respond to in order to function effectively and remain relevant. Globalization has been a catalyst for the radical transformation of societies everywhere, changing the political, economic, and socio-cultural fabric in both large and small communities. This increased interaction and movement of people across borders for work, education, and leisure have engendered greater cosmopolitanism, unprecedented competition, and an exhilarating dynamism that present new and unparalleled challenges for governments and businesses. For state and local governments tasked with providing vital public services and managing cities and towns, often the effectiveness and efficiency of the department or agency rest on the quality of human talent they have at their disposal. Attracting the best and the brightest to work in state and local governments then becomes a problem, with sound and viable solutions few and far between. In addressing the challenges of recruiting and managing human talent, two inextricably bound issues inevitably take center stage: the legal and political implications of possibly amending the civil service exam.

The Legal/Political Team was charged with assessing the legal and political implications of possibly amending the New York State Civil Service Exam. For purposes of this investigation, the Team divided into four areas of study: Legal Opportunities and Challenges; Relevant Court Cases; Prospective Political and Legal Allies and Opposition; and Diversity and Meritocracy. To assess these criteria, its methodology consisted of an extensive literature review and interviews. Before proceeding, it is important to note the Team's investigation, findings, and recommendations were conducted and assessed

through a legal and political lens. As a result, its recommendations may differ from other teams who investigated civil service reform because of the different paradigms the groups operated within.

In terms of legal opportunities and challenges, the primary factor to contend with is the number of New York State Civil Service statutes that govern the civil service system. They are generally provided Civil Service Law (CSL), the Rules for the Classified Service, the Regulations of the State Civil Service Commission (Commission's Regulations) and the Regulations of the Department of Civil Service (President's Regulations). Additionally, the efforts of Tompkins County to bring changes to the "Rule of Three" have faced legislative hurdles both locally and at the state level. Thus, strong local and state support (civil bodies, political organizations, etc.) is needed for a change to the system to succeed. This support will be needed prior to approaching state legislators about the issue.

In conjunction with strong local and state support being needed, relevant court cases must be analyzed to assess the legality of any pilot project Tompkins County wishes to propose. Research in this area yielded data that would support a change to the system, as will be illustrated later in this report. However, the court case findings were quite broad in scope, resulting in reforms that unfortunately have still left a gap in terms of diversity and inclusion. Additionally, it must be noted that research from other teams might indicate evidence that propose different views regarding changing the system. As previously stated, the relevant court cases for civil service reform were analyzed from the perspective of its potential legal and political implications.

To assess potential legal and political allies for reform, the following criteria were used for organizations that were researched: legislative support, legal support, and political support. Each pertained to the type of support an organization could perhaps be approached for during reform efforts, with each organization being chosen based on missions that seemed to support reform or organizational histories that showed a commitment to employment equity and opportunity. Opposing entities were identified through past experiences with civil service reform as well as through research regarding their membership and mission. In assessing prospective legal and political allies, a key finding was the lack of support for potential civil service reform. Many organizations and entities declined to be interviewed, which offered support for findings from the one interview that was able to be conducted: there is not widespread support among many constituencies for civil service reform. While alarming, it does indicate a key component of civil service advocacy: the need for coalition building. This is especially apparent considering entities that would oppose civil service reform, including unions and the New York State Department of Civil Service itself. Therefore, prior to approaching any legislative body concerning the prospect of reform, the WDIC must have organizations and entities that accompany it to add credibility to and justification for its proposal.

Lastly, the Team's investigation focused on diversity and meritocracy. Both terms encompass notions of fairness and competence, which are the foundation upon which the civil service is supposed to rest. This has led to diversity and meritocracy being considered political goods by both the public and government entities, while at the same time having varying definitions and being mutually exclusive. As a result, they have become goals people look to government to promote despite the contentious nature that

arises from having varying definitions. Such contention must be addressed when considering any type of civil service reform.

The research ultimately yielded findings that focus on three critical obstacles that are connected to potential civil service reform: the lack of constituencies advocating for reform; conflicts with diversity and inclusion persisting despite past major reforms; and a widespread perception that one's merits can be captured in a single exam, resulting in significant faith in that exam. Based on those issues, the major recommendations that could be utilized to work through them are: encourage broad-based coalition building and focus on assessing whether the exam's design and implementation actually aligns with the job demands.

With those recommendations in mind, it is also imperative to recognize that even if reform takes place, diversity and inclusion will not take place with exams that are not adequate measures of an individual applicant's qualifications. Furthermore, specific attention must be paid to the types of recruitment efforts that are undertaken to try and increase diversity within the civil service system.

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INTRODUCTION

Introduction

The work of the Legal/Political Team focused on the potential legal and political ramifications of amending the New York State Civil Service System for the purpose of increasing the diversity among civil service employees. The study focused specifically on the potential legal opportunities and challenges, relevant court cases, potential political and legal allies and opposition, as well as diversity and meritocracy. Information gathered for the purpose of this analysis was amassed and integrated together in order to draw findings regarding the legal and political implications of civil service reform and shape recommendations addressing actions to be taken before bringing the idea to the New York State Assembly.

This analysis was constrained by time and resource limitations; the most significant factor being prospective interviewees choosing not to participate or interviewees with whom the Team was unable to schedule an interview. Despite these constraints, the Team believes that meaningful findings were drawn from its primary research as well as secondary source information analysis.

Literature Review

For the purposes of researching the legal and political facets of reforming the New York State Civil Service, the Legal/Political Team broke down the issue area into four subgroups. The subgroups are: Legal Opportunities and Challenges, Relevant Court Cases, Prospective Political and Legal Allies and Opposition, and Diversity and Meritocracy. Within each of these subgroups, the Legal/Political Team located and utilized a vast number of sources including, but not limited to, published books, academic journals, court dockets, organization websites, and news stories. Through the collection and review of this information the Team was able to better narrow the focus of the study as well as the questions to be posed in interviews.

Legal Opportunities and Challenges:

The modern public service, characterized by insulation of civil servants from political manipulation and protection of the public from partisan administration of the law, is undergoing change as a result of contemporary civil service reform. It is in this background that the Legal and Political group is examining the opportunities and challenges that will encompass the review of the New York State Civil Service System. civil service reforms at the federal level are driven by expectations that changes to systems aim to change employee behavior, thus organizational performance. Arguments in support of civil service reform fall into at least three categories: technical, political, and ideological.[1] Ideological arguments for reforms assume that changing rules and

[1] Edward J. Kellough and Lloyd G. Nigro, *The States and Civil Service Reform: Some Lessons Learned and Future Prospects* (Albany, NY: SUNY Press, 2006).

structures will lead to changed bureaucratic behavior. These normative arguments typically are based on the idea that practices from the private sector or market-driven mechanisms are superior techniques to those used under traditional merit systems, and will thus be more successful in improving performance and responsiveness.

New York State uses a fixed band method where civil service exam scores are grouped by using Standard Error of Measurement formulas. These bands represent five-point clusters of test scores. After a passing score is determined, the raw scores of passing candidates are converted to a 70 to 100 point scale. Bonus points are added for seniority and veteran status. State agencies in New York use the "Rule of Three," meaning that agencies make their personnel choices from one of the top three eligible candidates in the band who are willing to accept the position. Eligible candidates within a given band are equally reachable for appointment. This allows the agency greater flexibility in selecting eligible candidates for appointment to state jobs as well as increasing the validity of the selection system. Murphy, Osten, & Myors stated that if test scores within a band are equivalent, any system of selecting individuals from within the band might be defensible. If any system is appropriate, the criterion for developing a good system for selection within each allowable band should be the extent to which it contributes to achieving key goals such as workforce diversity.[2]

Dr. Frank Schmidt of the University of Iowa argued that banding procedures for personnel selection are logically flawed. In his view, "all banding models are simply attempts to reduce adverse impact while minimizing utility losses. This is their only rationale and justification; they have no legitimate statistical or measurement

[2] K.R. Murphy, B. Myors, and K. Osten, "Modeling the Effects of Banding in Personnel Selection," *Personnel Psychology* 48 (1995): 61-83.

justification." Dr. Schmidt further argued that scores on valid employment tests bear a linear relationship to job performance implying that higher test scores lead to higher job performance. This is true even if the test score difference is small and statistically insignificant. Further, "it logically follows that, in the absence of other valid information about applicants, the optimal hiring decision policy is always to prefer higher scoring applicants to lower scoring applicants. This means that ranking with top-down selection is the optimal selection strategy for maximizing selection utility."[3]

The Government Accountability Office (GAO) argued that systemic shifts in the country call for a comprehensive review, reassessment, and reprioritization of what the government does, how it does business and who does the government's business.[4] This requires transformation of the culture within federal agencies. The GAO touts civil service reform as an external shock to the system because it is imposed by the legislature, as a key tool for driving that cultural change. O'Toole, Meier, and colleagues documented that manager' responses to changes due to environmental shocks, and previous organizational performance, influence current performance in non-linear and autoregressive ways.[5] Therefore, an analysis of the political and legal implications of reforming the New York State Civil Service system would be a necessary component in decision making.

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[3] F.L. Schmidt, "Why All Banding Procedures in Personnel Selection are Logically Flawed," *Personnel Performance* 8 (1995): 165-177

[4] United States Government Accountability Office, *The Chief Operating Officer Concept: A Potential Strategy to Address Federal Governance Challenges,* (Washington, DC, 2002).

[5] L. J. O'Toole Jr. and K. J. Meier, "Modeling the Impact of Public Management: Implications of Structural Context," *Journal of Public Administration Research and Theory* 9 (1999): 505.

Relevant Court Cases:

Substantial work has been done in the legal and political arena surrounding the New York Civil Service hiring process. As a result, lawsuits have been filed on the state and federal level to ensure fairness. Most of these cases were filed with the Equal Employment Opportunity Commission (EEOC) under Title VII of the Civil Rights Act of 1964. Title VII protects individuals from discrimination in the hiring process and other job-related areas. When these cases are brought before a judge, they are tested for a disparate impact on the victim. This means that the plaintiff must prove that the hiring process was discriminatory. These practices may be discriminatory despite original intent.

The specific cases pertaining to the civil service hiring procedure focus on racial biases and unfair practices. They examine unintended discriminatory practices and rectify them. They utilize statistical data and examine the actual civil service examination process. They also determine if the tests themselves are job-related and an adequate measure of qualifications.

In *Kirkland v. New York State Department of Correctional Services ML*, 711 F2d 1117 (1983), the court found that the New York Civil Service exam for lieutenant promotions disproportionately impacted African American and Hispanic minorities. The court ordered the NYSDCS to change the way that it ranked candidates. The original design ranked candidates according to their performance on a multiple choice exam and added to it seniority and veteran credits. Minority candidates were usually at the bottom of the promotion list. The court ordered the NYSDCS to implicate banded scoring

consisting of three zones depending on performance on the test and seniority and veteran credits. The candidates are placed in a zone and listed randomly. In this case, the court chose to completely change how eligible candidates are chosen.

In *Bushey v. NYS Civil Service Commission*, 733 F2d (1984), non-minorities brought suit against the NYSCSC alleging that score banding caused an adverse impact. The NYSCSC captain promotion exam resulted in almost half of the minorities failing. The NYSCSC scored minority tests on a different frequency to avoid adverse impact. This decision added minorities to the passing list without taking away non-minorities. The court found that the difference in test scoring did not have a disparate impact on non-minorities because minorities still passed at half the rate of non-minorities. The decision to score tests on a different frequency was not a violation of Title VII. This case presented a potential argument against civil service reform.

In *Vulcan Society of FDNY v. Civil Service Commission of City of New York*, 490 2d 387 (2009), three minority firefighters brought suit against the hiring process of the FDNY. They alleged that the written exam had a disparate impact on minority applicants and that the questions were not job-related. The court looked at the statistical data of race representation in the FDNY and found low minority representation. It also looked at the written exam. The court found that the questions were not job-related and served to promote a disparate impact. It ordered that one minority must be hired for every three non-minorities. This enforced diversity compliance. The court's decision presents one way of changing the system.

These court cases provide an analysis of how the judiciary has looked at cases involving diversity in the civil service hiring procedure. They offer background as well

as reasoning behind decisions that have affected hiring practices. However, the weaknesses in these cases are the specificity of the jobs as well as the reliance on Title VII. These cases narrowly focus on specific agencies without expanding their reasoning to the entire system. Also, as a result of this narrowness, the cases only refer to Title VII as support for the decisions.

Prospective Political and Legal Allies and Opposition:

The legal and political implications of possibly amending the New York State Civil Service hiring process would affect countless individuals and groups at the state and local level. Thus, amending any portion of the hiring process entails coalition building, which will be paramount in gathering the support of state government and other constituencies. This illustrates a preliminary need for lobbying and receiving political and legal support should this initiative move forward.

The following is a list of prospective allies the Tompkins County Workforce Diversity Inclusion Taskforce can call upon, with a brief summary of their missions and possible connection to civil service reform. Additionally, the groups are broken into the most appropriate categories their support could be used for: legislative, political, and legal. It is important to note this is not a complete list, but an initial identification of potential key players in advocating for reform. Entities that would be in opposition to any attempts to reform the civil service system are also listed below.

Legislative Support:

The New York State Black, Puerto Rican, Hispanic, and Asian Legislative Caucus:

Formed in 1966, the Caucus has been a significant advocate on behalf of ethnic minorities, the poor, blue-collar workers, and the middle class. Pledging to unite African-American, Hispanic, and Asian legislators in the New York State legislature, the caucus currently includes 48 members and represents one third of the majority conference within the State Assembly and Senate. Several of its members also hold leadership positions within the House and Senate.[6]

Given the Caucus's history of legislative reform, combined with its representation of individuals directly impacted by current and potential future civil service regulations, its voting power offers excellent opportunity for representation during legislative caucuses. The Caucus clearly should be consulted should further investigation highlight inequities with respect to racial and ethnic hiring of civil service workers. This is potentially important during the advocacy, implementation, and assessment phases of any proposed change to the hiring process.

The New York State Legislative Women's Caucus:

The Legislative Women's Caucus works to improve the participation of women in all areas of government, while supporting issues that affect and benefit women in New York State.[7] Meeting every two weeks, the WDIC could have an opportunity to present any proposal to this caucus in an attempt to garner support for any possible pilot programs or proposed amendments to the hiring process. The Women's Caucus offers an additional entity to lobby for change from within the legislature. Should further

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[6] New York State Assembly, "The New York State Black, Puerto Rican, Hispanic, and Asian Legislative Caucus History," http://assembly.state.ny.us/comm/BlackPR/20030130a/ (2009).
[7] New York State Assembly, "Legislative Women's Caucus, Inc. New York State," http://assembly.state.ny.us/comm/Leg_Women_Caucus/20071206/ (2009).

investigation yield an inequity within hiring practices for female civil service workers, this Caucus would ideally be one of the first political entities sought out by the WDIC to propose reform. This is potentially important during the advocacy, implementation, and assessment phases of any proposed change to the hiring process.

Political Support:

League of United Latin American Citizens (LULAC):

LULAC is the largest and oldest Hispanic organization in the United States. Its efforts include working toward the advancement of economic conditions for Hispanic workers, and it has a history of local and state government engagement. Additionally, job training and literacy programs are implemented to increase Hispanic participation in the workforce.[8] LULAC could potentially be consulted for job training and preparation of underrepresented workers, and includes New York-based chapters. Furthermore, securing the endorsement of a prestigious and historical civil rights organization toward any initiative involving civil service reform would add credibility to the efforts of the WDIC.

National Association for the Advancement of Colored People (NAACP):

The NAACP is the nation's oldest grassroots civil rights organization. Its principal objective is to ensure fairness and equality while eliminating racism and prejudice. From an employment perspective, this includes removing the aforementioned

[8] League of United Latin American Workers, LULAC, "About LULAC," http://www.lulac.org/about.html (2009).

barriers from hiring practices.[9] Although the civil service exam purports to do this, any disparities within racial and ethnic hiring still can be combated with the support of the NAACP (should disparities be found to be occurring due to problems with the civil service hiring process). The NAACP monitors equal opportunity within the public sector and would add credibility to the efforts of the WDIC. Furthermore, the NAACP is a proven advocate for social and economic reform and would represent an invaluable ally to the WDIC if advocacy were needed for state government reform.

New York State Association of Counties (NYSAC):

The New York State Association of Counties was founded to represent, educate, and advocate for New York's counties as well as the thousands of elected and appointed county officials who serve the residents of this state. The organization represents New York counties at the federal, state, and local levels regarding matters germane to county governments. It also informs its membership and the public on issues of importance to county governments.[10] NYSAC would likely be interested in reforming New York State's Civil Service system for a number of reasons. The first reason it would be likely to take interest is that the matter is being brought forth by Tompkins County, which is one of its member counties. Additionally, as Tompkins County has presented, the current system is a burden to counties as they attempt to hire individuals for civil service jobs. If this is the case for other member counties (which seems likely) then NYSAC would certainly feel it was in its best interest to be involved in this issue on behalf of its members.

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[9] National Association for the Advancement of Colored People, NAACP, "NAACP History," http://www.naacp.org/about/history/index.htm (2009).
[10] New York State Association of Counties, "About NYSAC," http://www.nysac.org/About (2009).

the public and private sectors. Its main goals include eliminating racism while promoting opportunity for minority communities and striving to reach those goals through programs that include employment training and preparation. The organization's support in lobbying for change while also implementing civil service reform could be critical as any amendment to the hiring process could entail potential changes in job training and preparation, which the NYUL has an expertise in. The NYUL could potentially be consulted for job training and preparation of underrepresented workers, and includes chapters in Buffalo, Syracuse, and Albany.

Legal Support:

Puerto Rican Legal Defense and Education Fund (PRLDEF):

The Puerto Rican Legal Defense and Education Fund (also known as *LatinoJustice*) works toward creating an equitable society. Combining litigation and advocacy, *LatinoJustice* encourages economic development and opportunities for Latinos to succeed in the workplace. PRLDEF includes an employment rights division, which is applicable for any civil service reform that is proposed, as it would directly impact Latino workers in New York State.[13]

From a legal standpoint, PRLDEF represents an incredible resource with respect to litigation and advocacy during legislative proceedings. With a history of pro-bono services during court cases and also being based out of New York City, the PRLDEF is an ideal ally to bring on board for any prospective changes that may result in litigation from opponents to amending the civil service hiring system. Its advocacy for Latino

[13] Puerto Rican Legal Defense and Education Fund, *LatinoJustice*, http://www.prldef.org (2009).

workers extends beyond New York City and also is not restricted to the courtroom because their organization is involved with advocacy efforts as well.

Opposition

Civil Service Employees Association (CSEA):

The Civil Service Employees Association has represented New York Civil Service employees since October 24, 1910.[14] The CSEA prides itself as having solidarity in negotiations, the political arena, and in local communities through its membership. Additionally, the CSEA works very hard to take care of its members, ensuring that they are taken care of properly and receive the best contracts possible in exchange for their labor. As stated by the CSEA, "Negotiating contracts is our number one priority. Everything our members have earned on our jobs, including fair wages, health insurance, benefits, leave time, and our workplace rules, is the result of contract negotiations."[15]

The CSEA, though being a proponent of diversity in general, would be opposed to civil service reform. The organization has opposed it in the past and would be very likely to continue to oppose given that they would not believe the organization's previous concerns were addressed. The CSEA would be apt to feel that changes to the civil service could have an adverse affect on current employees by weakening their major source of protection, the civil service exam. Furthermore, the organization also would be likely to claim that this sort of change could limit its ability to negotiate contracts for its employees. Given its strong feelings about having the ability to negotiate contracts, this could be a very real problem.

