

Strategy #7

Create and Lead Your Future

Towards dreaming big and getting the right people on board in a sustainable way

CHAPTER 15

Critical HR Systems

Basic HR infrastructure, legal compliance and establishing good people practices

by Bill George

Human Resources isn't a thing we do. It's the
thing that runs our business

- Steve Wynn, Wynn Las Vegas

As the owner of a small business, you turned a dream into a reality. You found a way to deliver a product or service that met the needs of your customers, charged a competitive rate and built a business from the proceeds. When demand grew, you found it necessary to add employees. Along with those employees came the associated managerial responsibilities and employment implications.

If your business is smaller-sized, with less than 50 employees, you probably have not hired someone to specifically address human

resources (HR) management within your firm. More than likely, as the business owner, you have taken this role on yourself. This chapter is included to provide greater insight into the essential elements of HR management for the small business owner and includes basic HR infrastructure, legal compliance as well as where to find information and resources to establish a foundation for good people practices.

Good advertising requires that you consider your intended audience and how best to attract them.

Given the wide variety in the types of businesses and owners who are represented in the readership of this book, there will be HR matters that are unique to your business that the scope of this chapter does not address. In that case, a rigorous internet search or a discussion with an HR consultant, offered through a business association membership or employment law firm, may be time and money well spent.

RECRUITMENT AND RETENTION

Regardless of external market conditions, staffing your organization always takes effort and can pose a significant challenge. However, there are process fundamentals that, if followed, will result in better outcomes, both in terms of the election and retention of the kind of people you want to attract to your business.

The term “process control” (used widely in manufacturing industries to assure product conformance to quality standards) also has direct application for applying best practices in the finding and retaining of qualified employment candidates.

1. **Prepare A Job Description**

The process begins with a well-written job description. Crafting a written job description allows you to clearly define the job title, duties, qualifications, experience, education and certifications you are looking for, in the ideal candidate for the position. This job description serves as the main body of the job posting used to attract candidates, serves as a guide for preparing interview questions and provides a documented reference for setting performance goals and measuring

employee conformance to performance standards. Sample job descriptions, some at no cost, can be found on the internet. Check out *Indeed* for employers at www.indeed.com.

2. **Post The Job**

This is the next step in the process. With the job description written, you are ready to post your requirement. Keep in mind that a job posting is really a specialized advertisement to attract employment candidates. Good advertising requires that you consider your intended audience and how best to attract them to consider your firm. You also need to consider what forms of media the candidate is likely to pay attention to.

For instance, a business with a sign viewed by hundreds of motorists daily may post, “we are hiring, inquire within”. A business needing a group of construction workers for a major project may place an advertisement on a sports radio station. A firm looking for a candidate

to fill a professional role, may post the opening on the company website, send a notification via a blog post or bulletin board announcement to professionals via social media or utilize a national job posting site that can provide a host of services on platforms such as

LinkedIn, Indeed, Monster, Zip Recruiter, Career Builder, Glassdoor, etc.

Determining the “sweet spot” for successful recruiting may require a bit of trial and error. However, like any process you are trying to control, you make adjustments, learn what works and refine your approach until it returns consistent and effective results.

Other worthwhile approaches to recruiting that may not require the outlay of any funds include :

- Employee Referrals – Send an email to your team and invite them to refer any qualified friends or contacts. Alternatively, post the requirement on the company bulletin board or newsletter;
- State Employment Services – All states offer employment services and will post your requirement to their database of available jobs. You can typically fax or call in with the information;
- College Career Services – Most of the larger schools have an office dedicated to posting job opportunities in the surrounding community that may be of interest to

students. These can include part-time or full-time positions, short-term positions that offer a flexible schedule or career positions for graduates; and

- Networking – Putting the word out among trusted business colleagues can prove to be a beneficial source of candidates through associations, affiliations, social and service organizations.

3. Conduct An Effective Interview

The third step in the process is an effective and appropriate interview approach. Good practices here are essential to selecting the most qualified candidate while avoiding common mistakes that can have legal implications. Begin with a list of questions that are job specific (refer to the job description) and which can help clarify for you (the interviewer), the knowledge, skills and abilities of the candidate. Be careful to avoid any questions that seem to imply employment discrimination. A thorough internet search will make clear what types of interview questions should be avoided. For further information, refer to Title VII of the Civil Rights Act of 1964, information provided by the

Department of Labor and the Equal Employment Opportunity Commission.

These are a few best practices you should apply for an effective interview:

- give each candidate the same interview experience. (For example: Don't offer a bottle of water to one candidate and take another out to lunch. Don't offer a candidate who made a good impression, a tour of the facility while ushering out the door, another you have concerns about);
- ask the same questions of each interview candidate. This makes comparing and contrasting the candidates fair, consistent and easier to differentiate;
- keep notes of the candidates' responses and rate those responses according to what answer you were expecting from them; and
- consider having one or two other persons from your firm (those who understand the job requirements) join you in the interviews. This approach underscores the validity of a fair hiring process, achieves "buy-in" of the selection decision from the existing staff, and allows

you, who will make the final hiring decision, a better understanding of the characteristics of the job that are most important to the people already performing it.

