

HR Update

Second Quarter 2009

News and information for better people results

Troubled economic times causes compensation upheaval

Regardless of industry, the past year has been challenging for businesses. Severe drops in revenues have led to re-evaluations in areas of compensation, including base pay adjustments, incentive planning and salary structure movement. A larger percentage of companies that originally planned for base pay increases of around 4% elected to decrease their budgeted increases.

In our HR Update issue dated 3rd Quarter, 2008, we shared projected budgets for 2009. This information was compiled based on trend data gathered in the spring and summer of 2008. In light of the economic downturn, several sources conducted surveys again to re-check the market and determine how organizations are adjusting their budget and structure projections for 2009.

According to the surveys released in early 2009, organizations decreased their salary budget projections by an average of 0.8% and salary structure projections by an average of 0.5%.

Data presented in the following tables were compiled from the U.S. Impact of Economic Conditions on 2008/2009 Compensation Spending (December update) conducted by Hewitt and the 2008-2009 Salary Budget Survey Special Update conducted by WorldatWork. With the economic downturn, Hewitt and WorldatWork conducted these surveys to 're-check' the market to determine how organizations were adjusting their budget projections. The original 2009 projections were released early this fall. According to this survey, organizations have decreased their budget projections by approximately 0.7%, on average.

Table 1: Projected 2009 Budget Increases

National Data					
Salary Increase Budgets	Nonexempt	Exempt	Executive	All Groups	Initial vs. Current
All Organizations	3.2%	3.1%	3.0%	3.1%	-0.7%
Healthcare Organizations*	3.3%	3.2%	2.8%	3.1%	-0.9%
Manufacturing Organizations	2.9%	3.0%	3.0%	3.0%	-0.7%
Service Organizations	3.3%	3.4%	3.3%	3.3%	-0.8%
Construction Organizations	4.0%	4.2%	4.1%	4.1%	-0.2%
Energy/Utilities*	3.4%	3.4%	3.5%	3.4%	-0.7%
Finance/Banking	3.2%	3.1%	2.7%	3.0%	-0.8%
Retail/Wholesale	2.9%	2.7%	2.4%	2.7%	-0.9%

*Data provided are from only one source.

Table 2: Projected 2009 Budget Increases

Midwest Data					
Salary Increase Budgets	Nonexempt	Exempt	Executive	All Groups	Initial vs. Current
All Organizations	3.1%	3.0%	2.9%	3.0%	-0.8%

Table 3: Projected 2009 Structure Increases

National Data					
Structure Adjustments**	Nonexempt	Exempt	Executive	All Groups	Initial vs. Current
All Organizations	2.3%	2.3%	2.2%	2.3%	-0.5%
Healthcare Organizations	2.0%	1.9%	1.8%	1.9%	-0.9%
Manufacturing Organizations	2.4%	2.5%	2.5%	2.5%	-0.2%
Service Organizations	2.5%	2.2%	2.3%	2.3%	-0.7%
Construction Organizations	3.2%	3.0%	2.6%	2.9%	-0.6%
Energy/Utilities*	2.8%	2.8%	2.7%	2.8%	-0.1%
Finance/Banking	2.1%	2.0%	1.8%	2.0%	-0.7%
Retail/Wholesale	2.1%	2.2%	2.1%	2.1%	-0.7%

**All structure data provided are from only one source.

Table 4: Projected 2009 Structure Increases

Midwest Data					
Structure Adjustments**	Nonexempt	Exempt	Executive	All Groups	Initial vs. Current
All Organizations	2.1%	2.2%	2.1%	2.1%	-0.6%

**All structure data provided are from only one source.

Some key highlights from the report include:

- Overall projected salary increases for 2009 is 3.1% at the national level and 3.0% for the Midwest region; initial projections were 3.8% for both national and the Midwest region.
- All industries decreased salary budget projections, but the health care and retail/wholesale industries experienced the greatest change. Initial salary budget projections decreased by 0.9% for both industries. The construction industry changed the least with a 0.2% decrease.

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Tips for employers considering layoffs or downsizing during tough economic times

Almost 600,000 workers were laid off in January 2009, indicating companies continue to struggle through these tough economic times. Making the decision to layoff or downsize your staff is never an easy decision. If your company is looking at conducting layoffs or downsizing, during this economic crisis, take steps now to avoid legal claims down the road. By following these tips you will be better prepared to make the best decisions for your company and your employees.

1. Look at alternatives to layoffs. Could you reduce hours, salaries or benefits, cut back on the use of overtime or on the use of temporary staff? Could you implement a hiring freeze or through attrition, downsize your staff? Perhaps you could take staff from one area and retrain them to work in another area of the company.
2. Document specific reasons for the reductions. If an employee decides to challenge who was let go, this information will provide valuable information supporting your decision.
3. Compile a snapshot of your company's profile, including items such as race, sex and age. When you look at reducing your staffing numbers you want to make sure the cuts don't create an unintentional adverse impact. Creating this list will enable you to look at whether you laid-off more females, older employees or minorities. If a disgruntled employee comes back, claiming discrimination, you could show the workforce mix didn't change and a claimant's case would be weakened. (Adverse impact can be reviewed by our HR consulting staff if you need assistance.)
4. Weigh the potential costs of downsizing. Downsizing can sometimes be an expensive decision when you start calculating attorney's fees, consultant's fees, unemployment claims, severance pay or possible litigation. Layoffs also often affect morale among the remaining employees, which can affect performance.
5. Review whether there are contractual commitments or employee benefit plans that limit the employer's options. Do you have an employment contract or a collective bargaining agreement? Do you have written severance plans or employee handbooks that outline a specific procedure for laying staff off? Are there benefit plans that provide special benefits to terminated employees?

