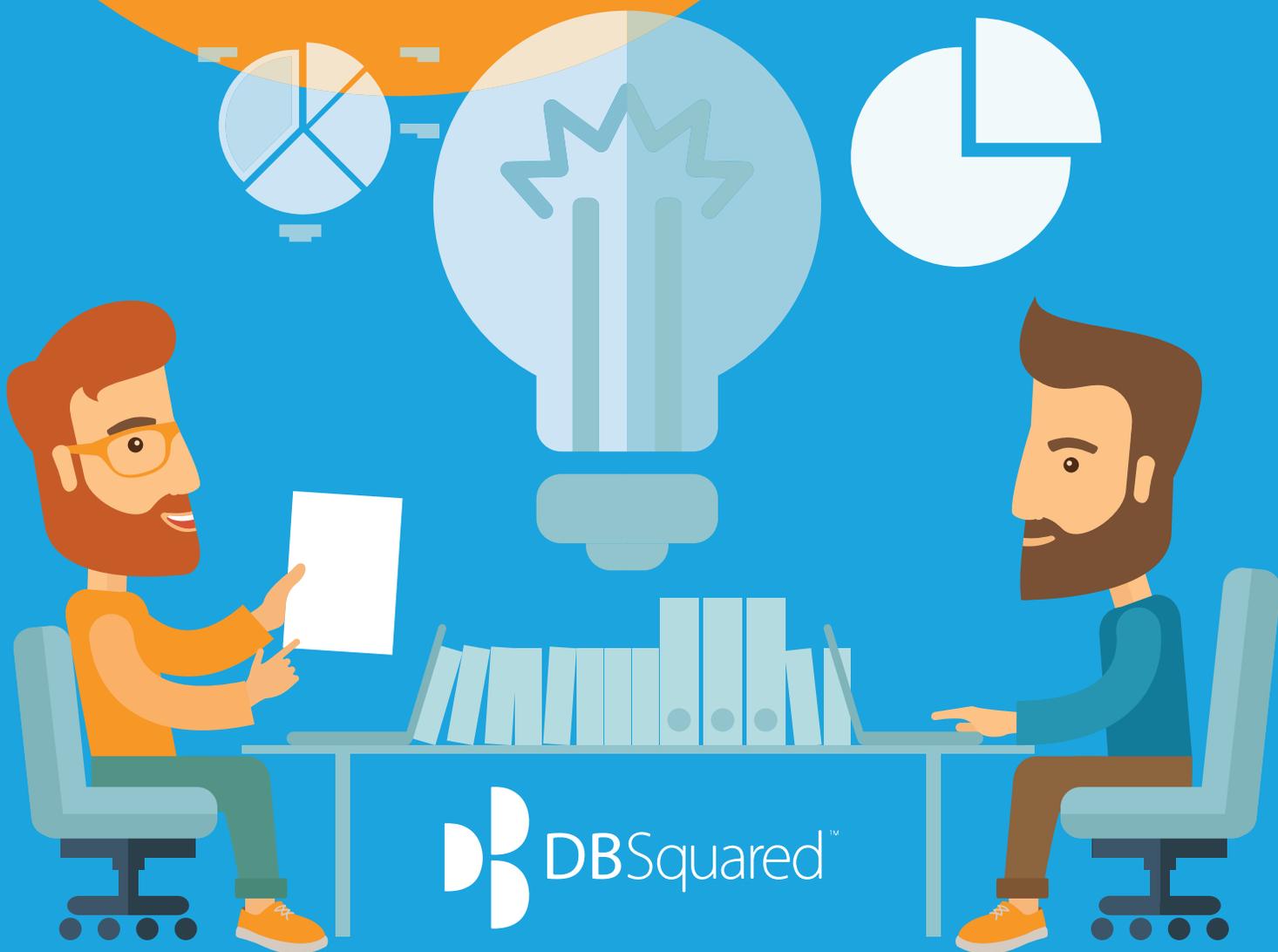# THE HR GUIDE TO A COMPLIANT, EQUITABLE &COMPETITIVE COMPENSATION PROGRAM

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It is no secret that the frequency of judgments in favor of claimants and the size of the awards for cases filed by the **US Equal Employment Opportunity Commission**, have been increasing steadily. New employment laws, increased liability and more competitive job markets are rapidly changing the compensation landscape – and employers must adapt.

