

Pay Transparency and Company Responses

DECEMBER 13, 2022

TODAY'S SPEAKERS

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*Associate Counsel
HR Policy Association*

Mariann Madden

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Ani Huang

*President and CEO, **Center On Executive Compensation**
Senior Vice President, **HR Policy Association***

Teresa A. Mello

*Vice President, Global Compensation
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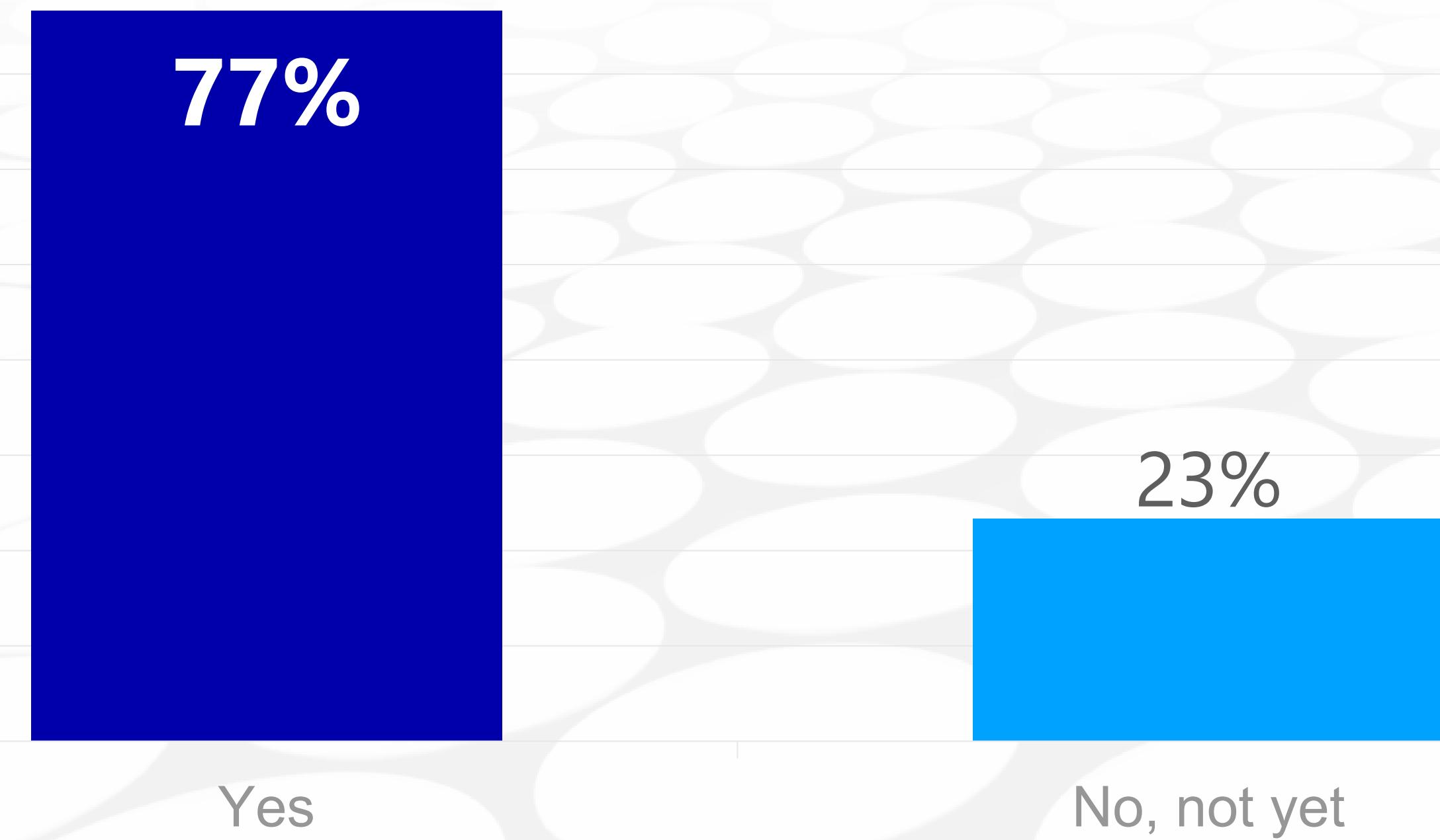
Agenda