4. Make An Offer

Once you have identified the best qualified candidate, you still have work to do. Unfortunately, too many employers jump to fill the position and leave for chance that they have made a good decision. After all the effort (and expense) invested to get to the point of making an offer, this may be the most critical time for applying sound fundamentals to the hiring process.

The offer should be in writing and include the following:

- the specific details of the position being offered, such as job title, work location, reporting relationship, employment status (part-time or full-time, seasonal or regular, exempt or non-exempt, etc.) wages, benefits (if any and when eligibility occurs), paid time off, holidays and any the documentation you require the person to bring in to verify their identity and/or citizenship;
- the offer should include language that clearly stipulates that the offer is contingent upon verification of the

information provided, a background check, and possibly a bio-analysis to confirm the candidate is not using illicit drugs;

- such contingencies should include:
 - contacting past employers to verify the time frame and the type of positions that were stated in the interview. Most employers will not offer any details about employee performance and will not share the wages paid unless the employee signs a release of employment information;
 - contacting references provided to confirm they will attest to referenced statements or relationships;
 - contacting schools to verify that the stated education is legitimate;
 - conducting a local (or nation-wide) criminal background check; and
 - contracting with a lab to conduct a bio-analysis (UA).

Some or all of these services can be contracted through service providers but some can also be achieved by simply investing an

hour and doing it yourself (except, of course, the drug test which should only be performed by a certified and licensed laboratory).

Take note of E-Verify, a government provided Internet-based system that compares information required of employees to complete Form I-9 with data from U.S. Department of Homeland Security and Social Security Administration records to confirm employment eligibility. Hosted by the Department of US Citizenship and Immigration Services, it provides a quick and convenient way to verify citizenship status and ensures that employers avoid hiring persons who are ineligible to work in the US.

5. Provide Good Orientation

The final aspect of the recruiting process that assures better selection outcomes and retention is the orientation. Think in terms of what a new employee needs to know to be successful in their job including :

- how to access job-specific training needed to perform their duties;
- the name of the person assigned to provide detailed information about their responsibilities beyond the job

description. Who will answer their questions on the first few days on the job?;

- the timing of (90-day, 6-month, annual) and person responsible for their performance reviews;
- where to find information about company policies and culture, safety requirements, management practices and reporting relationships;
- where to access needed contact information, for customers both inside and outside the company;

- benefits description and eligibility (if any); and
- an explanation of initial periods related to the position determined.

The recruiting process can result in occasional surprises, even disappointments, because of the human factor. However, when you build discipline and process controls into your recruiting efforts, you will yield more consistent results and return greater value for your investment.

You will also achieve some goodwill with your employees and the candidates they refer when they observe that you have

deployed a fair and consistent selection process focused on hiring the most qualified candidates.

COMPENSATION

Pay decisions are often driven by external market conditions. When making employment offers or discussing pay with your employees, you will typically learn what other employers are paying. Depending on the location of your firm, you may also have to consider minimum wage laws levied by city or state jurisdictions.

It is well outside the scope of this book to offer the information required to assemble a comprehensive compensation plan for your firm.

There are, however, several excellent sources for guidance on this subject available through online services such as PayScale.com, Salary.com and Indeed.com/Salary Wizard. Many business associations may also offer compensation surveys at discounted rates for members or survey participants.

Regardless of how you arrive at salary decisions, there are a few important points to keep in mind:

1. Compensation decisions must be consistent and fair;
2. Seek to achieve compensation equity based on the scope of responsibilities and contributions; and
3. Performance based pay is easier to manage, justify and better understood by employees.

The Department of Labor, Wage and Hour Division also provides guidance on such important matters as the Fair Labor Standards Act, the definition of exempt and non-exempt employees, payment of overtime, employee rights, minimum wage, FMLA (The Family and Medical Leave Act of 1993), immigration, pay deductions, wage garnishments, child labor and many other pay related topics.

P O L I C Y

Regardless of size, every business should provide employees with access to a set of written policies that outline workplace expectations and define company provided benefits and conditions. An employee handbook is the most common company approach for policy communication and maintenance. When it is maintained on a shared drive and identified with a revision date, it is easy to keep

current and assure employees that they are accessing the most current version.

Employee handbooks should include an Employee Acknowledgement page that allows employees to confirm (with their signature) that they have read, understand and will comply with the contents of the handbook. This acknowledgement should be retained and reviewed with any employee who strays from that compliance. If an employee handbook seems too cumbersome or excessive, a simple listing of standards or policy statements can be issued periodically to employees and saved to a readily accessible file.