In the midst of these shifts, companies must not only pay attention to fast changing laws but also how they impact their bottom line. This requires a more comprehensive understanding of compensation planning with the ability to manage compensation budgets more wisely to encourage peak performance from valuable HR assets through fair pay structures.

This paper will offer a step by step breakdown of what needs to be done to stay ahead of the compensation compliance changes and develop a system that by the very nature of its sequence gives rise to an internally equitable, externally competitive and all-round convenient base pay management program.

## Complex Compliance for Compensation

One of the most important laws impacting employers is the *Fair Labor Standards Act (FLSA)* which has put in place strict guidelines that govern **minimum wages**, **overtime payment** and **labor standards** for nonexempt workers.

Adding to the compensation planning challenge are the restrictive practices of the *Americans with Disabilities Act (ADA)* that prohibit recruitment departments from enquiring about the presence of disabilities in potential candidates. This road block is circumvented with the help of well written ADA compliant job descriptions that eliminate the need of a direct query by stating up front the physical and work environment requirements for the position. But it still is a tricky patch to navigate.

And don't forget the *Office of Federal Contract Compliance Programs (OFCCP)* guidelines on comparable worth are all set to become mandatory in the very near future, reinforcing the sentiment of equal opportunity where job availability and compensation are concerned. In addition, the Lilly Ledbetter Pay Act which addresses the gender wage gap has given the EEOC and pay discrimination complainants more time to file a complaint.

While there is a lot to consider, a compliant compensation program really begins with these four key areas:

- **Internal Equity** – Jobs across the organizational board should be evaluated with respect to each other for the level of skill needed to render duties effectively and the overall importance to the company's long term strategy to determine the final pay range. This process must be transparent and robust so that workers feel appreciated for their contributions.

- **External Competitiveness** – In the end profits drive a business and external competitiveness is a key factor. An organization needs to compensate its employees fairly but it must also do so on a scale that is at par with its competitors so where possible ethical savings can be made and overall the outlay is commensurate with the value derived from the human assets.

- **Legal Defensibility** – The whole recruitment process and in particular compensation programs need to hold up well in the face of close scrutiny and must, without exception, comply with the guidelines and specifications of FLSA, discrimination regulations, the ADA and the OFCCP. Any instance of non-conformity can prove to be costly for companies, denting reputations in the market for good.

- **Ease of Administration** – It is easy to over-think compensation and thus complicate it for employees and managers. The ideal pay program should be simple, sustainable, transparent and affordable. It might be customized to suit the needs of the enterprise but it should standardize the process of arriving at the equitable compensation value for different job categories.

# STEP 1: Consistent Use of Positional Analysis Questionnaires (PAQs) for Departments

Positional Analysis Questionnaires have been a work in progress for the past few decades. Before we dive any deeper into why they should be used in setting up an equitable compensation model, it is important to mention that PAQs are about the only job analysis and evaluation tool courts have upheld in cases of pay or job description discrimination because they are psychologically sound and well accepted across industries.

## What is a PAQ?

A PAQ is a questionnaire that relates *job requirements to human characteristics*. The intention of a Positional Analysis Questionnaire is to elicit as much relevant information about the 'non-negotiable' duties and specifics of a particular position as possible so that candidates with the right education, temperament and skill-sets can be selected to fill the vacancies.

## PAQs for Internal Equity:

Apart from gathering qualified inputs to create compliant job descriptions, PAQs also prove their worth in helping structure fair pay programs. A primary requirement for internal equity is a complete understanding of what a particular position entails in terms of education, initiative/ingenuity, direct report hierarchies, problem solving skills, level of accountability, impacts on end results, and communication proficiency.

Since PAQs are filled out by trained job analysts with collaboration of job supervisors and managers, they can be used to set up an internal validation or point ranking system for comparison of actual base pays to ideal ones. This will be discussed later but it is important to note that both an above board recruitment process and equitable compensation set-up require the use of Positional Analysis Questionnaires.