- Survey Results
- Legal Overview
- Compliance Strategies and Questions
- Employee Relations Impact

Survey Results

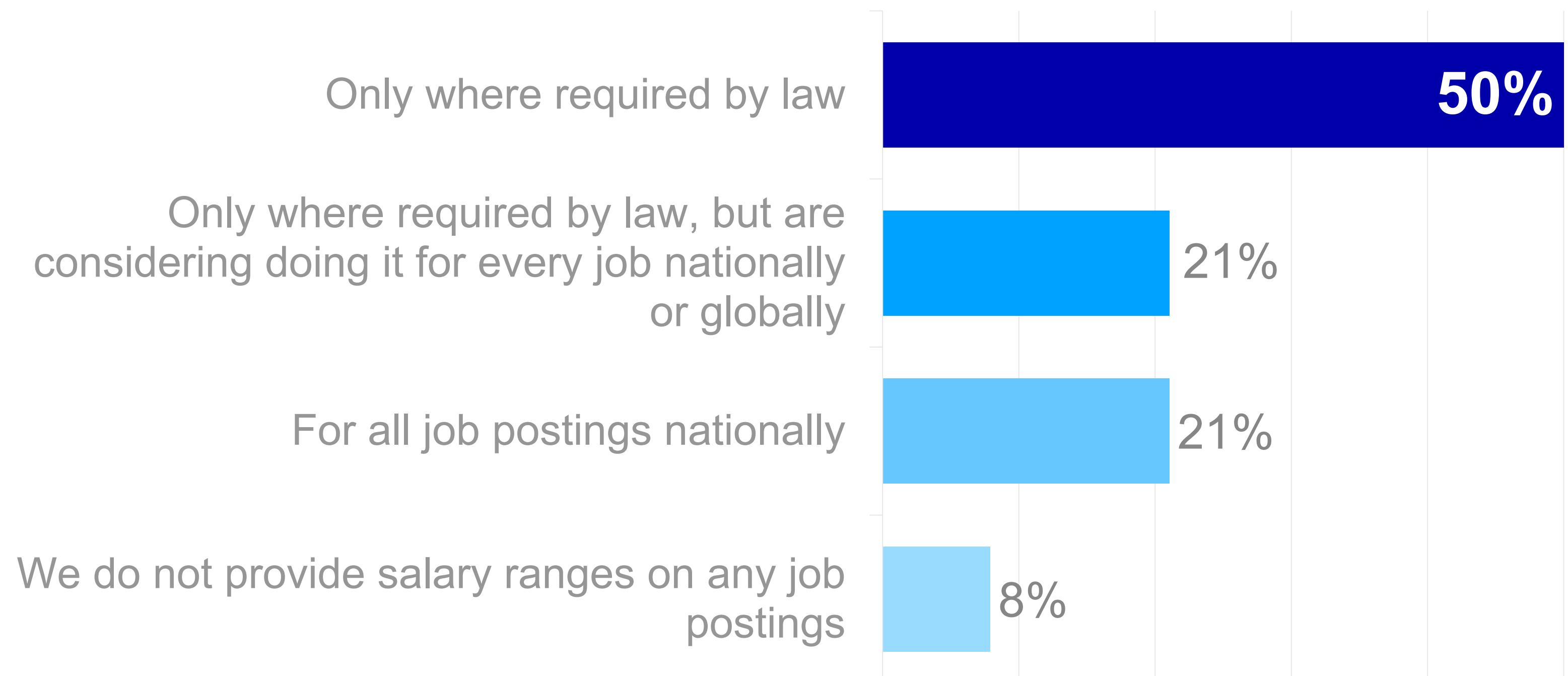
Most Companies Required to Include Pay in Job Postings

Q: Are you subject to a state or local pay transparency law that requires pay ranges to be included in job postings?