6. Consider voluntary RIF's (reduction in force). Early retirement incentive plans offer enhanced severance or retirement benefits to a group of employees in exchange for a release against all claims against the employer. Be sure to get an attorney involved and discuss how the plan might impact ERISA and/or tax laws. The attorney should also help you write a release that employees sign in return for additional benefits and agreement not to sue you. This release must be in compliance with the Older Workers Benefit Protection Act.
7. Try to use objective methods for identifying the employees to be terminated.
 - Look at laying off those who have less seniority first. Keep in mind this method could create an adverse impact if minorities and females tend to have less seniority.
 - Consider basing layoffs on performance. Conduct a thorough analysis of the positions where you need to make cuts, and then look at the documented performance of staff in those positions.

Even if you do everything right, you still may be subject to liability or discrimination charges. To minimize this liability, have layoff policies and procedures in place and implement them consistently.

8. If you have over 100 full-time employees or more than 100 full-time and part-time employees who work in the aggregate at least 4,000 hours per week (exclusive of overtime), you may be subject to the WARN Act (Worker Adjustment and Retraining Notification Act). In this case, you may be required to give employees 60 days advance notice if you have a "mass layoff" or a "plant closure". (This is a detailed Act, so seek assistance when looking at your workforce.)
9. To help reduce your liabilities, make sure employees who communicate the news of the layoff are conscientious, legally knowledgeable and properly trained.

This information is not a substitute for legal advice.

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President Barack Obama signs American Recovery Reinvestment Act – Important changes to COBRA law

On February 17, 2009, President Barack Obama signed the American Recovery Reinvestment Act (ARRA). This Act, also known as the 2009 Economic Stimulus Plan, contains some major changes to the current COBRA law and will impact the way companies administer their COBRA obligations.

All public and private employers who are subject to the federal COBRA rules and state continuation laws currently in effect are covered by this change and must comply with this new legislation immediately.

The Act covers employees who experienced a loss of coverage due to involuntary termination of employment between September 1, 2008 and December 31, 2009. These employees will pay 35% of their current COBRA monthly premium instead of the full COBRA premium, for up to nine months. Employers will pay the remaining 65% of the premium and are entitled to a refundable credit towards payroll taxes for this. The IRS will provide guidance and regulations for the reporting requirements.

The subsidy is phased out for individuals with federal modified adjusted gross income (MAGI) in excess of \$125,000 (\$250,000 for joint filers) and eliminated altogether for those with a MAGI of \$145,000 (\$290,000 for joint filers).

Employees terminated involuntarily since September 1, 2008 who did not elect to continue coverage under COBRA will be allowed a new 60-day election period with a COBRA start date of March 1, 2009. Employers are required to send a COBRA letter to employees terminated involuntarily since September 1, 2008 to state these changes. The maximum length of coverage would be determined as if the person had elected continuation coverage at the time of the original qualifying event and without regard to the actual date they enroll during this special election timeframe.

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- Projected salary structure adjustments for 2009 are slightly greater at the national level and slightly lower for the Midwest at 2.3% and 2.1% respectively; initial projections at the national level and the Midwest region were 2.8% and 2.7% respectively.
- All industries decreased salary structure projections as well. Again, the health care industry experienced the greatest decrease (0.9%) from initial salary structure projections, and the energy/utility industry experienced the smallest decrease (0.1%).

Unlike past recessions, the economy is presenting problems for almost every industry and geographic region of the country. This will make it difficult for an employee to uncover lucrative opportunities elsewhere; however, this will change at some point during the recovery process. During these tough economic times, it is critical for an organization to be proactive in maintaining appropriate and competitive pay levels. While demographic shifts are still going to impact the battle for talent, these issues are currently overshadowed by cost control. Retaining top talent is still important, but in today's economic situation, many organizations are placing just as much or more importance on cost containment.

Cost control has caused a renewed focus on other alternatives for an employee to increase their compensation. One of the major trends in compensation during the past decade has been the shift to variable pay. Despite the economic challenges, organizations are remaining much firmer in their commitment to incentive or performance-based pay. Most businesses across the country remain comfortable with the philosophy that aligns pay with performance and are

willing to reward when the results are evident. A recent survey we conducted with organizations in Eastern Iowa found this to be true with mid-sized organizations also. Of the 55 companies participating, 87% kept incentive pay budgets comparable to last years levels or increased them.

Keeping incentive pay budgets similar to previous years can be particularly beneficial for an organization that wants to relieve the pressure on base pay levels and not cut the employment level. When developing these incentive plans, it is critical they remain attainable and worthwhile. Employees are becoming increasingly more open to the idea of offsetting a base pay increase with a decent incentive opportunity. As the prevalence of performance-based pay has taken off, employees are becoming comfortable with the possibility of being able to earn more after incentives or bonuses, rather than through base pay alone. If designed properly, the timing can be ideal in making the shift towards pay-for-performance in your organization.

Some economists predict the recession will end in the third quarter of 2009, while others expect the recession to last well in to 2010. Companies who are looking at lowering their base pay increases should approach this strategy carefully. Even though employees are likely to accept the rationale given current economic conditions, it is important to maintain pay at appropriate levels. At the end of the day, it is imperative to keep your talent on board and motivated to perform at the highest level.

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