## Typical Sections of a Positional Analysis Questionnaire:

Positional Analysis Questionnaires can comprise of many individual items, often totaling 300 or more. But a pared down version that is feasible for business enterprises is 5 to 7 pages in length covering the following sections:

- **General Information** that includes the position basics of title, exempt status, supervisor data, department name and job category.
- **Organizational Relationships** that investigates the dynamics a candidate will need to maintain to fulfill the duties demanded by the role. If a particular position has the need to interact with several levels of management, the ideal recruit must be an individual who excels at maintaining interpersonal relations.
- **Essential Functions** that detail the primary duties and responsibilities associated with the position, the approximate percentage of time spent on specific tasks that come under the banner of the various responsibilities and additional information that prove to be useful.
- **Education & Skill Requirements** for the position, focusing on attributes like college degrees, the technical and logical challenges faced by an employee in the position, the need to possess communication skills and so on.
- **Use of Computers and Equipment** required to complete the primary duties and responsibilities with the position.
- **Physical and Work Environment Requirements** in a nod to ADA's principles and guidelines of respecting the discretion of a candidate when it comes to revealing his disabilities.

> **TALENT TAKEAWAY**
>
> *Get your PAQs ready before you start recruiting.*

# Step 2: Creation of Standardized, Detailed ADA Compliant Job Descriptions

The Americans with Disabilities Act doesn't mandate written job descriptions. But as hinted earlier, these descriptions are an easy way to step around the sensitive issue of enquiring directly about disabilities. This is prohibited and can lead to discrimination charges.

The information gathered from the PAQs can go a long way in helping put together 1 to 4 page detailed job descriptions.  These will not only get the point across about the requirements of a particular position, but can provide ADA friendly language to help candidates better understand if they may not be 'fit' for the rigors of the job.

## Best Practices for ADA Compliant Job Descriptions:

- **Standardization**: Ideally these job descriptions should be pulled from templates so that a standard format is maintained for positions across divisions.

- **Essential Skill Identification**: Before a description is composed, it is important to identify the primary or non-negotiable duties of a particular job. This is because as per ADA guidelines the inability of a candidate to carry out a *nonessential function* is not an adequate reason to disqualify or discount him/her from consideration for the position.

- **Ad-Hoc Responsibilities**: Typically anywhere between **five and fifteen** essential duties is a good place to start. It is wise to add a line clarifying the fact that ad-hoc responsibilities may be assigned to the candidate such as *'Perform any other duties or tasks as assigned or required'*.

- The rest of the description should delve into:
    - Educational and experience qualifications desired
    - Skills preferred
    - Physical requirements and work environment specifics for the advertised position. This is what makes the document ADA compliant.

- Some ADA compliant words that may be inserted into job descriptions are:
    - **'Stationary Position'** for *'the ability to sit or stand without movement'*
    - **'Traverse'** for the *'ability to walk or move'*
    - **'Operate'** for the *'ability to use hands and fingers to handle or feel'*
    - **'Detect'** or **'Perceive'** for the *'ability to see'*

Descriptions packed with the right information help:

- **Meet the ADA requirements** and thus avoid potential trouble. Only candidates physically qualified apply for the advertised positions.
- **Safeguard enterprises against claims of discrimination** in the hiring process.
- **Orient employees during onboarding** as they can be given a succinct yet comprehensive overview of what is expected of them by keeping up front and center what they signed up for.
- **Evaluate the complexity of position duties** across the organization and contribute to setting up an equitable compensation plan.
- **Provide the right feedback during annual performance reviews** on the basis of the core essential duties and the ability of the employee to render them properly.

If you feel that the process of crafting dozens of these descriptions is tedious, you might use software tools that create them from scratch and update them automatically when the needs of the organization change.

## TALENT TAKEAWAY

*Create your ADA compliant descriptions and re-visit them to guide employees during onboarding, performance evaluation and ultimately to create a fair pay program.*

# Step 3: Set-up and Use of a Personalized Point Factor Rating System

The Point Factor Rating System is an excellent way to determine the comparative worth of positions across an enterprise without bringing into the mix possible bias associated with an employee holding the title. In short the Point Factor Rating System evaluates a job, not the person representing it and thus can be applied to vacancies as well.