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[14] Civil Service Employees Association, "Who is CSEA?," http://www.csealocal1000.org/Who_is_CSEA.php (2009).
[15] Ibid.

American Federation of Labor and Congress of Industrial Organizations (AFL-CIO):

The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) is a voluntary federation of 57 national and international labor unions. The mission of the AFL—CIO is fourfold. It strives to: build a broad movement of American workers by organizing workers into unions, build a strong political voice for workers in the United States, change unions to provide a new voice to workers in a changing economy, and change the labor movement by creating a new voice for workers within communities. [16] In the State of New York, the AFL-CIO represents 25 central labor councils and five area labor federations that stretch from the lower Hudson valley across the state to Buffalo.[17]

One of the AFL-CIO's largest union members is the American Federation of State, County, and Municipal Employees (AFSCME),[18] which is the larger union that represents the New York Civil Service Employees Association (CSEA).[19] Because CSEA is a staunch opponent of civil service reform, the AFL-CIO would be very likely to oppose it as well.

American Federation of State, County, and Municipal Employees (AFSCME):

The American Federation of State, County, and Municipal Employees (AFSCME) is one of the nation's largest unions, representing approximately 1.6 million members

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[16] American Federation of Labor and Congress of Industrial Organizations, "About Us," http://www.aflcio.org/aboutus/ (2009).
[17] New York State AFL-CIO, "Labor Federations," http://www.nysaflcio.org/index.cfm?zone=view_page.cfm&page=Labor20Federations (2009).
[18] Ibid.
[19] Civil Service Employees Association, "CSEA Career, Labor Resource Links," http://www.csealocal1000.org/link1.php (2009).

nationwide.[20] Representing individuals who mostly work in local and state government, health care, and corrections, AFSCME prides itself on representing individuals who work in positions that are considered to be public service.[21] In New York State, AFSCME's largest member is the Civil Service Employees Association (CSEA). Given that the CSEA is steadfastly opposed to civil service reform, AFSCME will oppose also.

Additional Opposition

The labor organizations listed above are the ones that will be likely to come out in opposition to civil service reform very early and with a vengeance. Given that many labor organizations hold close ties to one another, there is a good chance that others will come forth in opposition to civil service reform as well. Some additional organizations that are affiliates of the CSEA to watch for might include but would not be limited to: The Public Employees Federation, New York State United Teachers, and United University Professions.[22]

Diversity and Meritocracy:

Diversity and meritocracy are two vital commodities that most organizations try to promote through their hiring and promotion policies. While in an ideal situation, both entities should complement one another. In reality, there are times when advocating for diversity may entail compromising on meritocracy and vice-versa. The discourse on diversity in civil service often centers around accessibility, while meritocracy is usually

[20] American Federation of State, County, and Municipal Employees, "About AFSCME," http://www.afscme.org/about/aboutindex.cfm (2009).
[21] Ibid.
[22] Civil Service Employees Association, "CSEA Career, Labor Resource Links," http://www.csealocal1000.org/link1.php (2009).

driven by the belief in equal treatment for similar talents; consequently, the pursuit of both diversity and meritocracy are grounded in notions of justice, informed by the idea that in a fair system where people are evaluated for traits that are morally relevant to the jobs in question, then only those most suited to excel in the job will be hired, and, as a result, the organizational workforce should be roughly representational of the community's demographics. Nevertheless, the complexities of reality, such as the increasing fluidity in the definition of diversity and the difficulties in identifying and measuring the various components of merit, all serve to make the task of governments ever more challenging if both diversity and meritocracy are to be promulgated.

In the article "Civil Service Reform: Examining State and Local Government Cases," Paul Battaglio and Stephen Condrey acknowledge that experimentations in human resource management at the state level to enhance meritocracy and governmental efficiency may have impact at the federal level.[23] As a matter of pragmatism, Battaglio and Condrey advocate for strategic modernization of civil service rather than radical reforms which they think might be less effective.

Civil service reform is portrayed as a constant endeavor of government in Donna Beecher's article, "The Next Wave of Civil Service Reform."[24] Beecher suggests that new efforts in civil service reform should focus on the facilitation of organizational performance, simplicity, flexibility, and leadership. At the heart of these reform initiatives is once again the desire to put into place the conditions that will attract and retain the best talents for the respective jobs.

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[23] Battaglio, Jr., R Paul and Condrey, Stephen E. "Civil Service Reform: Examining State and Local Government Cases." *Review of Public Personnel Administration.* Vol. 26, No. 2 (Jun 2006), p. 118-138.
[24] Beecher, Donna D. "The Next Wave of Civil Service Reform." *Public Personnel Management.* Vol. 32, No. 4
(Winter 2003), p. 457-474.

Drawing on a close examination of a government agency – the New York State Department of Education – Nandhini Rangarajan and Tamika Black claim in "Exploring Organizational Barriers to Diversity: A Case Study of the New York State Education Department" that there are three barriers to diversity, namely structural, cultural, and semantic.[25] While diversity is deemed valuable, the agency's culture along with civil service requirements can have the effect of dampening diversity. More specifically, both authors assert that the existence of social networks, the limited accountability in hiring, and insufficient articulation of the vision for diversity all work to stifle diversity initiatives by the government agency.

Any successful attempt at civil service reform must necessarily examine and deal with the deficiencies at the organizational as well as the systemic level. Sonia Ospina tackles this issue in her article, "Managing Diversity in Civil Service: A Conceptual Framework for Public Organizations," wherein she discusses the need to look at performance problems that may emanate from diversity initiatives and to accurately diagnose them as being organizational or systemic in nature because this determination has important repercussions with regard to the solutions to be implemented.[26]

In a recent newspaper article titled, "A Power Tiff Over State Jobs," the New York Civil Service Commissioner Nancy Groenwegen raised the issue about the difficulties in establishing an effective merit system that can accurately assess and hire the best talents. Groenwegen attempted to reclassify professional titles to be exempt from civil service list hiring in the state so as to give agency heads free reign to hire who they

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[25] Rangarajan, Nandhini and Black, Tamika. "Exploring Organizational Barriers to Diversity: A Case Study of the New York State Education Department." *Review of Public Personnel Administration*. Vol. 27, No. 3 (Sep 2007), p. 249-263.

[26] Ospina, Sonia. "Managing Diversity in Civil Service: A Conceptual Framework for Public Organizations." 2001.

wanted in hundreds of professional jobs. Groenwegen claimed that a civil service exam is not the best way to find the best qualified people and is, therefore, redundant, especially for professional positions because the fact that these individuals graduated from professional schools and earned their respective professional licenses is already evidence of competency.

Finally, it should be noted that there are also numerous articles and editorials about the problems involved in the government's efforts or lack thereof in boosting diversity while promoting meritocracy. For instance, the New York Daily News reported in a recent legal case[27] that involved the New York City Fire Department where a Brooklyn federal judge found that the 1999 and 2002 FDNY tests did not comply with of Title VII and that these civil service exams were indeed a barrier to diversity.[28] As such, these exams were deemed to have closed the doors of opportunity for public service to large segments of the city's minority population.

Conclusions:

Through its research, the Legal/Political Team has been able to identify legal challenges and opportunities that could affect civil service reform in the State of New York. It also has found relevant court cases than can lend themselves as useful to understanding the legal climate of civil service as well as ideas to be drawn upon if civil service reform becomes a reality. Additionally, through its research regarding legislative, political, and legal organizations, the Team has been able to gather information on entities that could prove to be very useful if Tompkins County chooses to advance its

[27] *Ricci v. DeStefano,* 264 Fed. Appx. 106 (2d Cir. 2008).
[28] Editorial. "FDNY's Big Diversity Test." *Daily News (New York).* Jul 28 2009.

goal of civil service reform. The final area of study, diversity and meritocracy, can be thought of as topics that provide further insight and support as to reasons civil service reform might be essential. Moving forward, the Legal/Political Team believes that each of these areas of study will continue to be necessary and useful in understanding the "big picture" associated with an attempt to reform the New York State Civil Service. Additionally, this base of research will be useful as the team continues to focus on the research goals and categorize the results of its efforts.

METHODOLOGY

Methodology

When charged with the responsibility of researching and developing an understanding of the political and legal climate surrounding the possibility of civil service reform in the State of New York, the Legal/Political Team deemed it necessary to craft a plan that would allow it to gain a complete grasp of the issue. It was with this in mind that the Team chose to develop a framework for conducting research, determine the goals and specific topics of study, and then map out the resources to be used for its methodology. Through this preparation and planning the Team was better able to understand the issue and prepare to report findings and recommendations.

Research Development and Framework

To assist in guiding its research, the Legal/Political Team sought to incorporate the five steps in diagnosis and data collection as suggested in Stroh and Johnson's *The Basic Principles of Effective Consulting*. As it attempts to determine and analyze the legal and political considerations of amending the New York State Civil Service statute, the Team approached each issue in a systematic and logical order by:

1. Identifying the problem and resolving any outstanding questions or discrepancies with regard to its scope and parameters.
2. Determining the data that must be collected to answer the WDIC's question.
3. Pinpointing the location where the relevant information can be found and how to gain access to it.
4. Determining the most effective and efficient way to collect the information required.

5. Deciding on the conclusions that can be drawn from the information derived.[29]

Research Goal and Specific Topics of Study

First it was necessary to identify the goal of the project to be analyzed and the legal and political implications of amending the New York State Civil Service hiring process. The Team determined that the most effective use of time would be to divide the goal into four subgroups: 1) Legal Challenges and Opportunities, 2) Relevant Court Cases, 3) Prospective Political and Legal Allies and Opposition, and 4) Diversity and Meritocracy.

- *Legal Challenges and Opportunities:* In order to best advise the client on the legal and political climate in regard to reform, an understanding of the legal framework surrounding the New York State Civil Service system was essential. The main goal for this particular subgroup was to identify and research the statutes that embody the system. Additional goals included identifying areas within the statutes that might offer an opportunity for change as well as ascertaining some of the challenges that could be faced if a review of the system were to take place.

- *Relevant Court Cases:* Having knowledge of recent and relevant court cases allowed the Legal/Political Team to understand what sorts of legal battles the client could be up against if they choose to attempt civil service reform. With this in mind, the Team deemed it necessary to investigate recent and relevant cases that have been brought against the New York State Civil Service Commission

[29] Linda K. Stroh and Homer H. Johnson, *The Basic Principles of Effective Consulting* (New York: Routledge, 2005), 61.

dealing with discriminatory practices in regard to civil service employees or potential job candidates.

- *Prospective Political and Legal Allies and Opposition:* During the Team's meeting with the client, it was requested that it identify prospective allies who could be called upon to assist if the New York State Civil Service hiring process were amended. The WDIC was especially curious about different legislative caucuses or committees that exist that could be counted on to advocate for reform from within the legislature, as well as any political entities who could advocate outside of the legislature. Furthermore, the WDIC wanted to know of any legal advocacy groups that could be contacted for assistance. As such, the Team decided to place the organizations and entities we found into the following categories: legislative support, legal support, and political support. Finally, to round out the analysis of the potential political climate surrounding this issue, the Team also identified organizations who would be likely to oppose reform.

- *Diversity and Meritocracy:* With the workplace becoming ever more demanding due to the intense competition and dynamism of the external environment, organizations everywhere must strive to hire and retain the best talent. This is no different for governments, be it at the federal, state, or local levels. As such, diversity and meritocracy have, over time, become increasingly important political goals that governments pursue. Diversity among government employees insures not only that agencies incorporate into their policies and operations the smorgasbord of values and concerns that reside in the population so as to better

serve the people, it also, and perhaps more importantly, empowers government agencies with the intellectual capital to innovate and reap the benefits within the organization.

Apart from such pragmatic considerations that pertain to government competency and efficiency, diversity and meritocracy also matter in employment practices because they speak to our notions of justice and fairness. Because employment provides the groundwork for most people to achieve their many aspirations in life, any policy that unreasonably hinders their ability to be equitably evaluated for a job becomes a substantive violation to our conception of justice and fairness.

Research Methods

To conduct its research, the Legal/Political Team utilized a number of different primary and secondary resources. The primary resources that were identified and utilized by the Team include:

- *Interviews:* The Team attempted to set up interviews, which were supposed to take place either in person, by phone, or via e-mail, with experts and stakeholders that have been identified by the client and from published sources. The purpose of the interviews was to gain an awareness of the perspectives of experts and stakeholders on a potential change to the civil service system. Interviews conducted by the Legal/Political Team, though originally for the purpose of only identifying potential political allies, were also found to be useful in deepening our

research on the legal opportunities and challenges of reform as well as the pursuit for diversity and meritocracy in the civil service.

Before interviews could be conducted, the Legal/Political Team had to receive approval from the Cornell University Institutional Review Board (IRB). This entity is charged with the responsibility of making certain that human subjects who volunteer for a study are protected and treated properly. Though experiencing setbacks throughout the process, the Team received IRB approval and was able to make contact with individuals targeted for interviews.

The Team chose to interview individuals representing the political and legal organizations who would have an interest in civil service reform. The purpose for these interviews was to identify potential support for or opposition to civil service reform and to gain a greater understanding of the politics surrounding the issue. These entities included but were not limited to: the National Association for the Advancement of Colored People, New York State Association of Counties, New York Conference of Mayors and Municipal Officials, New York Urban League, and the Civil Service Employees Association. When conducting the interviews, the Team chose to ask questions regarding the key obstacles to moving forward with civil service reform in New York State, entities that might comprise the main proponents and opponents of civil service reform, and what sorts of political conflicts might be encountered throughout the process.

- *Cases:* In order to create a narrower scope of court cases, only those filed with the Equal Employment Opportunity Commission (EEOC) or ones that argue against

discriminatory practices were assessed. Therefore, only cases that deal with employees or potential job candidates of New York State Civil Service were taken into account. A discussion of the disparate impact was included. The legal standard by which a company, policy or procedure is considered discriminatory is called disparate impact (Peresie, 2009). The team assessed how and why the court found disparate impact in some of cases. Additionally, it looked at why the court decided there was no disparate impact in other cases. These cases were found via Internet databases such as Cornell's Law Library and Findlaw. The purpose of this analysis was to examine the legal repercussions of both keeping the current system unchanged and changing it. Recommendations and orders made by the judges to correct the system were taken into account.

- *Statutes:* The term "statutes" encompasses a number of sources. It includes: public acts, pending legislation, legislation that was introduced but never passed, and decisions of New York State administrative bodies. These sources will be beneficial as they will help the Team to understand what has been attempted in the past to change the civil service system. Moreover, they will be useful if the Team chooses to make recommendations regarding manners in which the client might attempt to change the system. These sources can be found online (through the New York State Assembly), in volumes of New York State compiled laws, and also through the reports that are published when an administrative body issues a new ruling or decision.

The secondary sources that the Team used include:

- *Academic Journals:* The Team searched academic journals via online databases for expert opinions and analyses on the complexities surrounding diversity and meritocracy in employment. These types of sources will be useful in understanding the political and legal struggles surrounding civil service in the State of New York. Additionally, they can be utilized as sources that summarize, compile, comment on, and/or interpret court cases and statutes.

- *Published Books:* Books found in the Cornell library system (and sometimes online) provided a more in-depth analysis than academic journals. Additionally, with the vast number of published works to be found throughout the Cornell and Ivy League library system, the opportunities are nearly limitless in regard to the evidence that can be gathered to assist in understanding the complexities and challenges that affect the political and legal climate surrounding the civil service system in New York State and throughout the rest of the country.

- *Newspaper Articles:* Though not always filled with academic arguments, newspaper articles are important in that they provide current (and evolving) information. They also showcase what the public is reading, and provide insights into what the public may be thinking/feeling about issues.

FINDINGS

Findings and Analysis

Originally the Legal/Political Team's intent was to compile its findings in a style that put all four areas of study into one unit. As its data were being amassed and analyzed, however, it became clear that the most effective manner in which to present the findings would be in the manner in which they were researched. Therefore, in an effort to be as clear as possible and derive the greatest value from its work, the Legal/Political Team's findings will be presented as broken down into the four issue areas: Legal Opportunities and Challenges, Relevant Court Cases, Prospective Political and Legal Allies and Opposition, and Diversity and Meritocracy.

Legal Opportunities and Challenges:

Acronyms

Below is a key to abbreviations of citations of laws, rules and statutes observed by the New York State Civil Service.[30]

CSL - Civil Service Law

CSR - Classified Service Rules

CFR - Code of Federal Regulations

POL - Public Officers Law

PR - Regulations of the Department of Civil Service (President's Regulations)

[30] New York State Civil Service Commission (2008). *Summary of New York State Civil Service Law.*

Legal definition of the Civil Service:

The New York State Civil Service Law section 2.5 defines civil service as all offices and positions in the service of the State or any of its civil divisions, except offices and certain employees in the Division of Military and Naval Affairs.

Laws governing the Civil Service:

Appointments and promotions in New York State Civil Service are made according to merit and fitness as mandated by the New York State Constitution. The majority of the laws dealing with civil service matters are provided in the Civil Service Law (CSL), the Rules for the Classified Service, the Regulations of the State Civil Service Commission (Commission's Regulations) and the Regulations of the Department of Civil Service (President's Regulations). The Rules and Regulations implement the Law and provide procedures for carrying out the principles expressed in the Constitution and Law. The Civil Service Law (CSL) was passed in 1883, amended in 1909 and again in 1958. Principal rules governing the recruitment of personnel as well as personnel changes, examinations, appointments, promotions, transfers and reinstatements, are contained in the Rules for the Classified Service. These are subject to approval by the Governor and take effect when filed with the Department of State.

The Civil Service Law (CSL) and the Rules and Regulations implement the mandate of the State Constitution, Article V, section 6, which states that "Appointments and promotions in the civil service of the State and all of the civil divisions thereof, including cities and villages, shall be made according to merit and fitness to be

ascertained, as far as practicable, by examination which, as far as practicable, shall be competitive, ...".[31] This clause provides additional credits in competitive examinations for certain disabled and non-disabled veterans.

According to CSL, sections 5.1 and 5.2, the State Department of Civil Service is vested with the responsibility of administration of civil service law in the New York State government while the State Civil Service Commission oversees the merit system.

Classification of government service

Civil service is divided into classified and unclassified service (CSL section 35). Elected or appointed officials; legislative officers and employees; department heads; certain officers and employees appointed by the Governor; officers, members and employees of boards of elections; teachers and supervisory personnel in the public schools, the State University and certain community colleges fall under the unclassified group. [32]

Examination and ranking

CSL section 40 states that when all positions in the classified service are created, they automatically fall in the competitive class until the Commission takes action to place them in the exempt category. CSL section 50.1 requires that positions in the competitive class be filled through a competitive examination process that ascertains the relative merit and fitness of each candidate. CSL section 50.2 and President's Regulation (PR) section 66.1 stipulate that the State Department of Civil Service announces and determines

[31] Ibid.
[32] Ibid.

examinations. CSL section 61.1, CSR section 3.5, 3.6 and PR section 67.2 state that successful candidates are ranked according to exam ratings including seniority and veteran's status. The "Rule of Three" requires the selection of one of the top three eligible applicants on the list who indicate willingness to accept appointment.

In adherence to CSL section 56 and PR section 68.1, an eligible list is kept for not less than one year and no more than ten years. Failure to produce an eligible list containing the names of at least three people willing to accept appointment leads to nomination of an individual who does a non-competitive qualifying exam. CSR section 4.2(b) and CSL section 52.7. [33]

Other laws

Other provisions of laws relating to the New York State Civil Service are found in Public Officers Laws, Public Authorities Law, Military Law, Town Law and Village Law.