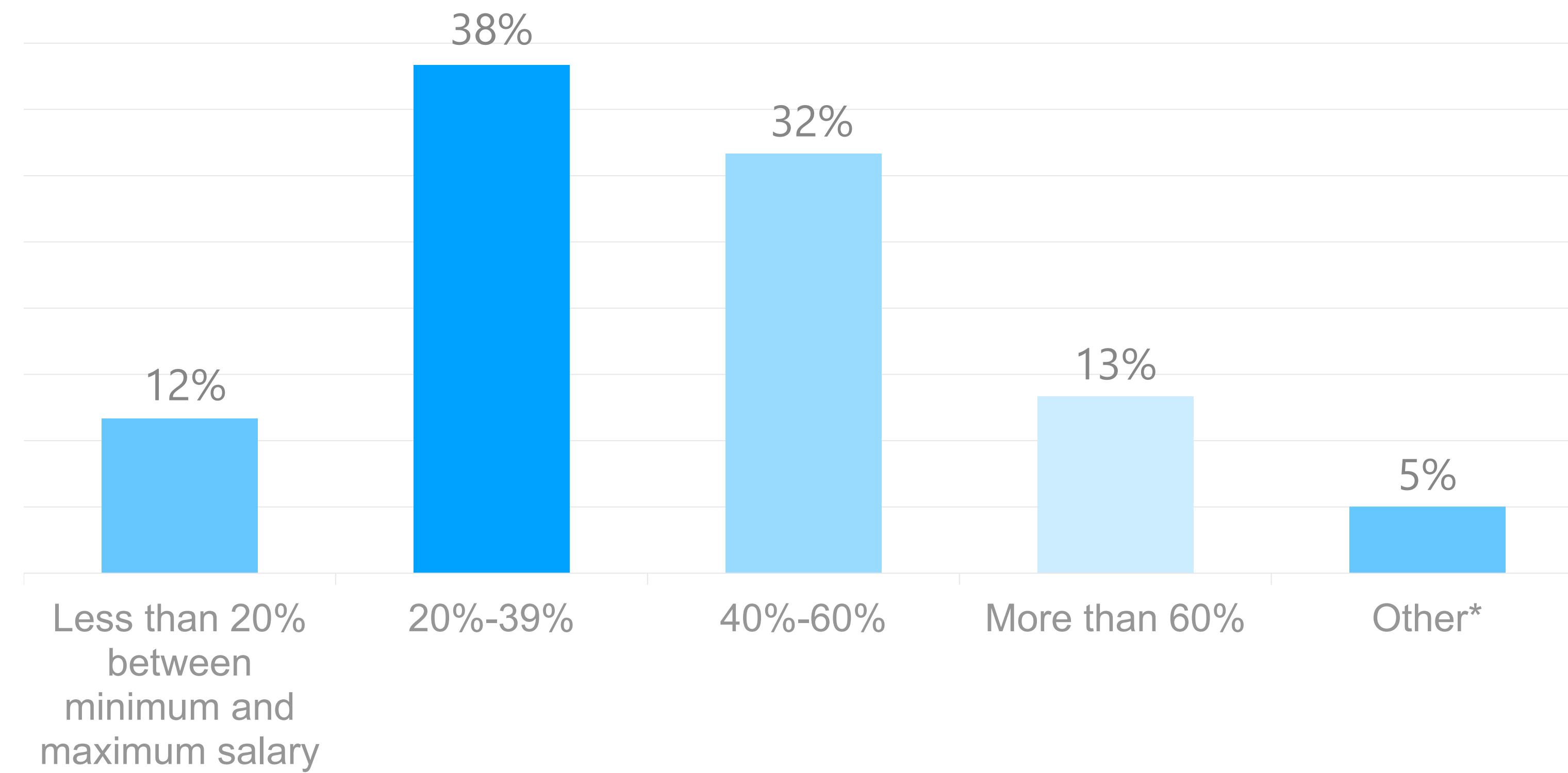
71% Are Including Pay in Job Postings Only Where Required by Law

Q: To what extent are you including salary ranges in job postings?



Salary Range Width for Most Job Postings Between 20–39%

Q: Salary range width has come under fire in the media for misrepresenting realistic salary bands. In general, what is the width of the salary range are you including in most of your job postings, understanding there may be exceptions?