It is one of the most effective forms of internal validation and lays the foundation for an equitable compensation model.

## Point Factor Rating System from a Practical Perspective:

The Point Factor Rating System has been the topic of many complex studies but their observations do not translate tangibly into the job arena. For enterprises the definition of a Point Factor Rating System is:

*"A system of identified factors pertaining to a position that can help determine the compensability of the job"*

These factors are assigned weighted points or values depending upon how they relate to the achievement of the ultimate vision of the company.

# Best Practices of Setting up and Using a Point Factor Rating Scale:

- **Short is Sweet:** A Point Factor analysis study by Lawshe, Dudek and Wilson has proved that fewer factors often lead to quicker results that are easier to leverage in a practical setting. Hay uses a 9 point system while Hewitt & Associates use 11. More comprehensive point factor systems offer up to 15 factors and provide the basis to evaluate the general laborer job to the top management positions. Ultimately it boils down to the actual position and the needs of the business.

- Some of the most commonly used factors are:

  - The **experience** required to render essential duties competently
  - The **educational qualification** that can provide reasonable support
  - **Problem solving skills** required by an employee in the position to ensure that responsibilities are tackled with proficiency
  - The **need of supervision** and the type of supervision required
  - **Accountability** to produce/impact end results
  - **Communication skills**
  - **Machine operation demands**
  - **Physical demands**

- **Use PAQs & Job Descriptions**: The Point Factor Rating system can bring structure and standardization to an organization if it chooses position evaluation factors based on the information provided by the *Positional Analysis Questionnaires (PAQs) and the ADA compliant job descriptions.*

- Identify Factors & Plot Central Pay Line: Once the priority and importance of the compensability factors is determined and corresponding points assigned to them, they *can be applied to positions to create a central pay line that corresponds to the compensation received by an employee*. With this benchmark available, companies can now plot their employees on the basis of their *actual pay and Point Factor Score* to ensure that their emoluments are at par with their performance.

- Think about External Factors: Typical Point Factor Rating Systems are inward looking. They do not take into account external factors like the fluctuating demand of premium skills in marketplaces. Companies looking to build a robust and equitable compensation model should definitely work to incorporate external influences into their system. External factors are helpful with validating the internal pay structure.
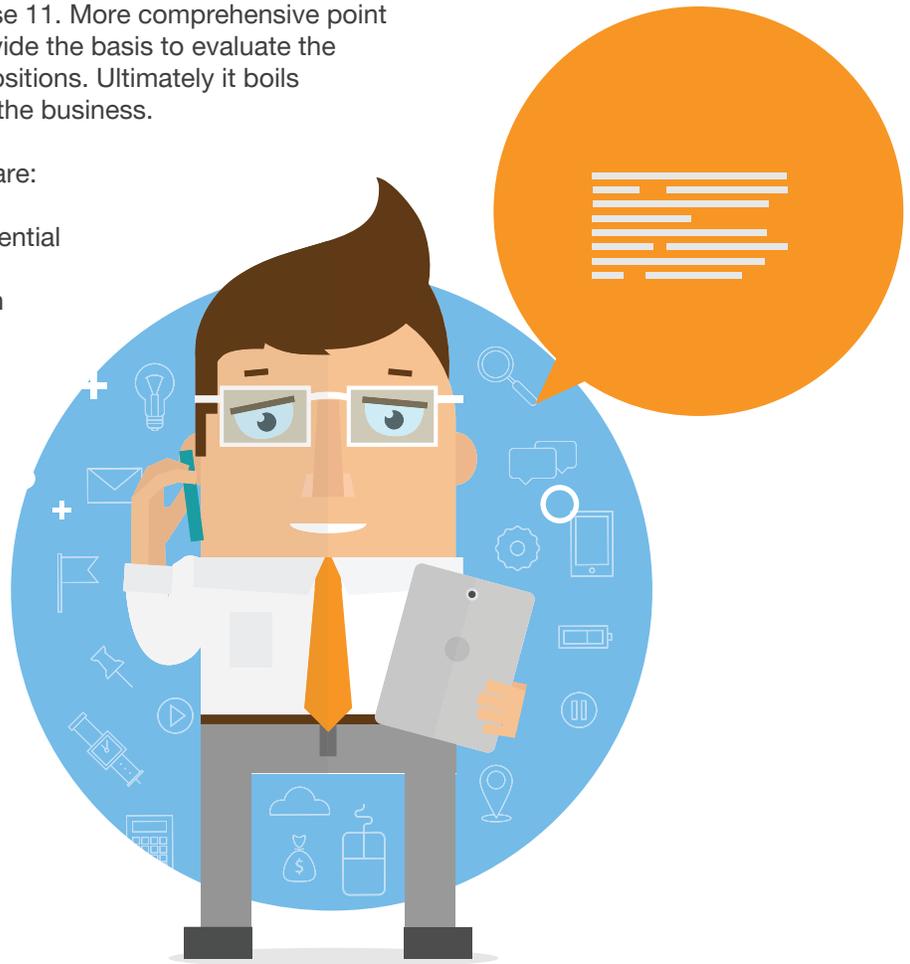
## TALENT TAKEAWAY