Opportunities

The changes that governments at every level are facing as the Baby Boomer Generation approaches retirement create problems associated with loss of institutional knowledge. This provides an opportunity to attract skilled new employees that reflect the State's diversity. Furthermore, several aspects of the New York State Civil Service can be continually improved with the changing times.

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[33] Ibid.

Challenges

Commissioner Daniel E. Wall[34] once remarked that the constraints he operates under as part of the merit system are the product of both constitutional and legislative directives that simply cannot be changed. Despite this fact, Commissioner Wall also has expressed his belief that various aspects of the system can be continually improved.[35]

Section 2(b)(2) of the NY State Constitution prohibits from acting with respect to the "property, affairs, or government" of any local government except by general law or by special law enacted at the request of two-thirds of the membership of a local legislative body or at the request of its chief executive officer, concurred in by a majority of the legislative body, or, except in the case of the City of New York, by a two-thirds vote of each house upon receiving a certificate of necessity from the Governor. This could be a daunting task because some members of the local legislative body could be against the review of the civil service system. Additionally, previous efforts to reform the New York State Civil Service have been frustrated by a lack of legislative support.

The review of the New York Civil Service as a "matter of state concern" is a phrase born in judicial opinions rather than in the constitutions or statutes. As a general principle, a local government may not adopt a local law relating to a "matter of state concern" unless it is within the powers enumerated in the constitutional grant, or unless the Legislature has specifically granted such power by law. Bearing in mind that the Rule of Three is a state rule as opposed to a local rule, power from the state legislature is

[34] Prior to being named commission president, Wall served as Executive Deputy Commissioner of Civil Service. From 1995 to 1998, Wall was the New York State Civil Service Department's General Counsel
[35] New York State Civil Service Commission (2005). *Remarks of Commissioner Daniel E. Wall.*

needed to amend it. This could be a hurdle to the Tompkins' County Workforce Diversity and Inclusion Committee's (WDIC) efforts to review the civil service test.

Relevant Court Cases:

The legal implications surrounding future civil service statute reform can be analyzed by looking at the court case history surrounding past reforms. The three major reforms in civil service are: (1) the institution of exams as determinants of qualifications, (2) the implementation of the "Rule of Three," and (3) "zone banding" of exam scores. These reforms have faced opposition in the legal arena in both federal and state courts with a mixture of minority and non-minority proponents and opponents. Although these reforms were passed with the desire to create a fair and diverse environment, the results, as reflected by court decisions, have proved differently.

The main arguments behind the court decisions focus on disparate impact. According to Title VII of the Civil Rights Act of 1964, disparate impact means that it is illegal to discriminate in any aspect of employment. This was made clear in the complaints regarding the use of written examinations as adequate measures of qualifications. A recent case involved the pass/fail system of the Fire Department of New York (FDNY). Minority applicants brought suit against the City of New York claiming that two written firefighter examinations were not adequate measures of qualifications and were not directly related to job performance. Applicants took a written exam and were placed onto either a pass or fail list. The applicants on the "pass" list were then ranked by score. Minority applicants filed suit stating that the exam caused a disparate impact based on the cut-off score for passing and the ranking of those who

passed. The court found that statistically the number of minority firefighters was relatively smaller than the general minority population of New York. This meant that the number of minorities living in New York City did not coincide with the number of minority firefighters. This was not because of a lack of applicants. Rather, it was a direct result of the pass rate on written exams. In his decision on this matter, Judge Garaufis wrote, "As Congress recognized in enacting Title VII, when an employment test is not adequately related to the job for which it tests—and when the test adversely affects minority groups— we may not fall back on the notion that better test takers make better employees."[36] The court found that the written exams caused a disparate impact on minority applicants and it is currently seeking to remedy the situation.[37] Despite having a pass/fail system in place, the FDNY disparately impacted minority applicants because of the measure used to analyze qualifications.

The next step in the civil service process involves interviews based on exam score. The "Rule of Three" reformation has generated controversy in this process. The "Rule of Three" states that "All candidates at the highest score are immediately eligible for consideration for appointment."[38] The provision accompanying this rule is that there must be at least three eligible candidates. The court has ruled that this interpretation is correct. In two separate cases, plaintiffs argued that despite candidacy on an employment list, the employer chose to look elsewhere. The reasoning behind these decisions was that there were too few candidates to choose from. Both cases involved lists with only

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[36] Nicholas G. Garaufis, "Memorandum & Order," United States of America v. The City of New York, 22 July 2009.
[37] *Vulcan Society of the Fire Department of New York v. Civil Service Commission of the City of New York,* 490 2d 387 (2009).
[38] New York State Department of Civil Service, "What is the 'Rule of Three'?," *After the Examination,* http://www.cs.state.ny.us/jobseeker/faq/scorenotices.cfm#whatistheruleofthree (2009).

two eligible candidates. In each case, the employers reserved their right to choose from a pool of three applicants, maintaining that a pool of only two applicants was insufficient. This reasoning is non-discriminatory under the Civil Rights Act of 1964. This is because the applicants were not denied employment based on race, age, gender, or national origin. Instead, they were passed over due to administrative needs.[39] Both agencies were brought to court because the plaintiffs alleged that the "Rule of Three" was discriminatory by nature. In the case of *Almendral v. New York State Office of Mental Health,* 743, F.2d 963 (1984), the plaintiff alleged that the agency purposefully rescheduled and cancelled interviews with potential candidates in order to create a wider applicant pool. Almendral was unable to prove her case to the court and was therefore denied a remedy.[40] Though dismissed from court, this case is important because it highlights potential opposition to reform.

In order to correct the bias that is created by the use of the "Rule of Three," the policy of "zone banding" was created. "Zone banding" takes into account the inability of some candidates to perform well on standardized tests. As a result, it groups together ranges of scores and creates a wider applicant pool to choose from.[41] A main issue with the use of "zone banding" is "reverse discrimination." This issue was addressed by non-minorities in terms of their scores on a written promotional examination. In order to prevent a disparate impact on minorities, an agency scored the exams of minorities on a different frequency than non-minorities. This measure was taken because the failure rate of minorities on the exam was much higher than the failure rate of non-minorities. After

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[39] New York State Department of Civil Service, "Landmark Court Cases," *New York State Civil Service Commission*, 2006.
[40] *Almendral v. New York State Office of Mental Health,* 743, F.2d 963 (1984).
[41] New York State Department of Civil Service, "Questions and Answers about Municipal Civil Service Examinations," http://www.cs.state.ny.us/jobseeker/local/quanda.cfm (2009).

the exams were scored, both non-minorities and minorities were placed onto the same list according to their adjusted score range. This resulted in a minority having the highest score on the list. Non-minorities felt that they were adversely affected by this. However, the court found that the addition of minorities onto the passing list did not establish a disparate impact on non-minorities. The reasoning was that the scores of non-minorities were not changed. The same non-minorities who passed the test were still eligible for the position.[42] This case illustrates the potential legal opposition to reform regarding different standards by which candidates are judged.

Past New York State Civil Service reforms have faced significant legal opposition that emphasized the problems associated with the procedure as a whole. Although the motivation behind these reforms was to reduce the unfairness in hiring practices, inequity still exists. There are many reasons for this, and, as illustrated by the court decisions, the system is not perfect. If another reform is passed, there will most likely continue to be legal problems associated with it.

Potential Political and Legal Allies and Opposition:

Considering the broad range of organizations that could support civil service reform, each was divided into three categories: legislative support, political support, and legal support. Legislative support entailed entities that might be counted on for advocacy from within the legislature. Political support included organizations and entities that have a history of advocating for and/or researching best practices for employment equality. Finally, legal support involved a possible entity to be contacted should any litigation arise from civil service reform.

[42] *Bushey v. New York State Civil Service Commission*, 733 F2d (1984).

The NiLP's chief concern as an organization is the lack of change from 1983 until now. In 1983, a report titled, *Simple Justice: An Introduction to Puerto Rican and Latino Government Employment in New York and the Failure of Affirmative Action* was issued to the New York State Legislature. It highlighted the severe lack of Latino representation in New York State government employment and predicted Latino civil service participation if that trend continued. "Latinos in 2008 made up less than 4 percent of the state government workforce, while representing 13 percent of the state labor force, showing a widening gap in this community's under-representation in New York State government employment since 1983."[46] This was the rate of growth in Latino representation predicted in the 1983 report if civil service reform did not take place.

Unfortunately, recent attempts by NiLP to address this problem have been met with little to no fiscal support from the state. This brought the investigation to what the NiLP interviewee termed as the greatest obstacle to civil service reform: the lack of a constituency for change. While the budget crisis and politics of reform are certainly difficult arenas to navigate, the NiLP interviewee felt the lack of constituent support ultimately is holding civil service reform back.

Continuing to add to this point, the interviewee expressed that while most organizations say they support civil service reform, no one has made a consistent push to usher in change. The NiLP interviewee reported meeting with various entities concerning employment opportunity and equity and consistently being told no other groups are addressing the issue. The interviewee felt that the prospect of civil service changes perhaps worsening the current problems should serve as a motivating factor for increased constituent participation and outreach, but clearly do not. The interviewee

[46] Ibid.

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[46] Ibid.

stated that this is exacerbated by state government not aggressively displaying a commitment to civil service reform for greater ethnic and racial inclusion.

Lastly, opposition has been felt in the form of unions and other groups looking to promote the status quo. A constant argument NiLP has heard is "mind your own business and don't mess with the civil service." This is usually the response when suggesting a more culturally relevant civil service exam be implemented or at least considered. Additionally, NiLP has encountered the sentiment that affirmative action undermines the civil service, a view which the organization disagrees.

To address this concern, the issue of effective recruiting strategies for civil service applicants and advocacy was discussed. Beyond incentivizing jobs to include greater access for those with language abilities, the greatest need is the restoration of confidence in the civil service hiring process itself. "Reform has been left to be done in an ad hoc way, and the process has discouraged participation over decades. Different agencies need to use different recruitment approaches and coordinate a serious effort to increase diversity within the workplace."[47]

In conclusion, the primary findings of the interview were:

1. Civil service reform has been an unfunded subject and one that is relatively unattended to
2. Applicant confidence in the civil service system is low.
3. The civil service has one of the worst track records with recruitment of Latino workers, yet is charged with encouraging and increasing diversity.
4. Reform would be supported by NiLP only if it includes negotiations that

[47] Ibid.

incorporate different constituencies and organizations that represent the diversity that is desired.

5. Civil service reform is necessary, but only if it results in a hiring process that creates legitimate access, maintains a commitment to meritocracy, and is not discriminatory.

The second interview conducted was done in conjunction with the Current State/Local System Team. This interview was with Don Kelly, the Deputy Director for Contract Administration for Research for the Civil Service Employees Association. A CSEA employee for nearly 29 years, Mr. Kelly is well versed in the issues that are important to the organization. Though never employed by the New York State Civil Service, Mr. Kelly works closely with its 300,000 active and retired civil service employees at the state and local levels.[48] With this background in mind, Mr. Kelly was very clearly suited to discuss some of the reasons for the CSEA's opposition to civil service reform measures.

When asked specifically about the "Rule of Three," Mr. Kelly noted that if it was up to the CSEA the "Rule of Three" would not exist at all. Rather, the candidate who received the best score on the exam would be in the individual to receive the job offer. This is because the CSEA believes the civil service exam to be a basic premise of fitness and merit, meaning that individuals who do well on the test will do well on the job. With the "Rule of Three" in place, however, the CSEA believes that management of any particular civil service agency should have more than enough flexibility to hire a

[48] Don Kelly, Interview, Civil Service Employees Association, New York, October 30, 2009.

qualified candidate.[49]

With this information in mind, it becomes quite clear why the CSEA was opposed to the "Rule of Ten" proposal and would be opposed to a pass/fail system.[50] Given that the organization believes that the individual who earns the highest score should receive the job, it is no surprise that it would deem the idea of a pass/fail system as an attempt to water down the merit and fitness provisions provided by the State's constitution. This is further supported by the understanding that the CSEA believes that management has more than enough flexibility in hiring given that the "Rule of Three" exists. Because the organization believes that flexibility in hiring is not an issue, it would naturally be in opposition to creating a larger pool of individuals in which to choose from.

Diversity and Meritocracy:

In many ways, diversity and meritocracy are political goods, if only because government is viewed by the public as having been entrusted with the responsibility of crafting systems and structures in society where people are treated without regard to their ethnicity or gender, and in the event where they are to be evaluated at all, they are to be judged on morally relevant traits like specific knowledge, skills, and dispositions. Emerging in the 1880s as a counterfoil to the spoils system where nepotism and cronyism reigned, meritocracy became "the concept in principle and in practice that has historically connected public human resource management policies and practices to the democratic process."[51] It is clear that "from a public policy perspective, merit is still the underlying

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[49] Ibid.
[50] Ibid.
[51] Woodard, Colleen A. "Merit by Any Other Name – Reframing the Civil Service First Principle." *Public Administration Review.* Vol. 65, No. 1 (Jan 2005), p. 110.

principle for public human resource management."[52] This is despite the fact that "the meaning of merit has been continuously evolving" since the Pendleton Act of 1883, with meritocracy being "socially and politically constructed (and re-constructed) through legislation, case law, and societal interests."[53] As notions of fairness and equity became central to understanding the merit system in the latter half of the 20th Century, meritocracy found a new ally (and in many respects, a new foil) in diversity – a concept that sought to "raise questions about fairness and equity in targeting certain populations" in employment initiatives.[54] Meritocracy is interwoven with the American political fabric because of its "underlying democratic values (the 'ideals of the civil service') of fairness, equity, openness, responsiveness, and representativeness," residing in "the legal context of civil rights and employment law."[55]

If government is the proponent-in-chief of diversity and meritocracy in society, then surely human resource policies within the civil service – the route to employment in government – must necessarily reflect these twin values. As such, particularly with communities throughout the United States becoming more cosmopolitan, local and state governments have come under increasing pressure to insure that the diversity contained in their respective demographics is reflected in proportion to their available workforce. The rationale for this, as held by many, is that if the employment process is indeed fair and equitable, then this absence of racial and gender discrimination should yield a workforce with demographics comparable to the community; however, in reality, this expectation can be reasonably held only if knowledge and skills sets are assumed to be

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[52] *Ibid*, p. 109.
[53] *Ibid*, p. 111.
[54] *Ibid*, p. 112.
[55] *Ibid*, p. 112.

relatively similar across racial and gender lines, and that people, regardless of their ethnicity or sex, are equally desiring of the jobs in question. Therefore, as will be discussed subsequently in this report's recommendation section, further research testing these two assumptions in relation to specific jobs within the New York State Civil Service must be carried out if the goal is to discern definitively whether the discrepancies between the ethnic-gender composition of the civil service and that of the local population are indeed signs of a malfunctioning meritocracy. The challenge then revolves around the difficulty of boosting diversity in the civil service by increasing representativeness of minority groups while maintaining the highest level of commitment to meritocratic hiring and promotion; the opposite: a return to the spoils system, where nepotism and cronyism abound, is unthinkable and to be avoided at all costs.

This politicizing of diversity and meritocracy is due in large measure to the fact that these twin values speak profoundly to our sense of justice and our expectation that government should always strive to be best equipped to fulfill its obligations. While clearly two distinct concepts, diversity and meritocracy as they appear in the discourse on government employment almost always precipitate into two other political goods: fairness and competency. This is to say, if we want government to embody diversity and meritocracy, be it in its employment processes or in its multitude of public policies, it is because ultimately we expect government to be the bedrock of justice, and an effective executor of endeavors that advance the people's well-being. As such, civil service hiring and promotion must be fair and must succeed in attracting and rewarding the most competent employees.

It is therefore clear that diversity and meritocracy have become highly important political goods and government cannot ignore or compromise on either pursuit without incurring the wrath of a discernible segment of the population. And if any act or policy of government seemingly violates the notion of diversity or meritocracy, it often incites deep-seated passions in many, simply because the public would then perceive that fairness has been undermined or competency compromised. However, while few today would dispute the need for diversity and meritocracy in civil service employment practices, the varying definitions surrounding these two concepts often lead to political controversy. Where the New York State Civil Service is concerned, diversity predominantly takes the form of race and gender. Meritocracy as defined within the civil service discourse is often seen as the antithesis of nepotism and cronyism.

Civil service exams may be a protection against favoritism in hiring and promotion but if these exams are not designed to accurately and fully assess the knowledge, skills, and dispositions that are indispensable to excelling on the job, then the exams, far from insuring meritocracy, have actually made that goal ever more elusive. This is particularly so when a person's score on an exam becomes the chief determinant for hiring and promotion. It should also be pointed out that the success of a civil service exam cannot possibly rest squarely on whether it yields a diverse pool of qualified candidates for hiring or promotion. To assess whether the civil service exam is indeed a meritocratic tool requires an analysis of whether the exam questions are accurately aligned with the intricate demands of the job for which the exam is intended. This obviously requires a study of the unique demands of each job and a review of the exam design process to insure that the ability to answer each additional exam question is

closely co-related to a higher propensity to perform on the job. If such close alignment between the exam questions and the job demands are either non-existent or difficult to achieve, then the utility of the civil service exam as a meritocratic tool must be seriously cast into doubt.

In contemplating civil service reform, especially a radical one, there is always the fear that the return to a spoils system will be on the horizon, given that public service employment will then be at the will of senior public managers and elected officials. An at-will employment system will, in the eyes of critics, lead to "the erosion of merit protections" and "the decentralization of personnel functions to line managers in programs, largely without checks on managerial excesses."[56] Nevertheless, those who support radical civil service reform argue that "more effective government results when public and nonprofit organizations adopt or adapt private sector models of productivity and management."[57] Furthermore, it has been found that "critics" fears that at-will employment would bring a return to spoils once employee protections were abolished have not materialized."[58]

Finally, diversity and meritocracy can at times be mutually exclusive pursuits, wherein the attainment of one may involve some degree of compromise of the other. Many affirmative action programs in government employment that were instituted to boost diversity have been criticized for violating the meritocratic principle by requiring relatively lower standards from minority applicants. The tensions inherent in striving for both diversity and meritocracy have historically made these pursuits politically

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[56] Condrey, Stephen E. and Battaglio, Jr., R. Paul. "A Return to Spoils? Revisiting Radical Civil Service Reform in the United States." *Public Administration Review.* Vol. 67, No. 3 (May 2007), p. 425.
[57] *Ibid*, p. 425.
[58] *Ibid*, p. 430.

contentious despite the often noble intentions on both sides. The contradiction at times in desiring a diverse and meritocratic society has compelled policy-makers in certain situations to prioritize one over the other, lending further fuel to the political flames surrounding this issue. One of the most infamous cases recently involved the New Haven firefighters whose scores on the civil service exam were thrown out solely on the grounds that promotion based on the test scores would not have yielded any qualified African-American firefighters. Some observers highlighted that the New Haven Fire Department could not even point to a single substantive flaw with the exam itself other than the fact that Caucasian firefighters performed much better on the test that minority firefighters. Ultimately, the New Haven Fire Department, just like government departments and agencies across the country, must ask themselves: Can the qualities that define a good fire chief (or any other civil servant for that matter) – leadership, acumen, empathy, bravery, resourcefulness and communication skills – ever be accurately or fully reflected in a pen and paper exam?[59]

[59] Editorial. "Did New Haven Fail the Fairness Test?" *The New York Times*. Apr 25 2009.

CONCLUSIONS

AND

RECOMMENDATIONS

Conclusions and Recommendations

After careful research and analysis, the Legal/Political Team has concluded that attempting to reform the New York State Civil Service System could be possible if approached in the right manner. If the decision is made to move forth with this plan for reform, however, certain questions must be answered ahead of time and careful attention must be paid to planning and details. The following is a list of recommendations that the Legal/Political Team believes would be useful if Tompkins County makes the decision to move forward with its idea for reform.