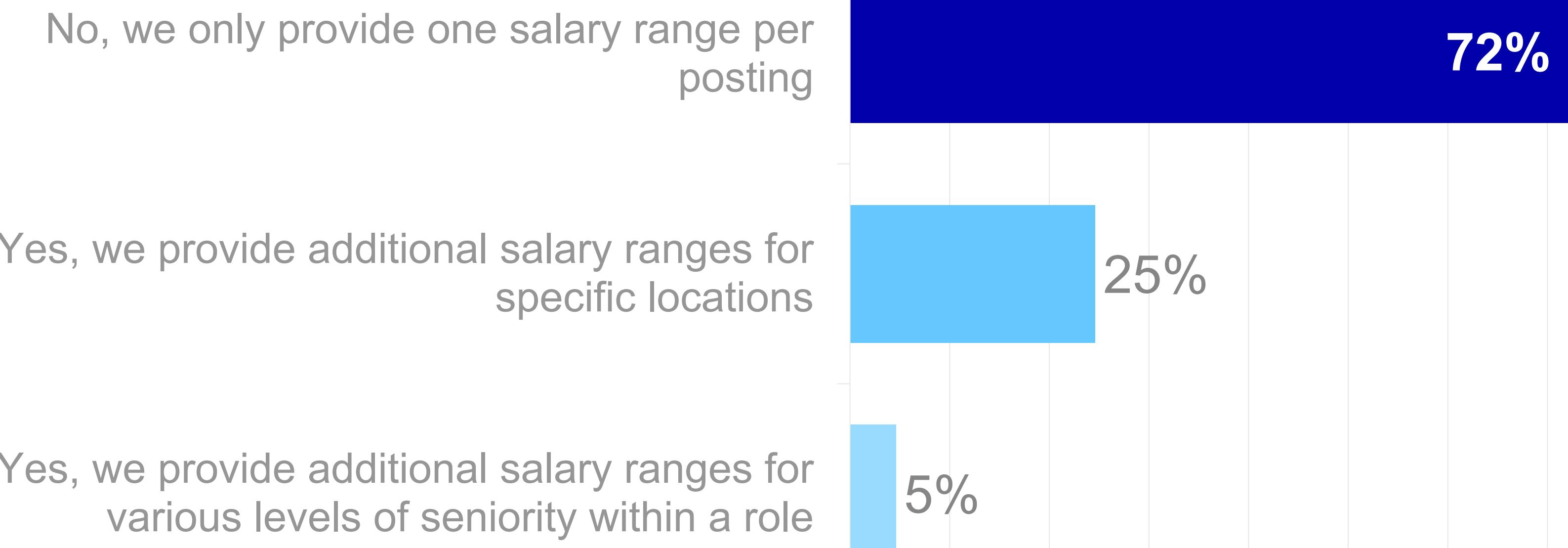


***Please specify the width of salary range you are including on most job postings:**

- 25–50%
- 50–70%

Only One Salary Range Provided Per Posting

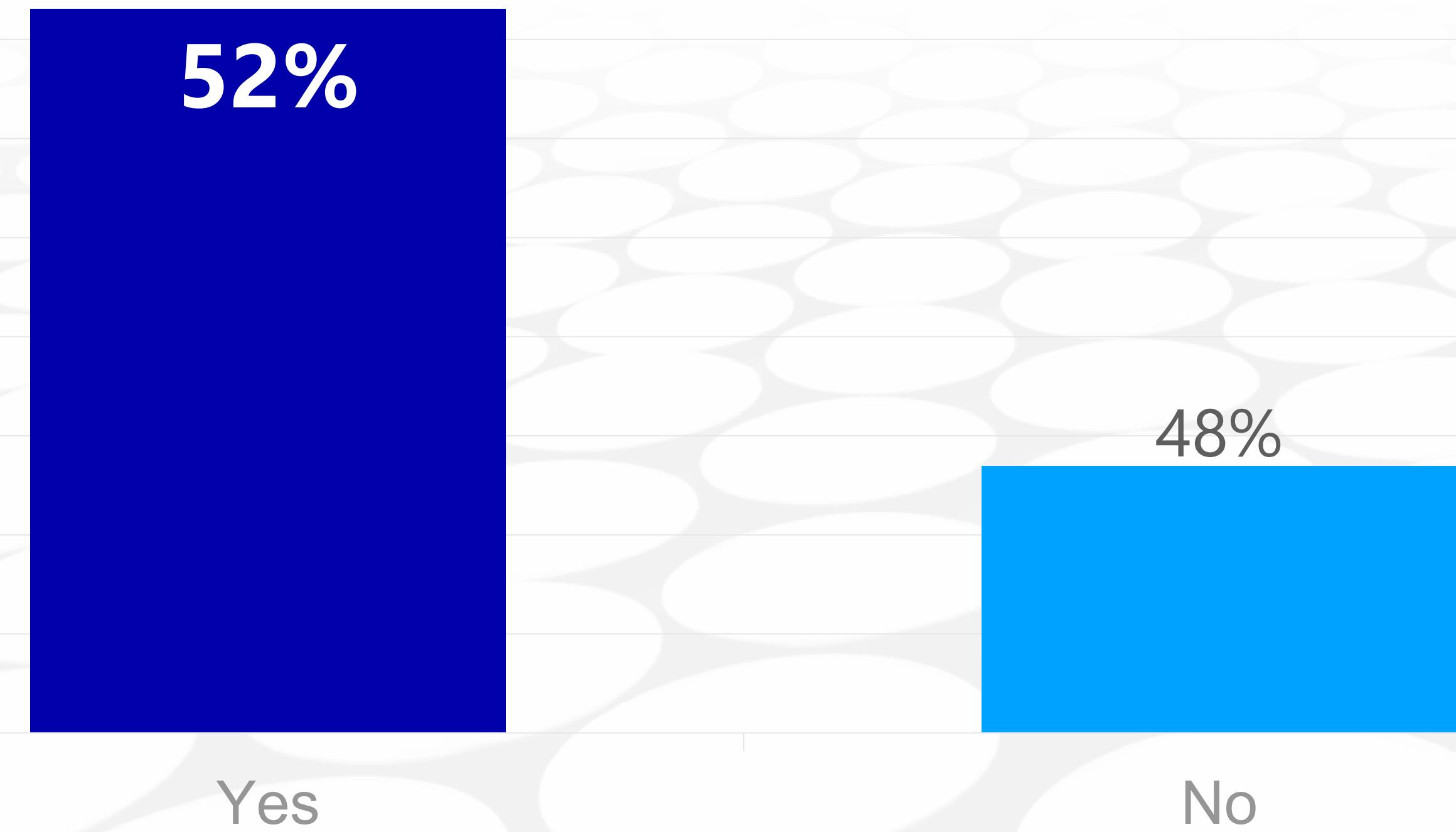
Q: Do you provide variation within a single job posting, such as additional salary ranges based on geographical location or level within a role?