*Study various Point Factor Rating Systems. If you do not find one you like, create your own! If you create your own job valuing system, have it objectively validated by an internal or external compensation professional.*

# Step 4: Collect Internal and External Data

The next phase involves collecting employee data (internal) and market data (external) to develop a culture of competitiveness. They are two cornerstones of the success of a compensation program.

## Internal Data Source(s):

Internal or employee data can be easily culled from a Human Resource Information System (HRIS). The attributes pulled generally vary from basic information such as employee name, salary and job rating points (from the Point Factor Rating System) to more in-depth inputs like gender, race, ethnic background and physical location.

## External Data Source(s):

In the early 80s, market salary data was the only guideline companies had since the more contextual Point Factor Rating System was not widely used. However, as already discussed, the Point Factor often tends to focus on the *value/worth of a position as seen by the decision makers in an organization*. This approach must be complemented with external and competitor pay information to be balanced and competitive.

Some sources to tap are:

• **Compensation & Fair Pay surveys** sponsored by the Local Chamber of Commerce as well as independent third party platforms. While using the data from these surveys, it is essential to keep in mind that they are created using assumptions and criteria and it is best to study the disclaimer before taking away insights from them.

• **At least 5 to 6 instances of competitor salary data**. This may not be simple to obtain, but often resources such as Salary Search can help.  It is best to utilize employer respondent surveys for greater employee pay data validity.

• **Industry Associations & Groups also sponsor salary surveys** that are more sector and business model specific. These are gold mines of actionable data.

### TALENT TAKEAWAY

*Get busy collecting! Maintain a relational database of this information to tie in with your Point Factor Rating scores.*

# Step 5: Apply Regression Analysis to Get a Complete Picture

The fifth and final stage brings together all the insights and inputs collected over the last four phases and presents decision makers with a bird's eye view of:

- How their talent is performing
- How fairly their talent is being compensated
- Hidden issues like questions of glass ceiling for particular ethnic groups

Regression Analysis is the statistical tool of choice that can make this detailed scrutiny possible.

• **When Pay & Scores are used with Internal Data**: Internal data can be leveraged selectively to provide an overview of the performance and relative compensation of employees of an enterprise or pin-point issues that may manifest as full blown problems down the line.

As an example, when **position value** and **employee pay** are blended with the central pay line, it is easy to spot individuals who are being over paid for their performance in comparison to the other workers in the organization. When **location data** is added to the mix, it is easy to spot the employees who are working in taxing settings and should be given a more generous compensation for their efforts.

*This is how Internal Equity is established.*

• **When Pay & Scores are used with External Data**: External data looks at the forest instead of the trees. Here the question is of the *competitiveness of the compensation model of an organization as a single entity in comparison to market averages and trends*. Internal decisions and perceptions are often skewed. External data shows where ethical cuts can be made to funnel more funds into core operations development. After all, employee compensation is a large expense in control of the business.