Encourage broad based coalition building:

The legal and political implications of possibly amending the New York State Civil Service hiring process will affect countless individuals and groups at the state and local level. Thus, amending any portion of the hiring process entails coalition building, which will be paramount to gather the support of state government and other constituencies. As evidenced by the NiLP interview, there is a critical need for constituent outreach and recruitment. At the state level, constituent participation has been mediocre at best. This illustrates a critical aspect of lobbying for and receiving political and legal support should this initiative move forward.

Clearly, the current system that is in place can be improved upon. Thus, this investigation supports potential changes to the civil service hiring process. While the interview findings are limited because only one interview was able to take place, it still yielded valuable insight that could assist in shaping the WDIC's strategy moving forward. Additionally, allies do exist for civil service reform, there simply needs to be creativity with respect to their recruitment and participation in reform efforts. As such,

the following recommendations are offered:

- Constituencies must be brought to the negotiating table.
- Opposition should be prepared for from unions and possible constituent apathy
- Dynamic recruitment strategies must be implemented for civil service applicants (e.g. increased pay for bilingual ability in jobs that require it but do not incentivize the position).
- A key goal needs to be the restoration of confidence in the civil service system.
- Approach the legislature for a Tompkins-County specific pilot project.

Focus on assessing whether the exam's design and implementation actually align with the demands of the position in question:

One of the major findings of the Diversity and Meritocracy investigation was that there is a widespread perception that one's merits can be captured in a single exam. This, in turn, results in a significant faith in that exam. In speaking with Don Kelly, the Deputy Director for Contract Administration for Research at the Civil Service Employee Association (CSEA), the following question was put to him, "If evidence surfaces that these exams are unable to accurately assess the skills, knowledge, and dispositions required to excel on the job, then these exams are no longer an effective tool to promote meritocracy in hiring. In such an eventuality, when it has become clear that these exams are in effect preventing the best people from being offered the job, will you change your mind about supporting reform to the current system?" Mr. Kelley responded, saying, "If the test isn't reflective of the job, then make the test more reflective. We receive some

complaints from the members about the exam. When this happens, the CSEA tries to make an inquiry about whether or not that is truly the case."[60]

With this information in mind, it would be probable that reform approached in a manner that addresses concerns that are even raised within the CSEA would have a greater chance at being successful. Though the idea of widespread civil service reform is unlikely to win the support of the CSEA, a reform proposal that addresses the concerns raised by its members will certainly be helpful in weakening its arguments against reform.

[60] Don Kelly, Interview, Civil Service Employees Association, New York, October 30, 2009.

REFERENCES

Works Cited

American Federation of Labor and Congress of Industrial Organizations. *About Us.* http://www.aflcio.org/aboutus/ (2009).

American Federation of State, County, and Municipal Employees. *About AFSCME.* http://www.afscme.org/about/aboutindex.cfm (2009).

Almendral v. New York State Office of Mental Health. No. 743, F.2d 963. United States Court of Appeals,. 13 June 1984.

Battaglio, Jr., R Paul and Condrey, Stephen E. "Civil Service Reform: Examining State and Local Government Cases." *Review of Public Personnel Administration.* Vol. 26, No. 2 (June 2006), p. 118-138.

Beecher, Donna D. "The Next Wave of Civil Service Reform." *Public Personnel Management.* Vol. 32, No. 4 (Winter 2003), p. 457-474.

Bowman, James S. and West, Jonathan P. (Editors). *American Public Service: Radical Reform and the Merit System.* Boca Raton, FL: Taylor & Francis, 2007.

Bowman, James S. and West, Jonathan P. "Ending Civil Service Protections in Florida Government: Experiences in State Agencies." *Review of Public Personnel Administration.* Vol. 26, No. 2 (Jun 2006), p. 139-157.

Bushey v. New York State Civil Service Commission, 733 F2d 220 (1984).

Civil Service Employees Association. *CSEA Career, Labor Resource Links.* http://www.csealocal1000.org/link1.php (2009).

Civil Service Employees Association. *Who is CSEA?* http://www.csealocal1000.org/Who_is_CSEA.php (2009).

Condrey, Stephen E. and Battaglio, Jr., R. Paul. "A Return to Spoils? Revisiting Radical Civil Service Reform in the United States." *Public Administration Review.* Vol. 67 (2007), p. 424-436.

Editorial. "FDNY's Big Diversity Test." *Daily News (New York).* Jul 28 2009.

Editorial. "Did New Haven Fail the Fairness Test?" *The New York Times*. Apr 25 2009.

Falcón, Angelo. National Institute for Latino Policy, NiLP. *The More Things Change, The More Things Stay the Same: Latino Underrepresentation in New York State Government 1983-2009.* (2009).

Garaufis, Nicholas G. "Memorandum & Order." United State of America v. The City of New York. Brooklyn, 22 July 2009.

Hays, Steven W., and Richard C. Kearney, eds. Public Personnel Administration: Problems and Prospects, 2 Ed. Englewood Cliffs, NJ: Prentice-Hall, 1990.

Ingraham, Patricia W. "Commission, Cycles and Change: The Role of Blue Ribbon Commissions in Executive Branch Change," in Patricia W. Ingraham and Donald Kettl, eds. Agenda for Excellence: Public Service in America. Chatham House, NJ: Chatham House Publishers, 1992.

Kellough, Edward J. and Nigro, Lloyd G. (Editors). "Dramatic Reform in the Public Service: At-will Employment and the Creation of a New Public Workforce." *Journal of Public Administration Research and Theory*. Vol. 16 (2006), p. 447-466.

Kellough, Edward J. and Nigro, Lloyd G. The States and Civil Service Reform: Some Lessons Learned and Future Prospects. In Kellough and Nigro (Eds.), Civil Service Reform in the States: Personnel Policy and Politics at the Subnational Level. SUNY Press: Albany, NY, 2006.

Kelly, Don. Deputy Director for Contract Administration for Research at the Civil Service Employee Association (CSEA). Interview. Oct 30 2009.

Kirkland v. New York State Department of Correctional Services ML, 711 F2d 1117 (1983)

Konrad, Alison M. "Leveraging Workplace Diversity in Organizations." *Organization Management Journal*. Vol. 3, No. 3 (2006), p. 164-189.

Lawyers Co-operative Publishing Co. *1982 New York Jurisprudence* 2d. Volume 19. Civil Service Law ß347-ß404. Rochester, NY: Lawyers Co-Operative Publishing Co.

League of United Latin American Workers, LULAC. *About LULAC.* http://www.lulac.org/about.html. (2009).

Lewis, Gregory B. and Frank, Sue A. "Who Wants to Work for the Government?" *Public Administration Review.* Vol. 62 (2002), p. 395-404.

Murphy, K. R., Myors, B., and Osten, K., "Modeling the Effects of Banding in Personnel Selection." *Personnel Psychology* 48 (1995): 61-83.

National Association for the Advancement of Colored People, NAACP. *NAACP History.* http://www.naacp.org/about/history/index.htm (2009).

National Institute for Latino Policy, NiLP. *About NiLP.* http://www.latinopolicy.org/lp/introduction.html (2009).

New York Conference of Mayors and Municipal Officials. *Benefits of NYCOM Membership.* http://www.nycom.org/mn_about/join.asp (2009).

New York State AFL-CIO. *Labor Federations.* http://www.nysaflcio.org/index.cfm?zone=view_page.cfm&page=Labor20Federations (2009).

New York State Assembly. *Legislative Women's Caucus, Inc. New York State.* http://assembly.state.ny.us/comm/Leg_Women_Caucus/20071206/ (2009).

New York State Assembly. *The New York State Black, Puerto Rican, Hispanic, and Asian Legislative Caucus History.* http://assembly.state.ny.us/comm/BlackPR/20030130a/ (2009).

New York State Association of Counties. *About NYSAC.* http://www.nysac.org/About/ (2009).

New York State Civil Service Commission. *Remarks of Commissioner Daniel E. Wall.* http://www.cs.state.ny.us/pio/pressrel/remarksjointassemblycommittees.htm (2005).

New York State Civil Service Commission. *Summary of New York State Civil Service Law.* http://www.cs.state.ny.us/pio/publications/summofcsl.pdf (2008).

New York State Department of Civil Service. Landmark Court Cases. August: New York State Civil Service Commission, 2006.

New York State Department of Civil Service. *Questions and Answers about Municipal Civil Service Examinations.* http://www.cs.state.ny.us/jobseeker/local/qanda.cfm (2009).

New York State Department of Civil Service. "What is the "rule of three?"." After the Examination.http://www.cs.state.ny.us/jobseeker/faq/scorenotices.cfm#whatistheruleofthree (2009).

New York Urban League. *New York Urban League.* http://www.communityinvestmentnetwork.org/nc/single-news-item-states/article/new-york-urban-league/?tx_ttnews%5BbackPid%5D=1242&cHash=43a3a3b007 (2009).

Odato, James M. "A Power Tiff Over State Jobs." *The Times–Union.* Aug 31 2009.

Ospina, Sonia. "Managing Diversity in Civil Service: A Conceptual Framework for Public Organizations," 2001.

O'Toole Jr., L. J., & Meier, K. J. "Modeling the Impact of Public Management: Implications of Structural Context." *Journal of Public Administration Research and Theory*, 9(4) (1999): 505.

Puerto Rican Legal Defense and Education Fund, *LatinoJustice* PRLDEF. http://www.prldef.org (2009).

Rangarajan, Nandhini and Black, Tamika. "Exploring Organizational Barriers to Diversity: A Case Study of the New York State Education Department." *Review of Public Personnel Administration.* Vol. 27, No. 3 (Sept. 2007): 249-263.

Riccucci, Norma M. and Katherine C. Naff. *Personnel Management in Government: Politics and Process*, NY: Taylor and Francis, Sixth Edition, 2008.

Schmidt, F. L. "Why all banding procedures in personnel selection are logically flawed." *Human Performance.* 8 (3), 165-177, 1995.

Stroh, Linda K. and Johnson, Homer H. *The Basic Principles of Effective Consulting.* New York: Routledge, 2005. p. 61.

United States Government Accountability Office. GAO Roundtable. *The Chief Operating Officer Concept: A Potential Strategy to Address Federal Governance Challenges.* Washington, DC: GAO, 2002.

United Steelworkers of America v. F Weber Kaiser Aluminum and Chemical Corporation, 433 US 193, 1979.

Vulcan Society of FDNY v. Civil Service Commission of City of New York, 490 2d 387, 2009.

Woodard, Colleen A. "Merit by Any Other Name – Reframing the Civil Service First Principle." *Public Administration Review.* Vol. 65 (2005), p. 109-116.

APPENDICES

COST - BENEFIT

REPORT

A Cost-Benefit Analysis of the Tompkins County Civil Service Review

CRP 6311
November 30, 2009

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EXECUTIVE

SUMMARY

Executive Summary

The Tompkins County Workforce Diversity and Inclusion Committee (WDIC) approached the Cornell Institute for Public Affairs Public Service Exchange about an investigation into the current Civil Service hiring practices in Tompkins County and potential reforms of this system. The reason for this inquiry request was concern that the current Civil Service hiring system is inhibiting the WDIC's ability to hire the best-fit employees and to determine whether this system provides enough opportunities for diversity in Civil Service. The major limitation of the current system is the Rule of Three, where the test takers who score in the same bands as the top three test takers on the Civil Service test can be interviewed and eventually hired. In this project, this Team conducted a cost-benefit analysis of the current system of Tompkins County, systems in states that have already undergone Civil Service reform, and the proposed pass/fail reform before drawing conclusions and making recommendations to officials in Tompkins County about how they can achieve their goal of increasing opportunities for best-fit hires and increasing opportunities for diversity hiring.

The methodology of this project included performing a literature review, budget analysis, and expert interviews, which were established as the best steps to take based on the following questions:

1. What information is needed for a proper analysis?
2. Where is that information available?
3. Who has the required information?
4. Which techniques must be used to obtain the information?

Through a literature review, the Team gained a better understanding of the topic at hand through case studies, prior analyses, and other people's experiences in Civil Service reform. The Team conducted a budget analysis by collecting a budget report from Deputy Commissioner of Personnel for Tompkins County, Stephen Estes. It provided a reference point to evaluate the costs of future change. The Team also completed interviews with experts in the fields of demographics, the Civil Service union in New York, CSEA, and the Tompkins County community. These experts shared their wealth of knowledge related to our inquiries.

The Team found that, although there were benefits to the radical Civil Service reforms in Georgia, Florida and Texas, generally they did not meet the expectations of reformers and resulted in some problems. The successes in increasing Civil Service efficiency and productivity were overshadowed by the possible return to cronyism and nepotism. A review of Wisconsin's reforms yielded an almost idyllic Civil Service reform option, which resulted in an overwhelming success in increasing their applicant pool and attracting talent. Despite that many of Wisconsin's reforms were not applicable to New York State, their implementation of aggressive recruiting methods would be a possibility for Tompkins County to utilize for achieving its goal. The budget analysis shows that the Tompkins County Civil Service Administration's largest budget item is employee salary. Additionally, the current Tompkins County Civil Service Administration budget can accommodate a significant increase in the number of test takers per month without large budget increases. Although the Team is aware that Tompkins County already practices some recruiting measures, this analysis

did not allow for determining whether or not applying more aggressive recruiting methods, similar to Wisconsin's, would be fiscally feasible.

The Team concludes that implementing the radical reforms like those in Georgia, Florida and Texas would not be cost effective, as the costs of these reforms seem to outweigh the benefits. Furthermore, these reforms would not be possible under New York State's current law. Wisconsin's reform, however, does offer a possible model for change because this state achieved diversity and human resource goals shared by Tompkins County. Additionally, it became evident that some systemic change to New York's Civil Service process in Tompkins County can be made to increase the applicant pool, potentially resulting in social benefits. The Team's final conclusion is that there does not seem to be any evidence correlating a pass/fail system, or a system without a test, to an increase in applicants or best-fit hires.

After integrating all the research and analyzing it, the Cost-benefit Analysis Team recommends that a pass/fail system does not seem to be the best option for Tompkins County in its efforts to achieve the goals of increasing applicants, increasing best-fit hires, and increasing opportunities for diversity hiring. Although the Team was unable to recommend a pass/fail system, it is recommended that Tompkins County do some additional research about why potential applicants, and especially those of target populations, are not gaining employment in the Civil Service sector. Additionally, it is recommended that a stronger emphasis be placed on active recruitment of potential candidates.

INTRODUCTION

Introduction

The Civil Service system is as important to Americans now as it has ever been. The *Syracuse Post-Standard* of June 23, 2009 explains that in the midst of this economic crisis, the number of Americans, and especially New Yorkers, taking the Civil Service exam and seeking government work has substantially increased.[1] With more attention being paid to the Civil Service system across the United States and in New York State, the Tompkins County Workforce Diversity and Inclusion Committee (WDIC) has asked the Cornell Institute for Public Affairs to provide an in-depth analysis of the system and potential reforms that might improve the system. The analysis is guided by the Tompkins County WDIC's belief that the current Civil Service hiring process, which is limited by the Rule of Three, hinders its ability to hire candidates whose personal skills, aptitudes, education, and life experiences best meet the needs of each Civil Service position. As a possible solution to this challenge, the WDIC theorized that a transition from the Rule of Three interviewing process, where only the candidates scoring in the same bands as the top three scorers were eligible for an interview, to a pass/fail system, where any person passing the test would be eligible for an interview. As a preliminary step to this reform, the WDIC requested an assessment of the potential costs and benefits of reforming to a pass/fail system. The following is a cost-benefit analysis, including a review of relevant literature, methodology, findings, recommendations and conclusions. The goal of this analysis is to evaluate the costs and benefits of the current Civil Service system of Tompkins County and to discover whether the benefits of a pass/fail reform outweigh the costs.

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[1] John S. Doherty, "More Seek Government Jobs; Tough Times Reflected in Applications," *The Post-Standard* (Syracuse), July 23, 2009.

Civil Service which included streamlining hiring processes, simplifying compensation plans, and improving relationships between management and lower level employees, were considered helpful.[5] Bransford's recommendations mirrored these, including a streamlined hiring process and stabilizing salary and benefit packages for Civil Service employees. Both sets of changes would make recruiting and retaining the best employees possible an easier task for national, state, and local governments. Additionally, these recommendations were thought to lead to stronger employee development from the beginning of each employee's career.[6] Ultimately, despite offering some practical suggestions for reform, Nigro and Kellough concluded that the Winter Commission was not a panacea for flawed Civil Service systems, and benefits of reform would include a more productive government workforce and a simplified human resources process.

Costs and Benefits of Reform

Despite a fairly unanimous feeling about the need for Civil Service reform, Feeney and Kingsley warn against the potential high cost of reform. They argue that elimination of patronage in Civil Service results in an elimination of hiring suspicion and a decrease in dirty politics. Because Civil Service is such an important job both for public administration, and for individuals looking to improve themselves and their families, the original goal of Civil Service must remain intact, and although patronage has not yet come full circle, the potential for peril in reform does exist.[7]

Feeney and Kinglsley are not wholly ominous about Civil Service reform, and agree that, in addition to the benefits already suggested, it could also mean more

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[5] *Ibid.*
[6] *Ibid.*
[7] Feeney and Kingsley 165.

opportunity for diversity recruitment. Instinctively, improving diversity would be considered an automatic benefit to the workforce, but in fact, there is some disagreement about this. Cedric Herring presents both sides of the argument. Diversity has the benefit of improving innovation because the many ideas people of varying backgrounds bring can be combined in a collaborative effort, resulting in ingenuity that might not have occurred if a more homogenous group of people were working together.[8] In "Workplace Diversity and Public Policy," Ruth Fassinger concurs adding that there are "measurable performance benefits in the workplace when work groups can learn from members' different experiences."[9] On the other hand, these varying backgrounds can result in miscommunication, frustration, and a lack of understanding, resulting in a higher "level of dissatisfaction and turnover."[10] Acquavita, et. al. also contributed to this notion saying "that more heterogeneous workgroups produce less satisfied workers."[11]

Regardless of the challenges faced by heterogeneous groups,

> People of color (e.g., African Americans, Hispanic/Latino Americans, Asian Americans, and American Indians) compose about one third of the U.S. population at present and are projected to become the numerical majority by mid-century.[12]

One suggestion for overcoming the challenges associated with a diverse workforce is to build a strong professional community through mentoring, networking, and diversity

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[8] Cedric Herring, "Does Diversity Pay?: Race, Gender, and the Business Case for Diversity," *American Sociological Review* 74 (April 2009): 208.
[9] Ruth E. Fassinger, "Workplace Diversity and Public Policy: Challenges and Opportunities for Psychology," *American Psychologist* 63, no. 4 (May & june 2008): 253.
[10] Herring, 208.
[11] Shauna P. Aquavita et al., "Personal and Organizational Diversity Factors' Impact on Social Workers' Job Satisfaction: Results from a National Internet-Based Survey," *Administration in Social Work* 33 (2009): 152.
[12] Fassinger 254.

trainings and evaluations.[13] As the population continues to shift to being a more diverse global community, this will be essential for the success of any workforce.

Another benefit of reform's potential to create a greater opportunity for diversity in recruitment is the benefits society as a whole may receive. It is the American Dream that a person can come from less fortunate circumstances, and through a life of hard work can create more fortunate circumstances for themselves and their families to live in.