NOTE: Respondents could select more than one choice; totals may not equal 100%

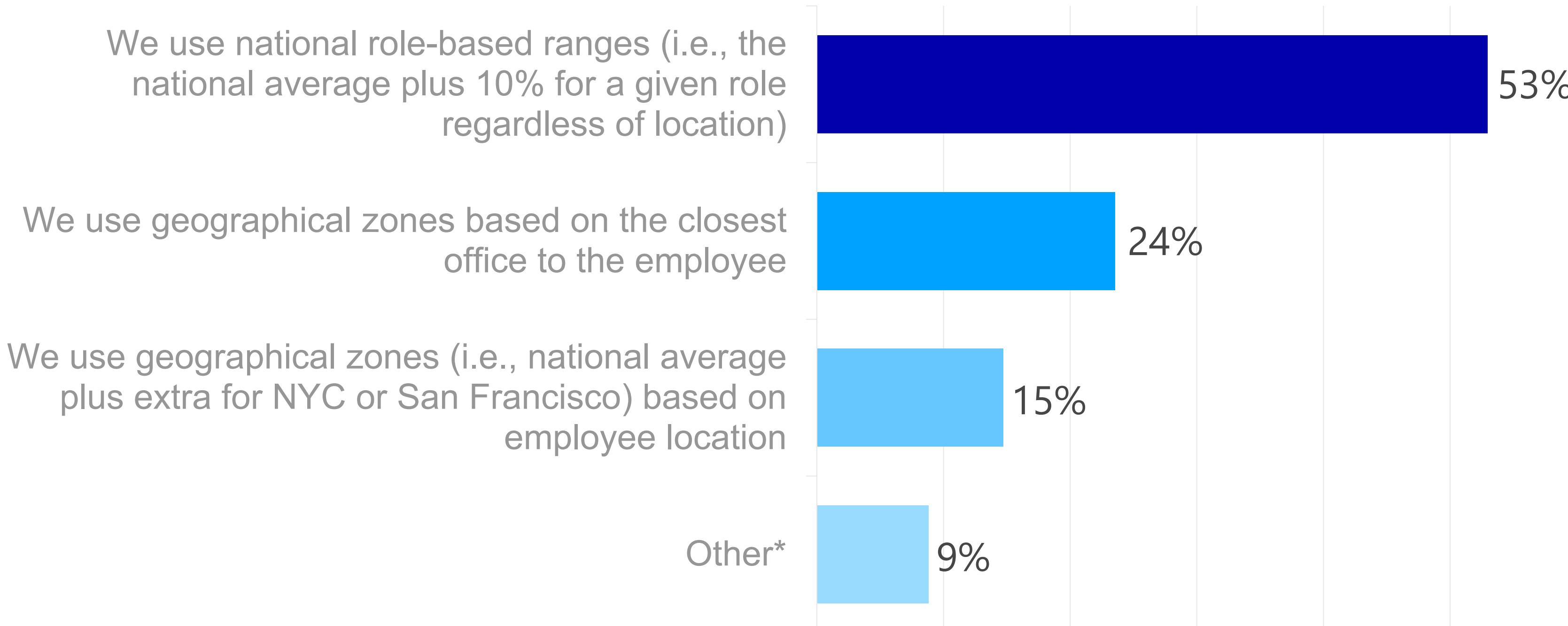
Remote Positions Sometimes Accompanied by Salary Ranges

Q: Do you provide salary ranges for any remote positions?



Remote Positions Often Use National Role-Based Ranges Regardless of Location

Q: How do you handle salary ranges for remote positions?