• **Assign Pay Grades and Ranges**: Pay Grades refer to the *compensations of groups of jobs that are judged by decision makers to have the same worth or value* to the organization. The range covers actual *upper and lower bounds of the compensation scale*. Once internal and external data regressions are complete, the decision to assign pay grades and ranges becomes easy. It is also simple to reward great performances, provide trainings and tools to sub-par contributors and maintain a median pay that is in line with the size and values of the organization (as well as present market conditions).
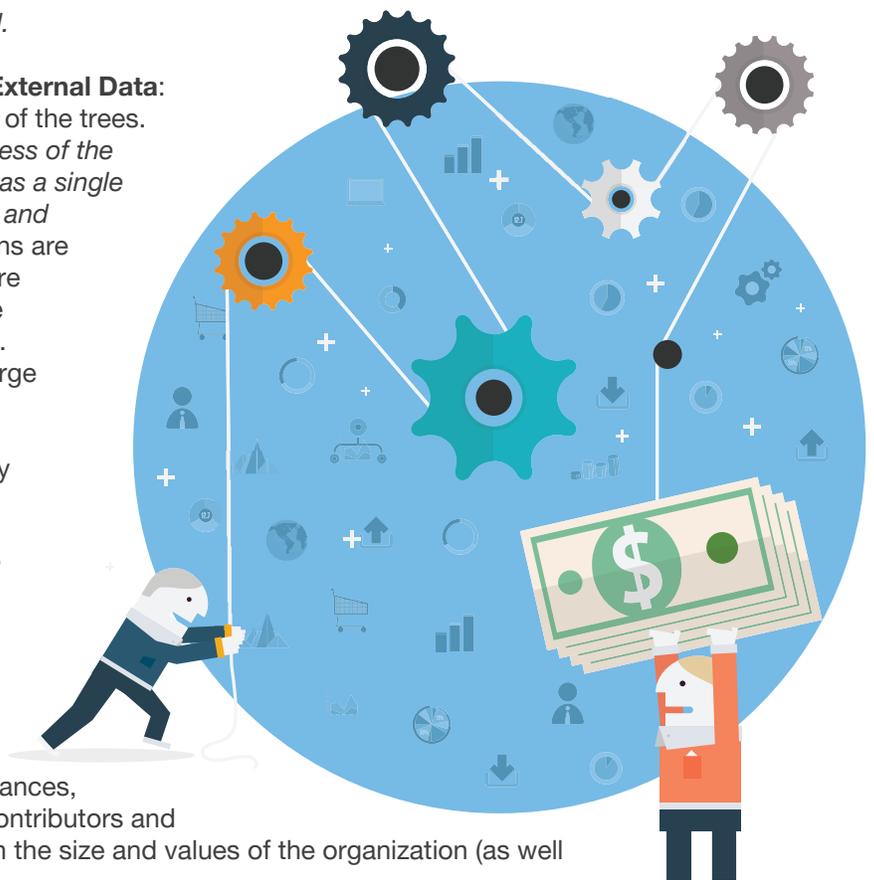
## TALENT TAKEAWAY

*Use internal and external data judiciously and ACT on what the regression results show. Contemplation without action is useless.*

# SUMMARY

A *defensible*, *compliant*, *equitable and competitive compensation program* is more important than ever before. The requirement may be a mouthful but by breaking the process down to tackle each adjective (descriptor) separately, a robust and effective pay structure is possible.

Just follow the five steps:

1. **Use Positional Analysis Questionnaires** to collect as much information as possible about positions from trained job analysts.

2. **Leverage this data to create ADA compliant job descriptions** that also help in setting up a Point Factor Rating Scale.

3. **Create a base pay line using the Point Factor Rating System** and calculate scores for all employees.

4. **Collect internal and external data** from various sources**.**

5. **Apply regression analysis** to find relationships between the pay line and sets of internal and external data.

6. **Make more informed employee/pay decisions** with an internally and externally driven pay structure.

There is no need to start over, just start the shift.  By creating a performance management paradigm shift in your organization you will better engage your managers and employees in the process – and maybe even get them to like it!

# RESOURCES

Not sure where to start?  Looking for a way to simplify, streamline and automate the process?  Check out two of the leading tools to assist with your compensation compliance and planning needs.

DBSquared™ combines proven technology and seasoned expertise to help bring your total compensation management into perspective including HR management software solutions that fit your business, job description software that fits your organization, and HR consulting that fits your culture.  Learn more at http://www.dbsquared.com/

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