> Access to privileged positions should be determined by ability and effort, not by inheritance of privilege. In other words, social class origin should lose its impact on people's chances in life, at least in the form of poverty enduring over generations. [14]

Although there are many hypotheses about what might hinder this progression, Wiborg and Hansen explain that "the richer the parents the lower is the probability of experiencing disadvantage."[15] Mazumder supported this idea when he assessed a comparative study about trends in intergenerational mobility and explained that parental class status is far more influential on intergenerational mobility than parental values.[16]

Other States' Reforms

States undergo Civil Service reform for a variety of reasons. The first is "ideology, or a belief on the part of policy makers and their associates that a particular way of handling the human resources needs and function of government is inherently

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[13] Alexandra Kalev, Erin Kelly, and Frank Dobbin, "Best Practices or Best Guesses? Assessing the Efficacy of Corporate Affirmative Action and Diversity Policies," *American Sociological Review* 71, no. 4 (August 2006): 589.
[14] Oyvind Nicolay Wiborg and Marianne Nordli Hansen, "Change Over Time in the Intergenerational Transmission of Social Disadvantage," *European Sociological Review* 25, no. 3 (2009): 379.
[15] Wiborg, Hansen 392.
[16] Bhashkar Mazumdar, "Editor's Introduction: Trends in Intergenerational Mobility," *Industrial Relations* 46, no. 1 (January 2007): 3.

superior and lead to better outcomes of all sorts."[17] In this situation, the poor performance of Civil Service is attributed to conflicting concepts of a particular ideology or belief system. The second reason is political. "The Civil Service reforms are intended to build and realign the relative power of the actors and stakeholders that depend on the state bureaucracy for a wide variety of resources."[18] Here, Civil Service is regarded as the tool to "establish and defend political actors' capacities to influence the authoritative allocation of values."[19] The third reason is technical. This promotes the change of a human resources system to improve performance and increase efficiency. This type of reforms includes "modernizing performance evaluation systems, streamlining and decentralizing recruitment and selection processes, and broad-banding classification structures."[20] The Civil Service reform in states varies due to different combination of reasons and strategies.

In recent years, Georgia, Florida, and Texas went forth and completely overhauled their Civil Service practices, so much so that it has even been called the "blow up" of the Civil Service system.[21] The states' governors and legislators reconstructed nearly every aspect of the regulations and procedures for personnel administration which included recruitment, hiring, promotions, downsizing, discipline and dismissal, creating new job classification and compensation.[22] The discontinuation of tenure practices, resulting in at-will employment, is the main change in all three states.

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[17] Lloyd G. Nigro and J. Edward Kellough, "The States and Civil Service Reform: Lessons Learned and Future Prospects," in *Civil Service Reform in the States: Personnel Policy and Politics at the Subnational Level* (Albany: State University of New York P, 2006), 316.
[18] *Ibid.*
[19] *Ibid.*
[20] Nigro and Kellough (2006) 317.
[21] Jonathan Walters, "Life After Civil Service Reform: The Texas, Georgia, and Florida Experiences," *Governing Magazine*, October 2002, 12.
[22] *Ibid.*

At-will employment is "intended to give agencies greater flexibility" and autonomy, in hopes of helping the development of their own personnel management procedures including hiring, downsizing and discipline.[23] Georgia's Civil Service reform was proposed in 1996 along with a pay-for-performance plan called GeorgiaGain. It changed "human resource management (HRM) practices in the state" and eliminated "extraconstitutional employment rights of state employees hired after July 1, 1996."[24] In Florida, this new system is called, "Service First," and its main goals were to "modernize the Civil Service system" and "move from protection to performance."[25] In all three states utilizing at-will employment, the managers were given complete authority to target people or positions for hiring or downsizing as they see fit.[26] The logic behind the Civil Service reform of these three states was "managerialism," the goal of the government to achieve an increase in economic productivity where the managers are seen as the critical factor in improving productivity, resulting in allowing them to manage with the utmost level of autonomy.[27]

These reforms resulted in some improvements for the Civil Service systems in each state. Generally, the benefits of these Civil Service reforms focus on human resource management including providing more flexibility and autonomy are given to Human Resource (HR) directors resulting in efficiency of HR procedures, although some benefits directly impact the non-HR employees. Some other positive attributes of the reform, according to Sanders, were that it was expected to shorten the time needed to fill

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[23] R. Paul Battaglio Jr. and Stephen E. Condrey, "Civil Service Reform: Examining State and Local Government Cases," *Review of Public Personnel Administration* 26, no. 2 (June 2006): 121.
[24] Jonathan P. West, "Georgia on the Mind of Radical Civil Service Reformers," *Review of Public Personnel Administration* 22, no. 2 (Summer 2002): 80.
[25] West 82-83.
[26] Walters 13-14.
[27] Charles W. Gossett, "Civil Service Reform: The Case of Georgia," *Review of Public Personnel Administration* 22, no. 2 (Summer 2002): 95.

jobs, and make the qualification requirements and selection procedures better.[28] In the initial reforms, it was believed that the hiring process would go from one or two months to a few weeks due to the repealing of rules and less required paperwork.[29] In fact, "Texas personnel managers report that they can fill critical positions in a matter of days" while the Georgia Department of Human Services "says time to hire was cut from months to weeks under the new system."[30] The reform also was believed to make it easier to fire inappropriate employees because, among other things, rules restricting the firing of senior employees would no longer apply.[31] For those more successful employees, it would mean reaping the benefits of their work because pay and promotion would be more closely related to the performance of the employee. Sanders pointed out that pay increases across the board decrease, resulting in savings for the governmental agencies. He also argues that management has more flexibility in assessing work and transferring employees by Civil Service reform. In Georgia, under the GeorgiaGain reform, employees would be promoted only when rated as outstanding, while "habitual" outstanding evaluations were decreased.[32] The Service First reform of Florida also developed training program of Civil Service employees, established a new pay and classification system, and instituted a different performance appraisal program.[33]

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[28] Robert M. Sanders, "GeorgiaGain or GeorgiaLoss? The Great Experiment in State Civil Service Reform," *Public Personnel Management* 33, no. 2 (Summer 2004): pg. 152.
[29] Jonathan P. West and James S. Bowman, "Stakeholders Analysis of Civil Service Reform in Florida: A Descriptive, Instrumental, Normative Human Resource Management Prespective," *State and Local Government Review* 36, no. 1 (Winter 2004): pg. 20-34.
[30] Walters 35.
[31] West 87.
[32] Sanders 155.
[33] Walters 33.

Proponents of Service First think that shift from "protection" to "performance" increased productivity and flexibility resulting in satisfaction of citizen stakeholders.[34]

Although there are a plethora of apparent benefits from the reform in Florida, Georgia and Texas, the expected benefits of the reform, that quality and efficiency increase, is still hard to assess.[35] The Civil Service reform faces a variety of risks. First, the autonomy of personnel management authorities may lead to cronyism and corruption given that the individuals doing the hiring are the only determinants of whether or not someone is hired. Second, it "does not consider the existence of moral hazards, possessing faith in the benign role of political appointees that employment at-will requires."[36]

Furthermore, there is much disagreement about the reform meeting its goals of "less bureaucracy, better customer service, enhanced performance, and employee empowerment."[37] In 2000, Kellough and Nigro published the results of a survey of employee and supervisors' feelings about Georgia's new system after Act 816 was put into action, which pointed out that the results of reform did not meet expectations.[38] After their reform, Floridians complained of issues with "permanent" employment, seniority, and excessive paperwork.[39] Bowman, M. Gertz and S. Gertz conducted a telephone survey of state employees to gauge employee satisfaction with Florida's Service First sytem and published their results in 2003. The survey yielded primarily

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[34] West and Bowman 20-34.
[35] Walters 35.
[36] Russell L. Williams and James S. Bowman, "Civil Service Reform, At-Will Employment, and George Santayana: Are we Condemned to Repeat the Past," *Public Personnel Management* 36, no. 1 (Spring 2007): 72.
[37] West 81.
[38] Lloyd G. Nigro and J. Edward Kellough, "Civil Service Reform in Georgia: Going to the Edge?" *Review of Public Personnel Administration* 20, no. 41 (Fall 2000): 51.
[39] West and Bowman 20-34.

negative results, including, "more than 61% of the respondents disagreed that 'Service First has made it possible to hire qualified people in a timely manner."[40] Perhaps the most frightening result of this survey was that 41% of respondents said, "Service First permits my office to hire more people who have friends or connections to government" which may be indicative of a return to nepotism under this system.[41] Generally, the driving force behind Service First, at-will employment, seems to have been the producer of chaos and confusion.[42] It should be noted that not all respondents had negative feelings towards the new system, and in fact when asked about their perception of the workplace environment, 65% agreed that, "My agency is a good place to work."[43]

At-will employees do not have as much job security and benefits as public employees had prior to the reform. "They have no assurance of reassignment during downsizing and can be relocated without recourse."[44] Furthermore, West points out that employees' rights are weakened by this process because formerly tenured employees no longer have such protections against firing under the at-will employment.[45] Past lessons from at-will employment also show us that widespread layoffs and downsizing often damage productivity, profitability and morale.[46] Although it has been argued that widespread layoff and downsizing can damage productivity and morale, in 2004 West and Bowman indicated that they doubted that job insecurity would cause employees to offer less support to organizational goals.[47]

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[40] James S. Bowman et al., "Civil Service Reform in Florida State Government: Employee Attitudes 1 Year Later," *Review of Public Personnel Administration* 23, no. 4 (December 2003): 291.
[41] *Ibid.*
[42] Williams and Bowman 71.
[43] Bowman et.al. 291.
[44] Battaglio and Condrey 121.
[45] West 81.
[46] West and Bowman 20-34.
[47] West and Bowman 20-34.

The Civil Service employees of Georgia faced similar problems to those experienced in Florida.[48] Additionally, they pointed out that even if the GeorgiaGain system were able to be administered properly, the pay-by-performance system is an ineffective way to motivate them.[49] In short, Georgia's Civil Service reform not only hasn't reached its intended purpose, but has also caused problems people did not expect.

After reviewing the studies presented above, it becomes clear that Tompkins County should not go the way of reform practiced by Florida, Georgia, or Texas, due to the overwhelming negative experiences members of those states seem to be experiencing compared to the limited benefits provided by the new systems. Furthermore, Maranto and Johnson investigated the idea of implementing a "no-tenure" system in New York, which is just a single component of what Georgia, Texas, and Florida did. In this study they evaluated the potential success of Civil Service reform taking into account the following factors: state's perception of public corruption, traditional party organization, which is determined by "autonomy, stability, hierarchy," and "influence over candidate nominations," and "government performance," which is a measure of how effectively the government in that state is managed to determine the potential success of radical reform in any given state.[50] These factors were chosen because each contributes to the likelihood that after reform a state will return to a corrupt system where nepotism and cronyism may re-emerge. When using these three variables to assess which states would be successful in the elimination of tenure from the Civil Service system, New York ranks

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[48] West and Bowman 20-34.
[49] Sanders 159.
[50] Robert Maranto and Jeremy Johnson, "Bringing Back Boss Tweed? Could At-Will Employment Work in State Governement, and, If So, Where?" *International Journal of Public Administration* 31 (2008): 474.

49 out of the 50 states for probability of success.[51] Based on these results, it is likely that the other radical reforms of Texas, Georgia, and Florida would have far less successful results if they were applied to New York, potentially resulting in a far worse Civil Service system than the current one. The amalgamation of the literature on Civil Service reform indicates that a radical reform yields more costs than benefits, however the current Civil Service system has great room for improvement and under the right reform model, small change is likely to result in greater gain than loss.

When Wisconsin initiated its reform to attract talent they tried to retain merit principles and act cooperatively with labor relations. Their reform has three major components: 1) Give day-to-day authority to state agencies, 2) Reform state hiring laws, and 3) Recruit aggressively.[52] The amendments to state hiring laws did not go through without resistance from their legislative body,[53] but were eventually enacted to eliminate arbitrary restriction on the number of candidates who could be interviewed. In order to approach the goal of identifying best-qualified candidates while minimizing the bureaucratic hurdles of written exams, they utilized more skills inventories and resume reviews than formal exams. In addition to changing how they evaluated job candidates, Wisconsin changed how tests and interviews were conducted by creating walk-in exam centers where applicants simply show up at the state-run exam center and take their tests without having to apply in advance. Additionally, new assessment tactics made it possible to conduct on-site, immediate, interviews. They also used more electronic

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[51] Maranto and Johnson 481.

[52] Peter D. Fox and Robert J. Lavigna, "Wisconsin State Government: Reforming Human Resources Management While Retaining Merit Principles and Cooperative Labor Relations," in *Civil Service Reform in the States: Personnel Policy and Politics at the Subnational Level* (Albany: State University of New York P, 2006), 283.

[53] Robert J. Lavigna, "Innovation in Recruiting and Hiring: Attracting the Best and Brightest to Wisconsin State Government," *Public Personnel Management* 25, no. 4 (Winter 1996): 434.

technology to provide better access to job postings which also increased efficiency and timeliness.

As a result of these reforms, the managers are able to hire more qualified candidates faster. The HR staff can reach to the qualified staff immediately instead of waiting for weeks. The walking-in test method that they created also helps reduce the costs of the exam the mailing fees. All these enabled state agencies to assess applicants quickly, interview larger numbers of qualified applicants, and hire candidates faster.[54]

However, enacting this kind of reform was not without its challenges. First, the increased utilization of technology and creation of walk-in testing centers with on-site interview opportunities required significant monetary and labor input. Additionally, a system can not be changed overnight, and implementation of these reforms had to be carefully planned. Labor unions were resistant to this type of change because they saw test scores as solid evidence of candidate qualification, whereas the non-testing methods utilized by the new system were more subjective, and therefore had a greater risk of a return to nepotism and cronyism.[55] Wisconsin tried to solve these problems by: 1) Piloting the system before implementation, 2) Making changes to address legitimate concerns, 3) Building partnership with customer agencies.[56] Despite the seemingly successful implementation of this system, this literature review did not yield any further information about individual employee satisfaction, or possible returns to nepotism and cronyism.

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[54] Robert J. Lavigna, "Innovation in Recruiting and Hiring: Attracting the Best and Brightest to Wisconsin State Government," *Public Personnel Management* 25, no. 4 (Winter 1996): 431-432.
[55] Lavigna 435.
[56] Fox and Lavigna 287.

METHODOLOGY

Methodology

Methodology for this study is based on the "Five Steps of Diagnosis and Data Collection" proposed in the text "The Basic Principles of Effective Consulting."[57] In approaching the task of data collection, it is important to ask some key questions:

1. What information is needed for a proper analysis?
2. Where that information available?
3. Who has the required information?
4. Which techniques must be used to obtain the information?

To answer these questions and lay the foundation for our cost-benefit analysis the steps include literature research, a budget analysis, and expert interviews.

Literature Review

The first step was locating available information and conducting a literature review. Literature provides opportunities to learn from scientific studies, case studies, prior analyses, and other people's experiences. However, because there are many different papers, journals, and articles related to Civil Service reform, the research Team narrowed the focus of the search to those related to current Civil Service practices, the advantages and disadvantages of the current system, social costs of discrimination, and the value of diversity, meaning inclusion of persons of different races and gender, in the workplace. Through research about previous state Civil Service reforms, the Team gathered information about other states' experiences, including what reform measures were taken, and whether or not the reform achieved desired results. Similarly, in

[57] Linda K. Stroh and Homer H. Johnson, *The Basic Principles of Effective Consulting* (New York: Taylor and Francis Group, LLC, 2005), 61.

studying the current Civil Service system in New York, the Team acquired a better understanding of the successes and shortcomings of the current system. Additionally, since one of the theorized benefits of a reform to the Civil Service system would be improved diversity with the potential to have positive social outcomes, the Team also investigated the social costs and benefits potentially associated with reform, such as the societal costs of discrimination, and the value of diversity in the workplace. With these research goals in mind, the Team used the Cornell library's database to perform the literature search. In an effort to optimize the efficiency of the database search, the Team choose to conduct the search using strategic key words and phrases, such as "diversity" and "social cost of Civil Service reform."

Budget Analysis

Following the literature review, a budget analysis was conducted to gauge the monetary costs and benefits of the current Civil Service system and any potential reform. The budget of the current Civil Service System of Tompkins County used for this analysis was obtained from Deputy Commissioner of Personnel Stephen Estes. With the data provided by this document, the Team was able to see the fiscal costs of current Civil Service System in Tompkins County. Given that the data in the current Civil Service Budget for Tompkins County is primarily related to personnel costs, the budget analysis focused on the costs associated with personnel management, especially those related to the costs of personnel management procedures, including recruiting advertisement, test fees, and costs of resume reading. Through consulting with Stephen Estes, the Team gained a better understanding of current budget limitations and how flexible the current

budget is. This provided a reference point to evaluate the costs of future changes that may be recommended as the result of the overall project.

Although it was originally the Team's intent to review county Civil Service budgets from those states that have already undergone reform, in the end, this did not occur. Due to the time limitations on the search, and seemingly non-existent availability of these budgets, the Team was not able to include this information in a budget analysis to project potential fiscal costs of reform based on the experiences of other areas. Instead, the Team conducted a budget analysis strictly based on conversations with Stephen Estes and the current Civil Service Budget.

Interviews

Finally, in addition to reviewing literature and conducting an analysis of the Tompkins County Civil Service budget, the Team augmented their research with interviews. After the Team's exemption from the Institutional Review Board review on October 19, 2009, the Team sent invitations to a variety of community members and topic experts to request their participation in an interview. These interviews were an asset to our investigation because the experts and community members who spoke with us were able to share their wealth of knowledge as it related to this inquiry. The persons interviewed were recommended by the WDIC, and or, were recommended by other persons who participated in interviews. By interviewing field experts about Tompkins County demographics, CSEA union representatives and the Tompkins County Civil Service administrator, the Team gained knowledge that these experts have been accumulating over a lifetime. Community members' opinions provided insight into

concerns with the current Civil Service system as well as concerns about potential problems with a reform.

Through the combination of determining what information is available, where it is located, and who can act as a resource, the Team anticipated being able to complete a review of the information available on this topic. Armed with the information provided by the literature review, budget analysis, and expert interviews, the Team was able to draw a conclusion about whether or not a pass/fail system is the best next step for Tompkins County to take in its pursuit of increasing "best-fit" hires and increasing the diversity in the Civil Service System from a cost-benefit perspective.

FINDINGS

Findings

This cost-benefit analysis was conducted by evaluating the costs and benefits of the current New York Civil Service system and reforms in several other states, as well as a budget review of the Tompkins County Civil Service Administration. Costs and benefits will be analyzed through two particular lenses: 1) societal costs and benefits and 2) monetary costs and benefits.

Current System

The current Civil Service system has been in operation in New York State and Tompkins County for years. While flaws exist, there are benefits in this system as well. The main benefit of the current Civil Service system is avoiding nepotism and cronyism. Favoring close friends, relatives, or colleagues, was the trademark of New York's so-called "spoils system" which existed before Civil Service was established. By following the Rule of Three, interview opportunities, and therefore jobs, are limited to those persons scoring in the same bands as the top three test scorers. This makes it very difficult for public officials to hire based on prior relationships with a candidate. Furthermore, the current system provides job security to permanent Civil Service employees because they are granted tenure, which limits job termination to "misconduct or incompetence, and they must be provided with the due processes guaranteed by law, rule or negotiated agreement,"[58] making firing employees a long and complex process. Tenure provides protection to many current employees and helps maintain some level of stability in the Civil Service work sector.

[58] Virginia M. Apuzzo, "Advisory Memo 94-11," New York State Department of Civil Service, Tenure, http://www.cs.state.ny.us/ssd/Manuals/SPMM/2200SeparationsLeaves/Advisory%20Memo%2094-11.htm (accessed November 1, 2009).

