

RELEVANT LINKS:

III. PROCEDURAL CONSIDERATIONS

Overview: The city should consider the overall city environment in which it is hiring; for example, who has the authority to hire, what is the budgeted amount available to pay for the position, and are there any other issues that need to be resolved before the hiring can occur? The city should never place itself in the position of not following its own established policies or contracts. The city should also maintain appropriate records of hiring policies, practices and procedures to protect and defend it against complaints and lawsuits.

A. Preliminary Procedural Questions

1. Authority to Hire

[Appointing Authority & Type of Government](#)

When the city is initially considering hiring a new employee, one of the first questions to be asked is “Who has the authority to hire for the city?” See Appointing Authority & Type of Government section of the Hiring Chapter for more information.

2. Other Preliminary Questions

The person responsible for the hiring process in the city, whether that is the clerk, the administrator, the city council or the human resources director should first ask him or herself several questions:

[Guidelines for Preparing City Budgets; page 19](#)

- Is this a new position in this year’s budget?
- What dollar amount was budgeted for the position? Is it sufficient to cover wages, insurance and other benefits like social security, medicare and Public Employees Retirement Association (PERA) contributions?
- Why is this position open?
 - Did an existing employee leave? If so, are there some severance or other payouts that could reduce the budgeted amount available for this position?
 - Was the previous employee laid off? If so, are there any civil service, personnel policy or bargaining unit requirements to rehire from a lay-off list?
 - Was an existing employee terminated? If so, are there any pending hearings that could require the city to put the employee back to work (e.g., Veteran’s Preference, union arbitration, etc.)?
- Is there an existing eligibility list established by the civil service commission or by the city’s own personnel policy?

B. Personnel Policies

[Handbook for Minnesota Cities: see Chapter 9, pg.7 "Choosing a Personnel System"](#)

Before beginning a hiring process, the hiring authority should consider the city’s own personnel policies. Whether established by ordinance or by council resolution, personnel policies provide the guidelines necessary to keep the hiring process running smoothly.

RELEVANT LINKS:

- [Recruitment Process](#)
- [Promotions](#)
- [Sample Hiring Policy](#)

The city’s personnel policies on hiring should emphasize securing the most qualified city employees. Various methods of handling the hiring process such as examinations, testing, interviewing, and evaluating applications are discussed throughout this manual. While competitive examinations for appointment and promotion may be used, they should be supplemented with more informal methods of determining an applicant’s qualifications such as interviewing, reference checks and background checks. At minimum a personnel policy on hiring should address:

- Who will manage the hiring process;
- Who has final authority to hire for the city;
- How openings will be posted (e.g., internally, externally, both);
- What information will be contained in the postings;
- What is the basis for the hiring decision (merit, fitness, etc.);
- How applications will be reviewed (e.g., rated on 100 point scale);
- How promotional opportunities will be handled;
- Which types of exams and testing may be used (e.g., medical, psychological, drug and alcohol);
- Whether relatives of current employees will be hired or considered for openings; and
- A statement of equal employment opportunity (and affirmative action if applicable).

[Appointing Authority & Type of Government](#)

Authority to hire is discussed in the Hiring Chapter under “Appointing Authority & Type of Government,” and in most cities the authority to hire rests exclusively with the City Council. Regardless of the formal authority to hire, the actual administration of the hiring process is usually handled by an appointed official (City Administrator, Human Resources Director, or City Clerk), rather than by an independent commission or by elected officials.

C. Bargaining Agreement

When a city has one or more labor unions, at least some personnel procedures are likely to be addressed in the contract(s) between the city and the union(s). Such personnel matters may or may not include hiring practices for positions within the bargaining unit.

It is important for the city to review any bargaining agreements in existence when preparing to undergo the hiring process. This will prevent the city from committing an unfair labor practice that could be caused by not honoring a provision in the existing union contract.

D. Civil Service Commissions

For any city with a civil service commission some aspects of personnel administration in the departments covered by civil service (police, fire, etc.) fall under the jurisdiction of the civil service commission or personnel board.

- [MN Cities Handbook Chapter on Personnel Management](#)
- [Minnesota Statutes 2002 Chapter 44](#)

RELEVANT LINKS:

[Minnesota Statutes 2002 Chapter 419](#)

[Minnesota Statutes 2002 Chapter 420](#)

Specifically, civil service systems limit the city to hiring from a certified list of people who have passed the civil service examination provided by the city's civil service commission. Civil service commissions often develop rules or regulations that govern specific hiring practices. For example, a civil service commission may establish a rule that requires an eligibility list (list of individuals certified by the commission for appointment) to expire after two years. For this reason, the city should always consult the rules of the commission before beginning a hiring process for a position subject to civil service.

The civil service commission generally has the responsibility for conducting examinations for employment, and certifying applicants for employment and promotion, but they are never responsible for the actual appointment. In addition, city staff usually handles the actual day-to-day management of the hiring process.

E. Past Practice

It is important to consider what the city has done in the past; especially in the absence of any written policies that would have otherwise provided guidance. By not adhering to the hiring practices that were followed in the past, the city may be leaving itself open to potential claims of discrimination as well as possible accusations of being arbitrary in the hiring process (picking and choosing what rules to follow and what rules to ignore).

There are almost certainly going to be times when a city makes a conscious decision to alter from past practice. On such occasions, it is important to document the reason for such a change and to be able to defend the change from a legal perspective. It is often helpful to give employees some notice of the intent to change a past practice, especially if the change may impact employees' lives or careers.

In unionized environments, the city may be obligated to notify appropriate representatives of a bargaining unit if it intends to change a past practice. In some cases, the city may need the union's agreement in order to change a past practice; this is especially true if the contract language addresses the issue generally but does not speak to the particular past practice which the city wishes to change.

F. Hiring Procedure File

One of the best ways for the city to track, coordinate and defend its hiring practices is to maintain a "procedure file" each time there is a job opening. The procedure file should contain:

- Copies of advertisements for the job which were placed in newspapers, on the web, in magazines or other publications;
- Copies of the job posting—if one was developed;
- A list of the interview panel members
- A list of all the candidates that were interviewed in every round of interviews (a good way to do this is to keep a copy of the interview schedule but make sure that any last minute changes, such as candidates not showing up for the interview, are reflected);
- A copy of any checklist that was used for the hiring process showing various steps the city took during the process;

RELEVANT LINKS:

- A copy of any tests, examinations, questionnaires, supplemental application form, etc. that was used to narrow the list of candidates;
- A copy of the rating form that shows how points were awarded to rank and rate applicants for Veteran's Preference purposes;
- A copy of the interview questions for each round of interviews
- Notes from the interview process or other notes about how decisions were made during the process;
- If used, rating sheets from the interview process (e.g., ranking and rating forms used by the interviewer(s) to assign numeric scores to the candidates interviewed);
- A copy of each type of letter sent to applicants (one for those not interviewed; one for those interviewed but not hired, etc.);
- A summary of the interview panel's impressions (if this method is used) and/or the reasons behind the decision to hire an applicant; and
- The name and actual start date of the individual who was ultimately hired for the job.

[Minnesota Statutes 2002, 138.17](#)

[MCFOA Web Site](#)

The procedure file should be maintained in accordance with the city's record retention schedule.