An important point to consider is that employees prefer orderliness in the workplace. Written policies and practices establish expectations and provide employers who write them a firmly stated foundation from which to maintain that order.

EMPLOYMENT PRACTICES INSURANCE

Recently a small, woman-owned employment agency was sued and forced to defend itself against a claim of racial discrimination in a case where it had placed a person into a temporary contract role with another larger employer.

The plaintiff, a minority female, claimed that when the temporary contract position did not result in her placement with the large employer in the regular, full-time position she sought, she had been discriminated against because of her race.

The plaintiff also alleged that the employment agency had assured her that she would get the job. Both the defendants vigorously denied the allegations and were prepared to defend themselves. The large employer, who was also named in the suit, had purchased insurance to cover employment practices. Unfortunately, the employment agency had not.

Eventually, the defendants agreed that it made better sense, from a business perspective, to settle the case rather than expose the defendants to unwanted publicity and the precious time and expense of defending their case. The employment agency, which had done nothing more than engage in normal business practices, was liable for their portion of the settlement and was forced to secure a business loan to cover legal costs. In the end, this amounted to more than five times what they would have paid for employment practice insurance. As is true with all insurance, the liability of risk must be weighed on balance with the cost of purchasing insurance coverage to mitigate that risk.

A decision not to purchase insurance is therefore a decision to self-insure or a decision to accept all legal and financial responsibility for any liability that may be incurred. Small businesses often have general liability protection for most property and casualty circumstances.

You might be well advised to contact your insurance broker to determine the limits of your general liability coverage and whether those limits offer any relief for employment practice matters. If not, you may obtain reasonably priced coverage (which are issued as riders to your policy) to cover employment practices, errors and omissions and other such protection.

C O U N S E L I N G

One of the more important but unsung duties of the HR professional in an organization is to provide employees with counseling support and referrals. Some in the discipline say that those are the moments that make their job interesting and rewarding. Generally, the kind of person who chooses HR as their profession tends to be endowed with exceptional people skills combined with a “tool box” filled with help, resources, work experiences and employment practices. Whether you retain an

abundance of people skills or not, as a small business owner, you can expect that your employees will from time to time seek your guidance on a host of subjects that you will have varying degrees of experience or knowledge in.

A typical list of workplace issues that employees will seek guidance on include:

- absences (pregnancy leave, FMLA, paid time off, personal leave, military leave, etc.);
- accommodations (requests for special consideration pertaining to disability, religion, pregnancy, nursing, parenting, exercise, parking, noise abatement, diet, medical condition, etc.);
- co-worker disagreements;
- discrimination;
- employment law issues (FLSA (Fair Labor Standards Act 1938), FMLA, ADA (Americans with Disabilities Act of 1990), overtime, equal pay, child labor, sick leave, etc.);

- financial challenges;
- flexible schedule;
- forms (I-9, W-2, W-4, ITAR, Emergency Contacts, Change of Address, etc.);
- harassment;
- immigration (visas, green cards, work permits, false identification, etc.);
- nepotism;
- payroll deductions;
- policy questions;
- substance abuse challenges (presented as a confession or discovered through reasonable suspicion);
- transportation challenges (mass transit passes, bicycling, shuttles, commuting delays, etc.);
- workers compensation;
- workplace safety; and
- virtual work.

After reviewing the list above, you may understand the sense in employers choosing to develop and maintain an employee handbook. That said, even the most comprehensive collection of written policies cannot account for every possible scenario that may be raised by employees. It is absolutely okay to tell your employee that you would like to research the matter they have raised and get back to them. However, before the employee leaves your office,

agree on a reasonable date to reconvene to discuss your decision and follow through. Like anything in business, you get better with practice and experience. Don't shy away or ignore your employees. Develop your people skills.

Embrace opportunities to have one-on-one discussions with your employees and consider it one of the best ways to keep your finger on the pulse of your business. Consider joining your local SHRM (Society of Human Resources Management) Chapter. Meetings are typically held monthly in most major cities, include a sit down meal and feature guest speakers who provide

current and relevant information on a wide range of employment topics. The meetings are usually attended by HR professionals looking to stay current but also include small business leaders looking to network and gain valuable insight in matters that affect their business. It's a great way to get advice and referrals for the price of admission.



Bill George earned a BA in Health Education from the University of Washington and an MS in Human Resources Management from Chapman University. During his 30 years of leadership within the HR discipline, he has

served in a variety of industries and settings including as a Senior HR Manager for The Boeing Company, an Associate Professor of HR Management in graduate studies for Webster University and as a Vice President of Human Resources for Logistic Specialties Inc. He currently serves as the Director of Human Resources for Skills Inc., a social enterprise in the Boeing supply chain that is a model of an inclusive workforce, providing employment for persons with disabilities as one of the largest suppliers to The Boeing Company in the Puget Sound Region.

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