The current system also contains unavoidable problems. First, the hiring process is very long and very complex. After taking a test, applicants do not receive their test scores for 90-120 days,[59] which is then followed by the time it takes the hiring organization to generate their canvassing letters, set up an interview schedule, and finally make job offers. This lengthy process may be one of the reasons that the applicant pool is so limited. Second, there are restrictions about who can be hired, regardless of competency for a given position. Because of Rule of Three, a potential best-fit employee may not even get an opportunity to be interviewed. Many applicants are denied an opportunity to prove that their skills, experience, and desire, may be superior to other candidates' simply due to a score on a written test. Third, while tenure and job security are benefits for Civil Service employees, it can be harmful to the system and taxpayers. After a candidate's probationary period ends, it becomes very difficult to release an unproductive employee, which may be detrimental to the efficiency and productivity of the Civil Service system. "Once in the system, critics say, the notion of seniority dampens employee initiative by rewarding time on the job over job performance."[60]

Other States' Reforms

Georgia, Florida, and Texas have dramatically reformed their Civil Service systems. Among other things, these states have transitioned their tenured Civil Service positions to at-will employment with few regulations determining who can or cannot be hired for a given position and they created new job classifications and compensation

[59] New York State Department of Civil Service, "After The Examination," New York State Department of Civil Service, After I take the exam, how long will it take to get my score?, http://www.cs.state.ny.us/jobseeker/faq/scorenotices.cfm (accessed November 1, 2009).
[60] Walters 11.

plans.[61] Perhaps the largest benefit of these reforms is a streamlined hiring process. Shortening the hiring process means applicants do not have to spend months wondering whether or not they are going to get a job while having no income. In anticipation of their Service First reform, Florida reported that the

> Florida Department of Management Services (DMS) calculates that the average length of time per personnel action will be reduced by 70 percent in large part thanks to the minimal bureaucratic consequences of job shifts and job actions.[62]

With a shortened and more efficient application process, it is likely that more people are willing to apply for Civil Service positions, increasing the applicant pool. Another significant benefit of these reforms is the increased flexibility in who can be hired and who can be fired. When the limitations about hiring are removed, the most suitable candidate can then be placed in the most appropriate position, making the entire Civil Service system more productive and successful. Flexibility in hiring can also result in increased opportunities for diversity recruitment. These reforms have also increased the flexibility in pay and promotions the employees.

> Ask almost any state government manager in almost any of the other 47 states about what it's like to find and hire good people, and what you'll invariably hear is a long list of complains about the complex, convoluted, and snail's pace system in place. Ask personnel officials or hiring authorities in Texas, Georgia, or Florida how they like their style of personnel management, and you'll hear how relieved they are *not* to have to suffer the dictates of a highly structured, centralized, rule-driven personnel system.[63]

Despite these benefits of radical reform, the new systems are not without shortcomings. In 2000, Kellough and Nigro published the results of a survey, which had an unusually high rate of return, "For supervisors, the return rate was 78.76 %, and for non-supervisory line personnel, it was 62.63%," asked employees how they felt about their

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[61] Walters 12.
[62] Walters 36.
[63] Walters 35.

work experiences following Act 816, Georgia's Civil Service reform law.[64] Some interesting findings from this survey include only 38 percent of respondents agreed that, "Under the authority provided by the Civil Service reform law my agency can hire highly qualified people in a timely manner." Additionally, although a majority of employees reported no feelings of return to patronage, 9.7 percent "agree that they were at some time denied a job, a promotion, or a job reward because of their political beliefs of connections."[65]

Bowman, M. Gertz and S. Gertz conducted a telephone survey including 457 randomly selected state employees to gauge employee satisfaction with the new system and published their results in 2003. It should be noted that, despite the random selection of participants, most participants held supervisory positions. In the survey,

> more than 61% of the respondents disagreed that 'Service First has made it possible to hire qualified people in a timely manner...only 16% believed that 'Under Service First, my agency has established an effective human resource management program'...and "one half of those surveyed (50%) disagreed that 'Service First causes state employees to be more responsive to the goals and priorities of agency administrators.'[66]

Perhaps the most frightening result of this survey was that 41 percent of respondents said, "Service First permits my office to hire more people who have friends or connections to government" which may be indicative of a return to nepotism under this system.[67] It should be noted that not all respondents had negative feelings towards the new system, and in fact when asked about their perception of the workplace environment, 65 percent agreed that, "My agency is a good place to work."[68]

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[64] Nigro and Kellough (2000) 44.
[65] Nigro and Kellough (2000) 50.
[66] Bowman et.al. 291.
[67] *Ibid.*
[68] Bowman et.al. 294.

These survey results make it clear that human resource goals have not been reached, and the reform has actually added strain to the system for potential applicants and current employees. Also, job security for current Civil Service employees has decreased because of the removal of a tenure system. While this could yield a net positive institutionally, less stability for employees could mean less interest in Civil Service jobs, and ultimately, a smaller pool of applicants. Another concern about this type of reform is the level of resistance that unions may have to a reform effort that calls for more flexible hiring/firing practices. Finally, the potential returns to nepotism and cronyism could be increased by these reforms. With increased flexibility with regard to who can be hired, there are fewer restrictions preventing those in positions of power from returning to a corrupt system of hiring.

The situation in Wisconsin is more similar to the New York State, due to the age of their Civil Service system, "it was the third state (after Massachusetts and New York) to create a Civil Service system" and because of the high proportion, ninety percent, of their Civil Service employees being represented by unions.[69] In the 1980s Wisconsin noticed that their Civil Service system was

> not effective either for the state agencies doing the hiring or for the applicants who wished to be hired. The Civil Service process was so inflexible, slow, and cumbersome that job seekers interested in public service careers were reluctant to compete for positions.[70]

When they started their reform, Wisconsin's goals were similar to those of Tompkins County today. Primarily, they were looking to attract larger pools of talent. Their strategies for reform included three key measures: 1) Give day-to-day authority to state agencies, 2) Reform state hiring laws, and 3) Recruit

[69] Fox and Lavigna 281.
[70] Fox and Lavigna 282-283.

aggressively.[71] Each of these reforms significantly increased the ease of access for information about Civil Service jobs in Wisconsin. These reforms resulted in dramatic improvements including: 1) the ability to create a qualified applicant list in approximately 35 days, 2) diversifying Wisconsin's professional workforce, and 3) in some cases, being able to hire top applicants in 24 hours.[72]

However, enacting this kind of reform required facing several challenges. First of all, the new technology introduced in the reform and methods like walk-in testing and one-site interview demands much monetary and labor input. The legislators and labor unions were resistant to this type of change, the legislators because they were nervous that "greater hiring flexibility could conflict with merit principles," and the unions because they saw test scores as solid evidence of candidate qualification, whereas the non-testing methods utilized by the new system were more subjective, and therefore had a greater risk of a return to nepotism and cronyism.[73] Wisconsin tried to solve these problems by: 1) Piloting before implementation, 2) Making changes to address legitimate concerns, 3) Building partnership with customer agencies.[74] Despite looking for writings reporting the draw-backs of Wisconsin's reform, given the time limitations of this project, we were unable to find any such publications.

Although it is clear that the current system could be improved by reform, the question becomes how much reform is needed and how should the reform be implemented? While the states undergoing total reform have found mixed levels of success, each started the reform with a unique set of political and societal values,

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[71] Fox and Lavigna 282.
[72] Lavigna 431-432.
[73] Lavigna 434-435.
[74] Fox and Lavigna 287.

allowing them to determine a distinct strategy for change. Given the differences between states in terms of their levels of political involvement, perceived corruption, and union activities, one state's reform is not a panacea for all states. Maranto and Johnson investigated this idea when they performed a study looking into which states would be accepting of removal of tenure from the Civil Service system taking into account the following factors: state's perception of public corruption, traditional party organization, which is determined by "autonomy, stability, hierarchy," and "influence over candidate nominations," and "government performance," which is a measure of how effectively the government in that state is managed to determine the potential success of radical reform in any given state.[75] When using these three variables to assess which states would be successful in the elimination of tenure from the Civil Service System, New York ranks 49 out of the 50 states for probability of success.[76] Given these results, it seems likely that the radical reforms of Texas, Georgia, and Florida would have far less successful results if they were applied to New York, potentially resulting in a far worse Civil Service system than the current one.

Pass/Fail System

The current proposal for reform in Tompkins County is limited to modifying regulations about which test takers are eligible to be reviewed for the position. Rather than continuing the process of selecting candidates from the top three score bands to be interviewed, the plan is to open up resume reviews, and possible interview offers, to any candidate that passes the Civil Service Test. Although there hasn't been a formalized

[75] Maranto and Johnson 474-477.
[76] Maranto and Johnson 482.

empirical study to determine the success of such a reform, it comes with its own set of costs and benefits. Perhaps the most obvious benefit of this process is that it would increase flexibility in terms of which candidates are eligible for hire, which would increase the likelihood of finding the best person for a given position. This is important because according to Tompkins County Deputy Commissioner of Personnel Steve Estes,

> The score of an individual is not an indicator of success. What is often more important are the personal characteristics of the employee; do they have a good work ethic, are they accurate, friendly, customer service oriented? These intangible personal characteristics are not things for which you can test.[77]

Thus, a pass/fail system that decreases an emphasis on test score, while increasing flexibility in hiring, may increase the ability to hire the person with the best skill set for a given job. Another benefit of increased flexibility in hiring is the potential for increased opportunity for diversity recruitment. While diversity in the workplace, defined as having a heterogeneous group involving a mix of genders and ethnicity, often brings improved innovation[78] and the opportunity to learn from others,[79] it also can lead to greater interpersonal conflicts[80] and less satisfied workers.[81]

In addition to these pros and cons, opening opportunities for people to get full-time jobs with benefits has the potential to increase the intergenerational mobility in the community. Wiborg and Hansen explain that "the richer the parents the lower is the probability of experiencing disadvantage."[82] Mazumder supported this idea when he assessed a comparative study about trends in intergenerational mobility and explained that parental class status is far more influential on intergenerational mobility than parental

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[77] "Interview With Stephen Estes," telephone interview by Rebecca Krebs, November 5, 2009.
[78] Herring 208.
[79] Fassinger 253.
[80] Herring, 208.
[81] Shauna P. Acquavita et al. 152.
[82] Wiborg and Hansen 392.

values.[83] If the opportunity for work, and therefore the opportunity for income, is not available to all members of society, then whatever sector is disenfranchised will suffer a cyclical fate, with no opportunity for intergenerational growth. Civil Service reform that results in increased opportunity for recruitment of more diverse groups of people, including those groups who may be disenfranchised by other sectors of the labor market, would add benefit to society by opening up opportunities not only for individual success, but for intergenerational success. Although increased opportunities for intergenerational mobility may be associated with a pass/fail reform, despite the flaws in the current Civil Service system, Lee Dillon, a long-time employee of Tompkins Community Action, can remember occasions where one of her clients was able to get a job in Civil Service, and it "changes their lives" because they have income and benefits.[84]

Notwithstanding these anticipated benefits of a pass/fail reform, there are also costs associated with its implementation. Since Tompkins County has a strong union presence, there is likely to be union resistance to a change in the system. Don Kelley of CSEA was concerned that a pass/fail system would increase corruption. He was especially concerned that someone may resort to nepotism in the hiring process, and that hired person may not have the skills necessary to complete the job, which would result people's tax dollars being wasted as that person continued to be employed.[85] Furthermore, there is concern by community members speaking on behalf of minority and low-income applicants that the simple act of having to take the test may rule out these groups. They feel that traditionally, due to these populations having fewer educational opportunities, speaking English as a second language, and/or being

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[83] Mazumder 3.
[84] "Interview with Lee Dillon." Telephone interview by Amanda Edelman. October 30, 2009.
[85] "Interview with Don Kelley of CSEA." Telephone interview by Rebecca Krebs. October 30, 2009.

uncomfortable with a testing process, a pass/fail system will not resolve the issue of increasing the applicant pool because members of these populations have a lower likelihood of simply passing the test.

The final flaw associated with this proposed system of pass/fail is that it limits the current system of checks and balances to prevent nepotism and cronyism from finding their way back into Civil Service. By creating a pass/fail system, anyone who passes the Civil Service test associated with a given job is eligible for the position. By broadening the pool that candidates are chosen from, the hiring manager almost becomes the sole determinant of who does, or does not, get the position. In an ideal world, this person would be free from biases that may cause them to choose a candidate who is less qualified for a position, but that is not always the case. Thus, this cost of the pass/fail reform is weighted more heavily than the others.

Budget Analysis

Aside from social costs and benefits of Civil Service reform, one also needs to consider the monetary costs and benefits. The preliminary findings in this report were obtained by analyzing the Civil Service Cost documents of Tompkins County. The total approved personnel budget for Civil Service administration in Tompkins County for 2009 is $539,297. This budget covers salaries of Civil Service administration employees and various operation costs. A detailed listing of what this money pays for is included in Appendix A. While this funding does include recruitment efforts, there is little money set aside explicitly for recruiting (e.g. fliers, workshops, job fair attendance). The majority of the current costs of recruiting are incurred through the creation and distribution of job

availability listings to community organizations. Additionally, whenever possible, staff persons go into the community to present to local classes about opportunities in Civil Service, however, since this is not fiscally accounted for in the budget, this is highly dependent on other demands of the office at that time.

The rest of this analysis of the Tompkins County Civil Service Administration budget is based on the assumption that all reform efforts will result in an increased pool of applicants. This assumption is based on the client's stated goals of reform. An increased applicant pool has many potential societal benefits, but could lead to some increased monetary costs. The Tompkins County Civil Service Administration's largest budget item is employee salary. If an unforeseeable number of applicants decided to apply for Civil Service jobs in Tompkins County as a result of the reforms, an additional part time personnel assistant may be required to process applications or review resumes. This direct increase in budget may not be feasible. The client stated that needing to hire an additional employee because of a deluge of applicants is highly unlikely, and our evidence supports their claim. Based on information provided by the Demographics Team, the current Tompkins County Civil Service employees could handle many more test takers than they currently see. In 2009, Tompkins County has had an average of 125 test takers per month. The 2009 average is down slightly from the past decade. From 2000-2008, the average number of test takers per month was 134, with 161 test takers per month in 2006. The highest total number of test takers in any given month since January of 2000 is 309 which occurred in February of 2006. If the current Tompkins County Civil Service Administration employees can handle 309 test takers in a month, it would seem that they could withstand an increase of more than twice as many

test takers a month as they are currently processing. Since even the most optimistic projections of an increased applicant pool do not indicate an increase in applicants beyond 309 test takers per month, the client is safe to assume no new hire would be necessary as a result of reform. Regardless, of whether an additional employee would be required, there will be a time cost associated with more application processing, resume reviews, and interviews. While the exact time cost associated with these duties can not be definitively determined, it is likely that a significant increase in test takers could be supported by the current staff. More applicants could also lead to increased program expenses and exam fees. The cost of renting larger spaces for test takers, and an increased number of exam fees paid to New York State in a given year could all lead to more expenses for the Tompkins County Civil Service Administration. Again, the current Tompkins County Civil Service Administration budget can support at least 309 test takers per month. Therefore neither program expenses nor test fees are expected to increase to the point of being prohibitive to the reform effort.

CONCLUSIONS

AND

RECOMMENDATIONS

Conclusions

The conclusions drawn from this cost-benefit analysis can be broken down into four categories: reforms of Texas, Georgia, Florida and Wisconsin, current Civil Service system in New York Civil Service, fiscal budget, and pass/fail conclusions. There has been no evidence found to date that, extreme reforms, like those that occurred in Texas, Florida, and Georgia resulted in increased applicant pools. While these reforms do increase hiring flexibility, which may have a byproduct of increasing the likelihood of hiring the best candidate for the job, they have numerous costs and are not feasible under New York's current Civil Service laws. Wisconsin set out to accomplish its reform starting with a very similar goal to Tompkins County, to attract talent, and was able to implement three key changes to its Civil Service system that significantly increased its applicant pool and efficiency as an organization. While all of Wisconsin's reforms would not be feasible under New York's current Civil Service laws, some of its strategies, especially those associated with aggressive recruiting, may be useful in increasing applicant pools, which would increase the likelihood of someone in the pool having the requisite talents for the available job. After a review of New York's current system, it is clear that there is room for improvement and that there are specific systemic changes that can be made within the confines of the current Civil Service laws to increase the applicants and increase the potential for social benefits of reform. The conclusions strictly related to the Tompkins County Budget were that the current allocations can accommodate up to 309 test-takers at a given time. However, the costs associated with implementing more aggressive recruiting efforts are still unknown. Despite a fairly extensive analysis of various Civil Service systems, there has been no evidence that

transitioning to a pass/fail system would increase the applicant pool, increase the ability to hire the person with the best skills for an available job, or increase opportunities for diversity hiring within Civil Service in Tompkins County.

Recommendations

Based on these conclusions, we recommend the following steps:

1) Perform research within the local community about what is inhibiting potential applicants, but especially those in target demographic groups, from applying to a Civil Service job. Additional research to determine the most effective places to target recruiting efforts also would be beneficial given the minimal funding for recruitment.

2) Increase aggressive recruitment efforts like those seen in Wisconsin. This includes sending representatives to career fairs at local colleges and actively collaborating with community organizations, like Tompkins Community Action who works with target populations, to inform them of job opportunities. The caveat to this recommendation is that an increase in recruitment efforts has costs associated with it which may or may not be within the realm of the current Civil Service budget.

3) Increase awareness efforts. This can include measures like making information about Civil Service jobs available online and in the community. Additionally, one interview candidate suggested holding workshops to inform community members of what Civil Service is about and the steps of the process and how it works, and provide information about how to be successful in the application process. Partnering with BOCES and local high schools for presentations can also increase young people's awareness about the opportunities in Civil Service. Similar to the last recommendation, the caveat to this recommendation is that these efforts likely

have associated costs which may or may not be within the realm of the current Civil Service budget.

REFERENCES

Sources

Apuzzo, Virginia M. "Advisory Memo 94-11." New York State Department of Civil Service. http://www.cs.state.ny.us/ssd/Manuals/SPMM/2200SeparationsLeaves/Advisory%20Memo%2094-11.htm (accessed November 1, 2009).

Aquavita, Shauna P., Joan Pittman, Maya Gibbons, and Karen Castellanos-Brown. "Personal and Organizational Diversity Factors' Impact on Social Workers' Job Satisfaction: Results from a National Internet-Based Survey." *Administration in Social Work* 33 (2009): 151-66.

Battaglio Jr., R. Paul, and Stephen E. Condrey. "Civil Service Reform: Examining State and Local Government Cases." *Review of Public Personnel Administration* 26, no. 2 (June 2006): 118-38.

Bowman, James S., Marc G. Gertz, Sally C. Gertz, and Russell L. Williams. "Civil Service Reform in Florida State Government: Employee Attitudes 1 Year Later." *Review of Public Personnel Administration* 23, no. 4 (December 2003): 286-304.

Bransford, William L. "Civil Service Changes for a Better Future." *The Public Manager* (Fall 2008): 45-47.

Doherty, John S. "More Seek Government Jobs; Tough Times Reflected in Applications." *The Post-Standard* (Syracuse), July 23, 2009.

Fassinger, Ruth E. "Workplace Diversity and Public Policy: Challenges and Opportunities for Psychology." *American Psychologist* 63, no. 4 (May & june 2008): 252-68.

Feeney, Mary K., and Gordon Kingsley. "The Rebirth of Patronage." *Public Integrity* 10, no. 2 (Spring 2008): 165-76.

Fox, Peter D., and Robert J. Lavigna. "Wisconsin State Government: Reforming Human Resources Management While Retaining Merit Principles and Cooperative Labor Relations." In *Civil Service Reform in the States: Personnel Policy and Politics at the Subnational Level*, 279-89. Albany: State University of New York P, 2006.