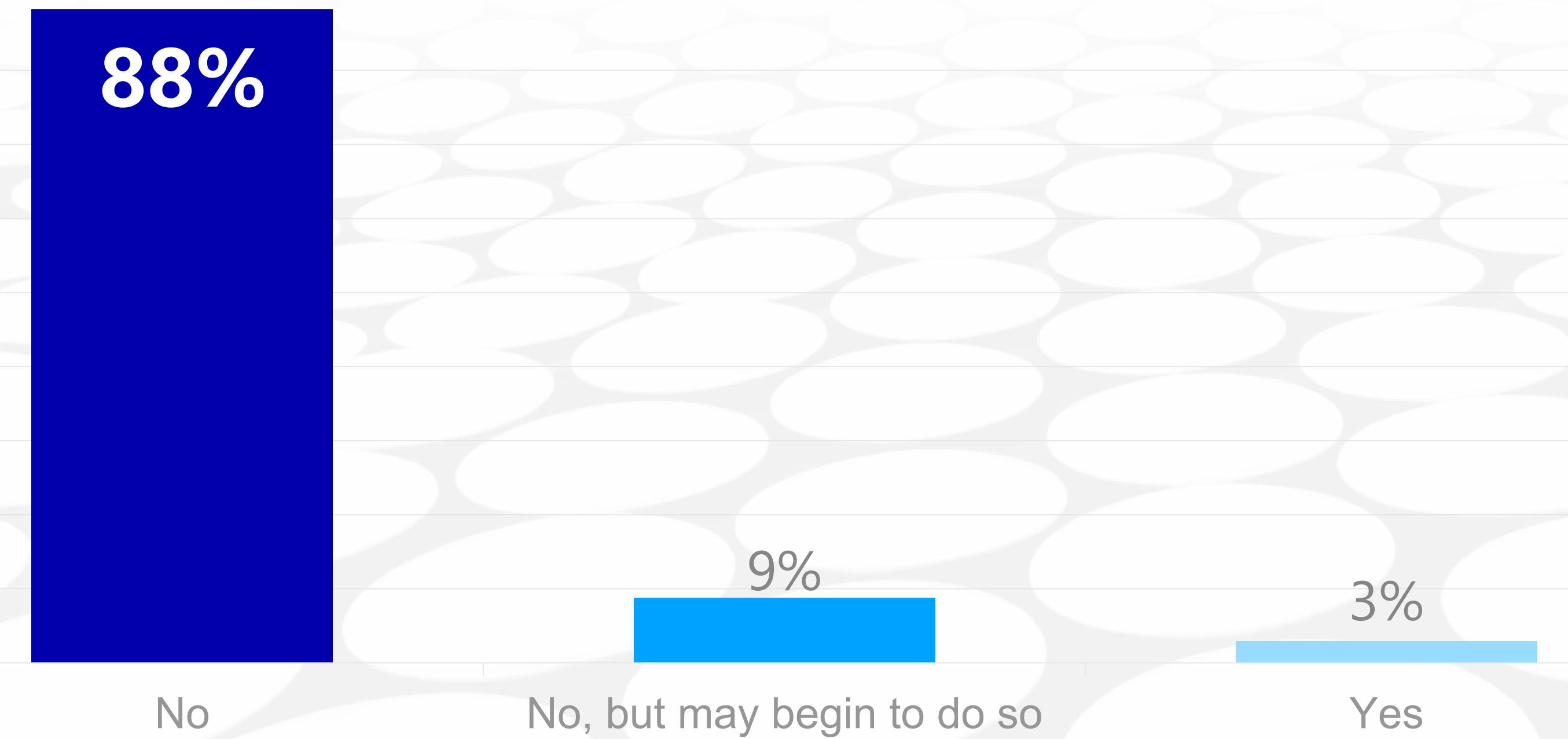


***Other methods of determining salary ranges for remote positions include:**

- National ranges by salary grade
- Combination of local for non-exempt and national for exempt

Most Companies Do Not Exclude Applicants Based on Location

Q: For remote positions, do you exclude applicants from jurisdictions that have pay transparency laws?



Salary Range Not Always Provided to Existing Employees