Gossett, Charles W. "Civil Service Reform: The Case of Georgia." *Review of Public Personnel Administration* 22, no. 2 (Summer 2002): 94-113.

Herring, Cedric. "Does Diversity Pay?: Race, Gender, and the Business Case for Diversity." *American Sociological Review* 74 (April 2009): 208-24.

"Interview with Don Kelley of CSEA." Telephone interview by Rebecca Krebs. October 30, 2009.

"Interview with Lee Dillon." Telephone interview by Amanda Edelman. October 30, 2009.

"Interview With Stephen Estes." Telephone interview by Rebecca Krebs. November 5, 2009.

Kalev, Alexandra, Erin Kelly, and Frank Dobbin. "Best Practices or Best Guesses? Assessing the Efficacy of Corporate Affirmative Action and Diversity Policies." *American Sociological Review* 71, no. 4 (August 2006): 589-617.

Lavignà, Robert J. "Innovation in Recruiting and Hiring: Attracting the Best and Brightest to Wisconsin State Government." *Public Personnel Management* 25, no. 4 (Winter 1996): 423-37.

Maranto, Robert, and Jeremy Johnson. "Bringing Back Boss Tweed? Could At-Will Employment Work in State Governement, and, If So, Where?" *International Journal of Public Administration* 31 (2008): 468-88.

Mazumdar, Bhashkar. "Editor's Introduction: Trends in Intergenerational Mobility." *Industrial Relations* 46, no. 1 (January 2007): 1-6.

New York State Department of Civil Service. "After The Examination." New York State Department of Civil Service. http://www.cs.state.ny.us/jobseeker/faq/scorenotices.cfm (accessed November 1, 2009).

Nigro, Lloyd G., and J. Edward Kellough. "Civil Service Reform in Georgia: Going to the Edge?" *Review of Public Personnel Administration* 20, no. 41 (Fall 2000): 41-54.

Nigro, LLoyd G., and J. Edward Kellough. "Personnel Reform in the States: A Look at Progress Fifteen Years After the Winter Commission." *Public Administration Review* 68, no. S1 (December 2008): S50-57.

Nigro, Lloyd G., and J. Edward Kellough. "The States and Civil Service Reform: Lessons Learned and Future Prospects." In *Civil Service Reform in the States: Personnel Policy and Politics at the Subnational Level*, 315-24. Albany: State University of New York P, 2006.

Sanders, Robert M. "GeorgiaGain or GeorgiaLoss? The Great Experiment in State Civil Service Reform." *Public Personnel Management* 33, no. 2 (Summer 2004): 151-64.

Stroh, Linda K., and Homer H. Johnson. *The Basic Principles of Effective Consulting*. New York: Taylor and Francis Group, LLC, 2005.

Walters, Jonathan. "Life After Civil Service Reform: The Texas, Georgia, and Florida Experiences." *Governing Magazine*, October 2002.

West, Jonathan P., and James S. Bowman. "Stakeholders Analysis of Civil Service Reform in Florida: A Descriptive, Instrumental, Normative Human Resource Management Prespective." *State and Local Government Review* 36, no. 1 (Winter 2004): 20-34.

West, Jonathan P. "Georgia on the Mind of Radical Civil Service Reformers." *Review of Public Personnel Administration* 22, no. 2 (Summer 2002): 79-93.

Wiborg, Oyvind Nicolay, and Marianne Nordli Hansen. "Change Over Time in the Intergenerational Transmission of Social Disadvantage." *European Sociological Review* 25, no. 3 (2009): 379-94.

Williams, Russell L., and James S. Bowman. "Civil Service Reform, At-Will Employment, and George Santayana: Are we Condemned to Repeat the Past." *Public Personnel Management* 36, no. 1 (Spring 2007): 65-77.

APPENDICES

Appendix

A: Break Down of Current Tompkins County Civil Service Administration Budget

Civil Service Administration.....$395,127

- Includes Salaries for:
  - Commissioner of Personnel
  - Deputy Commissioner of Personnel
  - 1 Full-Time Personnel Assistant
  - 2 Part-Time Personnel Assistants
- Includes Funds for:
  - Supplies and Equipment
  - Exam Site Rental
  - Postage
  - Advertising
  - Test Taker Fees
    - $7.50/"non-uniform" test
    - $12.50/"uniform"

B: Summary Table of Costs and Benefits of NYS Current Civil Service System

New York State Current Civil Service System	
Benefits	**Costs**
• Reduces opportunities for nepotism • Reduces opportunities for cronyism • Tenure • Complies with current Civil Service Laws • Has CSEA support • Supports Intergenerational Mobility • Requires no new costs to implement	• Lengthy hiring process • Complex system for applicants to complete • Limitations to who can be hired, regardless of competency for a given job • Difficult to remove persons from job if they are not the best fit

C: Summary Table of Costs and Benefits of Reformed Civil Service Systems in Texas, Georgia and Florida

Reformed Civil Service Systems of Texas, Georgia, and Florida	
Benefits	**Costs**
• Streamlined hiring process • Increased flexibility in who can be hired/fired • Increased opportunity for diversity recruitment • Fewer generalized pay increases • Loss of tenure system decreased yearly incremental pay raises	• Potential return to nepotism/cronyism • Decreased job security for employees • Significant Employee Dissatisfaction

D: Summary Table of Costs and Benefits of Proposed Pass/Fail Civil Service System

Proposed Pass/Fail Reform	
Benefits	**Costs**

• Decreased Reliance on Test Scores
• May Increase Diversity
  • Innovative ideas
  • Opportunity to learn from others experiences
• May Increase Opportunities for Intergenerational Mobility
	• Fewer restrictions inhibiting nepotism and cronyism
	• CSEA Resistance
	• Current testing process may eliminate minority and low-income applicants, preventing a pass/fail system from achieving the goal of increased diversity

Cornell University

New York State Civil Service Review
For
Tompkins County
Workforce Diversity and Inclusion Committee

~

A Project of the CIPA Public Service Exchange
CRP6311

December 2, 2009

- Institutional Review Board Approval
- Students on Five Teams Considered the Following Research Questions:

"Should Tompkins County propose a pilot pass/fail system for hiring civil service employees?"

"Is a pass/fail system warranted and would such a change increase diversity in hiring?"

Teams are:

Current System Team

Demographics Team

Benchmark Team

Legal/Political Context Team

Cost-Benefit Team

Main Recommendations

- Before attempting to implement a pass/fail pilot, build strong coalitions

- Recognize that coalitions are necessary to counter opposition from strong unions

- Increase recruitment efforts by presenting civil service career information to high schools, colleges and target populations

- Collect exam data that might provide evidence of problems in hiring diverse candidates

Main Recommendations (continued)

•Decentralization in the hiring process would provide more flexibility and autonomy, but a central review board might be necessary to oversee the process and maintain consistency

• If a pass/fail system were to be attempted in a broad fashion, the reform is likely to fail. If a pass/fail system were to be attempted in a limited fashion, a pilot might be possible

Main Recommendations (continued)

If a pass/fail system were attempted:

a) focus on issues other than diversity
b) attempt reform for specific conditions
c) consider the political factors and timing

Analysis of the Current Local & State Civil Service System of NY & Tompkins County

CRP 6311: Consulting for Nonprofit and Governmental Organizations
12/2/2009

Cheryl Thayer
Rebecca Krebs
Xi Niu
Wendy Wang
Christopher Coghlan
Eric Reker

Research Question

- Is the current NYS Civil Service system meeting the needs of Civil Service administrators and potential candidates?

Presentation Format

- Methodology
- Limitations
- Brief history
- Past reforms
- Overview of testing and hiring
- Recommendations

Methodology

Primary Sources

- Tompkins County Workforce Diversity and Inclusion Committee (WDIC) Representatives
- NYS Personnel Directors
- Civil Service Employee Association (CSEA) Officials

Secondary Sources

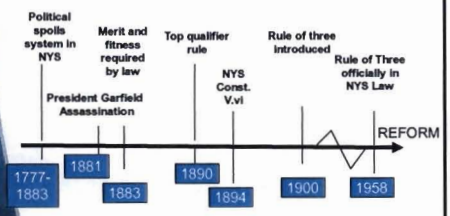
- NYS reports
- Online catalogs
- Historical books

Limitations

1. Difficulty obtaining Personnel Director participation
2. "Lost periods" of time
3. Difficulty following legislative reforms

So What Did We Find?

- History of NYS Civil Service System



Reforms

NYS Personnel Council Civil Service Review

- 1976
  - NYS Personnel Council: 1976 workshop on "Improving the Civil Service System"
    - 21 recommendations
    - Block certification; zone scoring; rule of the list

Band Scoring Reform

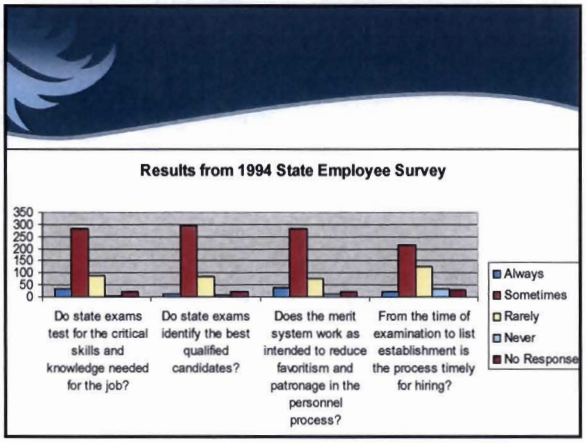
- 1986
  - "Band scoring" movement
    - Adopted by state / local governments
    - 5 scores increment
    - Challenged by CSEA

1994 Civil Service Evaluation

In 1994, the NYS Office of the State Comptroller Division of Management Audit produced a report addressing the following:

- Non-legislative reforms
- Survey of Personnel Directors and employees

NYS Office of the State Comptroller
Division of Management Audit, 1994



Governor Pataki's Reforms

- 1996
  - Zone scoring
  - Enhanced hiring flexibility
  - On-time test results

Testing and Hiring

Current Testing Process

- How does it currently operate?

Recruitment after a position opening

*From NYS Dept of Civil Service

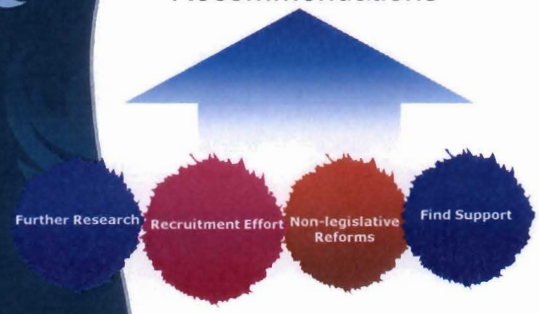
Hiring Process

- Hiring
  - Eligibility lists are sent to State agency with job opening
  - Canvass letters are sent to top-ranking individuals
  - Final selection and appointments are made after interviews with the agency
  - Once appointed, serve a probationary term of 26-52 weeks

*From NYS Dept of Civil Service

Recommendations

Recommendations



Research

- Further and more extensive research must be completed
  - Professional opinions of personnel directors, executives within the Department of Civil Service and current Civil Service employees
  - Extensive surveys with qualitative answer sections would be especially helpful.

Recruitment

- Increase the recruitment effort
  - Include local county high school campuses for awareness development
  - Search local university campuses for new talent
  - Broaden number of distribution agencies
  - Follow-up with distribution agencies to ensure adequate promotion

Non-Legislative Reforms

- Try non-legislative reforms
  - Non-legislative reforms eliminates the need to lobby for a constitutional change
  - Constitutional changes will be necessary otherwise, are difficult to implement and are often long and arduous processes

Support for Reform

- Find support
  - CSEA is an extremely powerful and opinionated union very much against any decentralization of the civil service system and reform.
  - Should the Tompkins County like to move for a pilot program, support from other local municipalities and interest groups is absolutely necessary.

Thank You !

Cost-Benefit Analysis of Civil Service Review for Tompkins County

Amanda Edelman
Cheng-En Huang
Nicole Liu
Kevin Triskett

Introduction

- The Need for This Study
  - Syracuse Post-Standard article (June '09)
  - Tompkins County WDIC Concern
- Project Goal
  - To weigh the monetary and societal costs of Civil Service reform against the monetary and societal benefits of reform.

Cost Benefit Analysis

- Focus of Research
  - Current NYS System
  - Texas, Georgia, Florida, and Wisconsin
  - Proposed Pass/Fail System
- Presentation Preview
  - Methodology
  - Current System
  - Reform in Other States
  - Pass/Fail
  - Conclusions and Recommendations

Methodology

- Utilized guiding questions recommended by Stroh and Johnson
  - What information is needed?
  - Where is the information available?
  - Who has the required information?
  - Which techniques must be used to obtain the information?

Stroh, Linda K., and Homer H. Johnson. *The Basic Principles of Effective Consulting*. New York: Taylor and Francis Group, LLC, 2005.

Methodology

- Reviewed relevant literature
- Interviewed experts from CSEA, TCAction, Tompkins County Civil Service Administration
- Analyzed Tompkins County Civil Service Administration Budget*
- Collaborated with other teams

*Provided by Stephen Lacy

Budget Analysis

- Civil Service Administration……$395,127
  - Salaries and Fringe Benefits
    - Commissioner of Personnel (50%)
    - Deputy Commissioner of Personnel
    - 1 Full-Time, 2 Part-Time Personnel Assistants
  - Program Expenses
    - Supplies and Equipment
    - Exam Site Rental
    - Postage
    - Advertising

Pass/Fail Budget Analysis

- Assumptions
  - Future budgets comparable to current budget
  - Enacted reforms would lead to a larger pool of applicants
- Concerns
  - Time cost of processing/reviewing/interviewing
  - Resources for test-takers
  - Test-taker fees

Budget Analysis

- Civil Service Administration.....$395,127
  - Average of 125 test-takers per month in 2009
  - 134 test-takers per month on average from 2000-2008
  - February 2006 saw 309 test-takers
  - Current budget could support a larger applicant pool

NYS Current System

- Benefits
  - Reduces nepotism
  - Reduces cronyism
  - Tenure
  - Complies with current Civil Service Laws
  - Has CSEA support
  - Supports Intergenerational Mobility
  - Requires no new costs to implement

NYS Current System

- Costs
  - Lengthy hiring process
  - Complex system for applicants to complete
  - Limitations to who can be hired, regardless of competency for a given job
  - Difficult to remove persons from job if they are not the best fit

Reformed System in TX, GA, FL

- Benefits
  - Streamlined hiring process
  - Increased flexibility in who can be hired/fired
  - Increased opportunity for diversity recruitment
  - Fewer generalized pay increases
    - Loss of tenure system decreased yearly incremental pay raises
  - Walters (2002) Quotation

Walters, Jonathan "Life After Civil Service Reform: The Texas, Georgia, and Florida Experiences" Governing Magazine October 2002

Reformed System in TX, GA, FL

- Costs
  - Potential return to nepotism/cronyism
    - Bowman, Gertz, and Gertz 2003 Study
    - 41% of respondents said, "Service First permits my office to hire more people who have friends or connections to government"
  - Decreased job security for employees
  - Significant employee dissatisfaction

James S. Bowman, Mary G. Gertz, Sally C. Gertz and Russell L. Williams, "Civil Service Reform in Florida State Government: Employee Attitudes 1 Year Later" *Review of Public Personnel Administration* 23, 4, 2003, pp. 286-304

Post-Reform Employee Surveys

- Bowman, Gertz, and Gertz (2003) telephone survey about Service First in Florida
  - More than 61% disagreed that "Service First has made it possible to hire qualified people in a timely manner"
  - Only 16% believed that "Under Service First, my agency has established an effective human resource management program"

James S. Bowman, Marc G. Gertz, Sally C. Gertz and Russell L. Williams, "Civil Service Reform in Florida State Government: Employee Attitudes 1 Year Later," *Review of Public Personnel Administration* 23, 4, 2003, pp. 286-304.

Post-Reform Employee Surveys

- Kellough and Nigro (2000) survey about Georgia's new Civil Service system after Act 816
  - High return rate:
    - 78.7% for supervisors
    - 62.6% for non-supervisory line personnel
  - Only 38% agreed that "Under the authority provided by the Civil Service reform law my agency can hire highly qualified people in a timely manner"

Nigro, Lloyd G., and J. Edward Kellough, "Civil Service Reform in Georgia: Going to the Edge?" *Review of Public Personnel Administration* 20, no. 4, Fall 2000, 41-54.

Pass/Fail Reform

- Benefits
  - Decreased Reliance on Test Scores
  - May Increase Diversity
    - Innovative ideas
    - Opportunity to learn from others' experiences
  - May Increase Opportunities for Intergenerational Mobility

Pass/Fail Reform

- Costs
  - Fewer restrictions inhibiting nepotism and cronyism
  - CSEA Resistance
  - Current testing process may eliminate minority and low-income applicants, preventing a pass/fail system from achieving the goal of increased diversity

Wisconsin as a Case Study

- Situation in Wisconsin is similar to New York State
  - Age of their Civil Service System
  - 90% of Civil Service employees are represented by labor unions
- In the 1980's Wisconsin noticed that the Civil Service process was so inflexible, slow, and cumbersome that job seekers interested in public service careers were reluctant to compete for positions.

Wisconsin as a Case Study

- Wisconsin's goals were similar to those of Tompkins County today
  - Attract, develop, and retain human capital
- Solutions
  - Give day-to-day authority to line agencies
  - Reform laws to become more flexible
  - Develop more creative and user-friendly ways to evaluate job candidates
  - Expand recruiting
  - Conducting on-site (immediate) job interviews
  - Using technology to provide better access, efficiency and timeliness

Wisconsin as a Case Study

- Results
  - The ability to create a qualified applicant list in approximately 35 days
  - Diversification of Wisconsin's professional workforce
  - In some cases, being able to hire top applicants in 24 hours
  - Reduced the testing cycle by 3 weeks
  - Eliminated work and costs of mailing more than 100,000 notices each year

Wisconsin as a Case Study

- Costs of Reform
  - Required State-level legal reform
  - Faced legislative and labor union resistance to this type of change
    - Concerns over nepotism and cronyism
  - Walk-in testing and on-site interviews demanded significant monetary and labor input
  - Increased recruiting and technology access required an increase in labor force

Conclusions

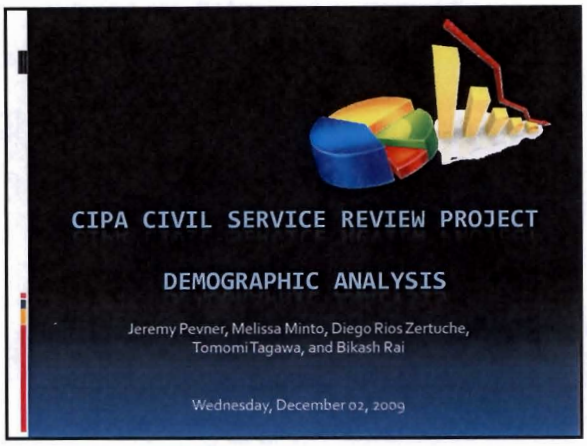
- TX, GA, FL
  - Cost of potential return to cronyism and nepotism, along with significant employee dissatisfaction, outweigh the potential benefits achieved with increased flexibility in hiring/firing.
- WI
  - Benefits of increased applicant pool and test-takers outweigh the fiscal costs associated with aggressive recruiting, legal reform, and increased test accessibility.