Q: Do you provide salary ranges to existing employees for their jobs?

No, we don't provide any form of salary range to existing employees for their jobs

43%

Yes, we provide the full range

31%

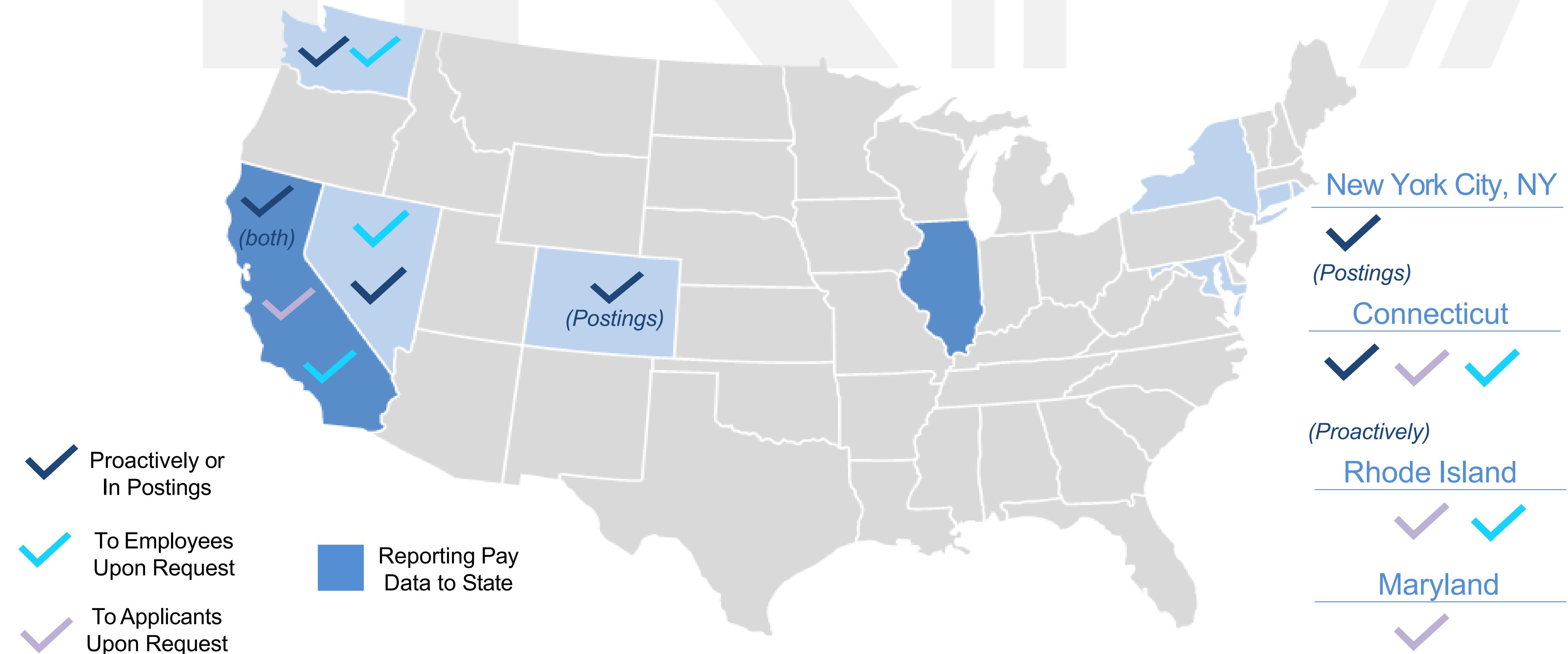
No, we provide compa-ratio, but not the range to employees (Compa-ratio, or comparative ratio, expresses pay as a percentage of market or range midpoints.)