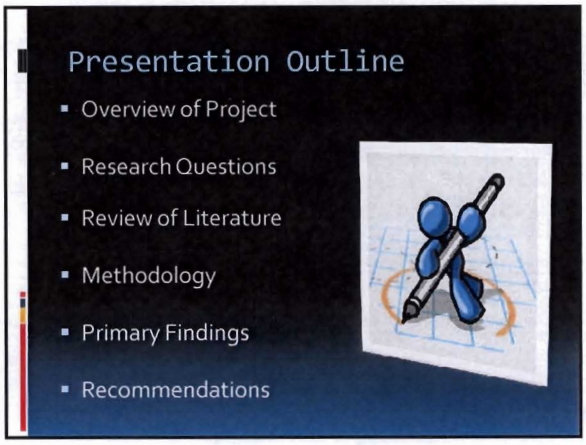
Conclusions

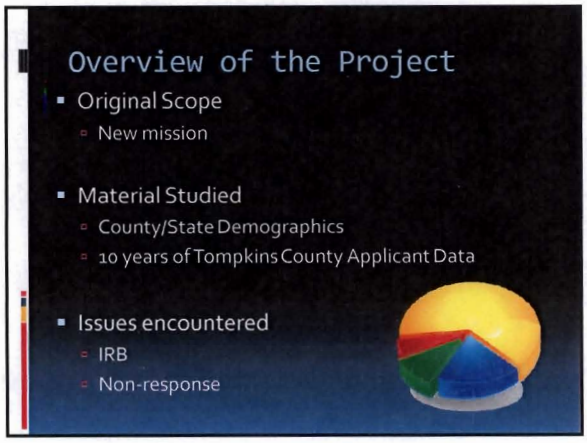
- NYS Current System
  - Although flawed, there are reforms that can be made within Tompkins County, without changing the testing process, that can increase accessibility and applicant pools.
- Proposed Pass/Fail System
  - There has been no direct evidence linking an isolated pass/fail reform, with an applicant pool increase, increase in best-fit candidates, or increase in opportunities for diversity hiring.

Recommendations

- Research local factors that inhibit people from applying to Civil Service positions
- Increase aggressive recruitment efforts like those seen in Wisconsin
  - Has costs associated with it which may or may not be within the realm of the current Civil Service budget
- Increase awareness efforts through outreach and workshops
  - Has costs associated with it which may or may not be within the realm of the current Civil Service budget


CIPA CIVIL SERVICE REVIEW PROJECT
DEMOGRAPHIC ANALYSIS
Jeremy Pevner, Melissa Minto, Diego Rios Zertuche, Tomomi Tagawa, and Bikash Rai
Wednesday, December 02, 2009


Presentation Outline
Overview of Project
Research Questions
Review of Literature
Methodology
Primary Findings
Recommendations


Overview of the Project
Original Scope
New mission
Material Studied
County/State Demographics
10 years of Tompkins County Applicant Data
Issues encountered
IRB
Non-response

Research Focus

- Question 1: Does Tompkins County attract a diverse applicant pool that is a proportional cross section of its population?
- Question 2: Does the Civil Service System recruit and hire a proportional cross section of the population in Tompkins County?

Review of Diversity Literature

- Definition of Diversity
  - Specifically focusing on the EEOC reporting definition
- Societal Barriers
  - Structural
    - Exam requirements (test scores)
    - Lack of information and outreach (recruitment)
  - Natural
    - Geographic location
    - Socioeconomic status
    - Education Levels
    - Applicant perception of own qualifications

Study Methodology

- Main Database
  - Tompkins County Civil Service Applicants 1999-2009
    - Provided by WDIC
- Additional Database
  - Tompkins County Civil Service Workforce 2005-2009
    - Provided by WDIC
  - American Community Survey 2005-2007
    - US Census Bureau
  - Diversity in the New York State Government Workforce 2009
    - New York State Civil Service

Civil Service Applicants

- Database
  - Survey results of all applicants to competitive positions (Sept. 1999 to Sept. 2009)
- Sample Size
  - 9,843 valid cases (total N = 16,070 applicants)
- Instrument
  - Questionnaire: applicants select their racial identification according to EEOC guidelines
- Treatment
  - Survey
    - Requested together with the employment application
    - Participation was voluntary
    - Survey results were matched with applicants' educational background and test results

Data Treatment

- Pass/Fail Criteria
  - All candidates that obtained a final score of 70% or above were categorized as "Pass"
- Rule of Three Criteria
  - The top three candidates and passing scores were selected per exam number per month

Primary Findings

- Small difference between the Rule of Three and Pass/Fail
- Applicant diversity not represented in workforce
- Minorities apply but are less likely to take the civil service exams

Finding 1: Minimal difference between Rule of Three and Pass/Fail Methods

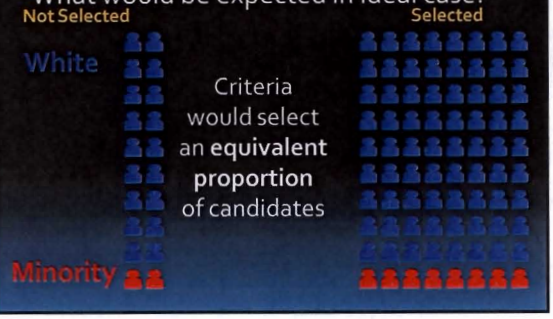
- Switching to a Pass/Fail method would not be likely to alter workforce diversity levels if application pool diversity remains the same
- Interviewees from Pass/Fail approach unlikely to be more diverse

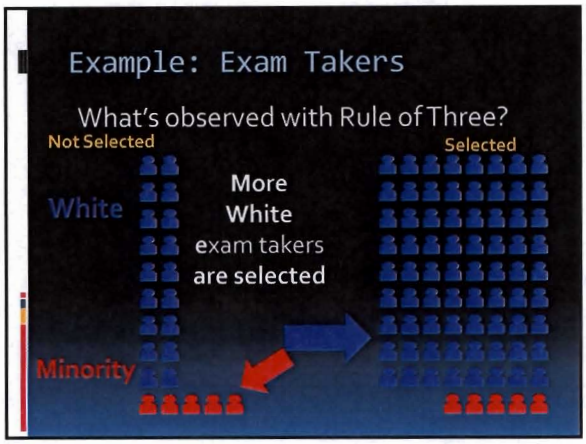
Exam Takers by Selection Method

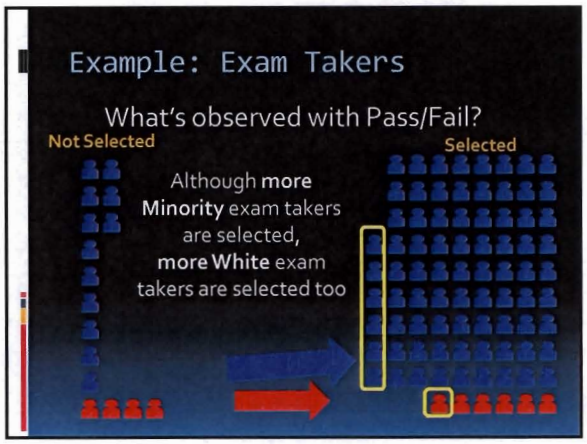
Data from: Civil service applicant survey provided by WDC, Sep. 1999 to Sep. 2009

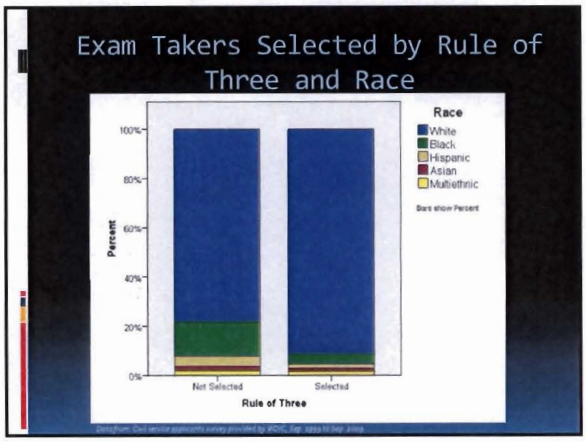
Example: Exam Takers

What would be expected in ideal case?

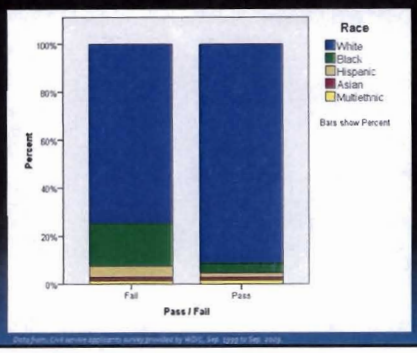



Example: Exam Takers
What's observed with Rule of Three?
Not Selected
Selected
White
More White exam takers are selected
Minority


Example: Exam Takers
What's observed with Pass/Fail?
Not Selected
Selected
Although more Minority exam takers are selected, more White exam takers are selected too


Exam Takers Selected by Rule of Three and Race
Race
White
Black
Hispanic
Asian
Multiethnic
Bars show Percent
Percent
100%
80%
60%
40%
20%
0%
Not Selected
Selected
Rule of Three

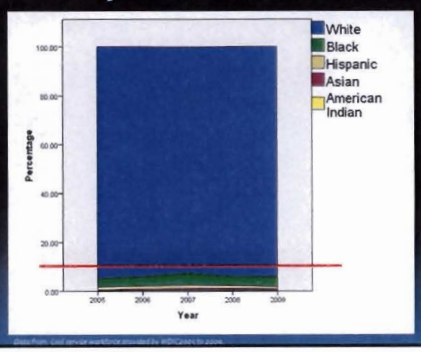
Exam Takers Selected by Pass/Fail and Race



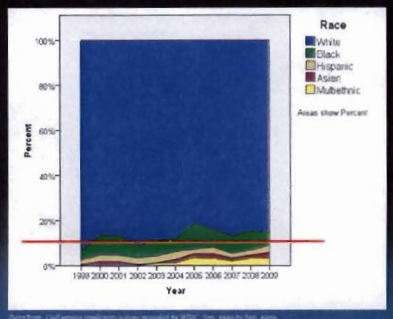
Finding 2: Minorities not represented in workforce

- The proportion of minorities in the applicant pool roughly approaches that of Tompkins County overall
- The proportion of minorities in the Tompkins County government workforce do not represent that same cross section.

Tompkins County Workforce by Year and Race

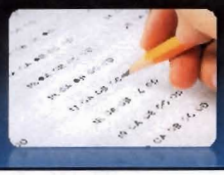


Applicants by Race and Year of Application

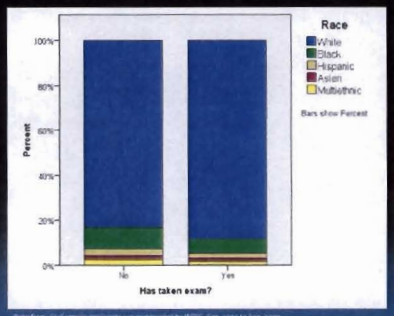


Finding 3: Minorities apply but are less likely to take the exam

- Only 45% of minority applicants take the Civil Service Exam
- In comparison, 85% of White applicants take the test



Applicants by exam taking and race



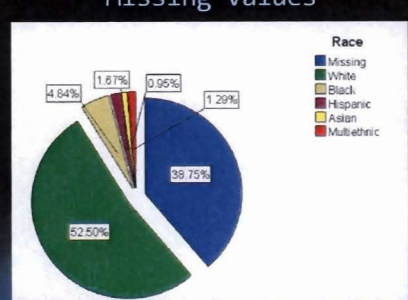
Recommendations

- Further Study
- Recruitment Efforts
- Different rationale for pilot program

Recommendation 1: Further Study into Diversity

- Data is limited
  - A great percentage did not report their demographic information
- Focus groups
- Surveys

Racial Identification and Missing Values



Data from Civil service applicants survey provided by WDIC, Sep. 2009 to Sep. 2009.

Recommendation 2: Expand Recruitment Efforts

- Must focus on increasing diversity in applicant pool and, more importantly, in test takers
- Develop new recruitment efforts at the high school/college level
- Promote civil service through outreach

Recommendation 3: Different rationale for pilot

- Historical data does not support diversity as a rationale for attempting a Pass/Fail pilot program
- If desire for a Pass/Fail pilot remains, it needs to focus on other benefits the system would bring.
  - Additional choice in candidates
  - Catch candidates that might have been missed

Conclusion

- Research Question 1: Does the county attract a diverse applicant pool?
  - Yes.
- Research Question 2: Does the Civil Service Application process produce a diverse workforce?
  - No.
  - The issue seems to be more than just the test.

Legal and Political Preliminary Findings

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Research Question

- The goal of this research project is to analyze the legal and political implications of amending the NY State Civil Service hiring process.

Methodology

- Literature Review
- Interviews

Areas of Study

- Legal Opportunities and Challenges
- Relevant Court Cases
- Prospective Political and Legal Allies and Opposition
- Diversity and Meritocracy

Major Findings

- Lack of constituencies advocating for reform
- Conflicts with diversity and inclusion persisting despite past major reforms
- A widespread perception that one's merits can be captured in a single exam, resulting in significant faith in that exam

Review of New York State Civil Service: Legal Challenges & Opportunities

- Its place in the New York Constitution and in statute makes changing Civil Service very difficult
- Previous movements to amend the Civil Service System have fallen short at the legislative level
- To overcome opposing forces and navigate through the legislative process, local and statewide coalition building will be essential.
- The proposed strategy to use Tompkins County as a pilot, if successful, could be helpful in moving toward statewide reform.

Court Case	Issue	Facts	Decision
Vulcan Society of FDNY v Civil Service Commission of City of New York. No. 1:07-cv-02067-NGG-RLM. U.S. Court of Appeals, 2d Cir. (2009)	Written exams are not adequate measures of qualifications for firefighters	Minority applicants claimed that written exams had an adverse impact. This was proven by statistical data showing a higher failure rate of minority applicants.	The Court found in favor of minority applicants- awaiting remedy.
Almendral v New York State Office of Mental Health, 743, F.2d 963 (1984)	"Rule of Three" discriminates against a small applicant pool.	Applicants took a written exam and were placed onto two separate lists. Agency procedure states that candidates for a position must be selected from the "promotion eligible list" before looking at the "open competitive list." Plaintiff was already an employee and placed on the first list. There were fewer than three people on that list so the agency hired from the other list.	The Court found that the agency was allowed to hire from the "open competitive list" due to the low number of applicants in the "promotion eligible list."
Bushey v New York State Civil Serv. Commin, 733 F.2d 220, 224 (1984)	"Zone banding" & "reverse discrimination"	Non-minority and minority applicants took the same exam and were scored on different frequencies. This was an effort to eliminate a disparate impact on minorities. It placed minority applicants in the same score range as non-minorities.	The Court found that minorities were disparately impacted before the change in score frequency. The agency was allowed to score the exams differently because it eliminated the disparate impact without hurting non-minorities.

Diversity & Meritocracy: Fairness and Competency

- Diversity and Meritocracy embody fairness and competency
- Viewed as noble pursuits
- Requires employment that is open for all
- Diversity can spark creative abrasion
  - Boosts competency
- Meritocracy
  - Ensures the best qualified are hired
  - Indicates fairness and objectivity

Diversity and Meritocracy

- Seen as highly important political goods
- Public looks to government for them
- Related to notions of fairness and competency
- Varying definitions
- At times mutually exclusive
- Need for systems and institutions
- Viewed as contentious at times
- Disagreement on how to achieve both
- May require compromise
- May require prioritization

Prospective Legal & Political Allies

- New York Urban League
- National Association for the Advancement of Colored People (NAACP)
- League of United Latin American Citizens (LULAC)
- New York State Association of Counties (NYSAC)
- New York Conference of Mayors and Municipal Officers (NYCOM)
- Puerto Rican Legal Defense of Education Fund (PRLDEF)

Political Opposition

- Civil Service Employees Association (CSEA)
- American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)
- American Federation of State, County and Municipal Employees (AFSCME)
- Additional affiliates of the CSEA to watch for:
  - Public Employees Federation
  - New York State United Teachers
  - United University Professions

Interview Findings: National Institute for Latino Policy (NiLP)

- Would support reform
- Discussed need for recruitment
- Constituency Issues:
  - No mobilization
  - No state level push for change

Recommendations

- Encourage broad-based coalition building
- Focus on assessing whether the exam's design and implementation aligns with what the job actually demands

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- Nabiha Arain
- Fellow research teams

CIVIL SERVICE REVIEW: BENCHMARKING

DECEMBER 3, 2009

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Research Question

- What reforms are other states making and what are the outcomes?
  - Best practices in civil service reform
  - Realistic examples of success
  - Context with which to analyze strategies, best predict obstacles and outcomes

Methodology

- How We Chose States:
  - Uniquely Reforming and Large Population
    - GA, FL, SC, WI, OK, CA, TX
  - Surrounding
    - PA, NJ
- Sources:
  - Primary
    - Interviews with State Personnel Boards, Office Of Personnel Management, and Civil Service Commissions
  - Secondary
    - Reviews of reforms in academic literature

Data Collected

States	Reasons	Reforms	Outcomes	Definition of Diversity
Georgia	Bureaucracy, lack of employee incentives, difficulties hiring qualified minorities	Merit System Reform Act, GeorgiaGain, elimination of exam as requirement	Pros-Expedited hiring, firing, and discipline, competition for talent Cons-inconsistent pay, favoritism	Traditionally underrepresented groups (minorities, women)
Florida	High employee turnover rates	Service First	Flexible recruiting, hiring, pay, promotions, reassignment and downsizing	N/A

Sources: Bowman, 2003; Gossett, 2002; Lasseter, 2002; Walters, 2003

States	Reasons	Reforms	Outcomes	Definition of Diversity
California	Criticism about tests, competing agency views, lack of guidance from central authority	N/A	N/A	N/A
South Carolina	Flexibility in hiring and firing, restricted recruitment methods, no flexibility in payment structure	Performance-based salary adjustments, scheduling innovations, and expanded probationary periods	High level of customer and employee satisfaction, efficient operations	N/A

Sources: Naff, 2002; Kellough and Nigro, 2005

States	Reasons	Reforms	Outcomes	Definition of Diversity
Wisconsin	Diversify employment base, recruitment, simplify application process	Creation of Council on Affirmative Action, expanded certifications pools if necessary	Better labor/management cooperation, performance rewards, flexibility to set pay classifications, recruit more and better employees	Racial and ethnic minorities, women, disabled
Oklahoma	Diversity	Following required exam agencies can do their own hiring, OPM oversees hiring and enforces state standards	Increase in diversity, 19.2% minorities in state versus 16.7% in private sector	Racial/ethnic minorities, women

Sources: "Best Practices in Diversity Management", 2001; Kellough and Nigro, 2005

States	Reasons	Reforms	Outcomes	Definition of Diversity
Texas	Limited government, flexibility in hiring and firing, diversity	Degree requirements, Texas Commission on Human Rights which conducts audits	Pros- flexibility through decentralization, no patronage problems Cons- lack of expertise in small agency management	Racial/ethnic minorities, women, age

Sources: Walters, 2003

Interviews

- Georgia State Personnel Administration
- California State Personnel Board
- South Carolina State Office of Human Resources
- Oklahoma Office of Personnel Management
- Pennsylvania State Civil Service Commission
- New Jersey State Civil Service System

Findings

- Decentralization—Increases flexibility
- Expansion of the Certification Pool—Allows for more minority candidates
- Involving Stakeholders—Gives unions, etc. a voice in reforms
- Possible Negative Outcomes—cronyism, decreased job security, opposition

Recommendations

- Decentralization
- Expanding Certification Pools
- Working with Stakeholders
  - Essential for New York State; without support other recommendations would not be possible

Q & A