26%

Purpose and Form of Pay Transparency Laws

- Proliferation of pay transparency laws are part of a larger effort to address pay equity
- Three main categories of laws:
 - Laws requiring companies to include specific pay ranges in job postings
 - Laws requiring companies to provide pay ranges upon the job applicant's request
 - Laws requiring companies to disclose pay data to regulators

Laws Effective Now or by 1/1/2023



Colorado

- **Effective:** January 1, 2021
- **Covers:** Employers with at least one employee working in Colorado
 - For any job that *could* be performed in Colorado
 - For remote jobs, cannot exclude Colorado applicants
 - Includes internal postings, transfer opportunities, promotions
 - Must post internally if external post is a promotion opportunity
- **Requirements:**
 - Employers must provide compensation range and a general description of benefits in job postings
- **Penalties:** \$500-\$10,000 fine for each violation

New York City

- **Effective:** November 1, 2022
- **Covers:** Employers with at least 4 employees, at least 1 one of which works in NYC
 - For any job, promotion, or transfer opportunity that *could* be performed in NYC
- **Requirements:**
 - Employers must provide “good faith” minimum and maximum salary range in any posting for a job, promotion, or transfer opportunity
 - Do not have to include benefits, etc.
- **Penalties:** Civil monetary penalties up to \$250,000 per violation
 - Have up to 30 days to cure violation before fine assessed

California

- Two-part law: pay ranges in job postings AND pay data disclosures
- *Job Postings:*
 - **Effective:** January 1, 2023
 - **Covers:** Employers with 15 or more employees, at least one of which works in CA
 - For jobs in CA, unclear as of now whether jobs that *could* be performed in CA (i.e. remote jobs) are covered
 - **Requirements:**
 - Employers must include “reasonable” pay range in internal or external job postings
- *Pay Data Disclosures:*
 - **Effective:** May 10, 2023
 - **Covers:** Employers with 100 or more employees
 - **Requirements:** Employers must report pay data to the state for employees and contractors by race, ethnicity, and gender across 10 job categories
 - Published by state beginning in 2026
- Noncompliance with job posting requirements could result in fines up to \$10,000, noncompliance for pay data reporting could result in fines up to \$100 per employee for first offense, \$200 for subsequent violations

Washington

- **Effective:** January 1, 2023
- **Covers:** Employers with at least 15 employees, at least one of which works in WA
 - For any job that *could* be performed in WA
- **Requirements:**
 - Employers must provide salary ranges and a general description of benefits and other compensation in all external and internal job posting postings
- **Penalties:** Applicants or employees can bring civil actions against employers for violations and recover actual damages or statutory damages of \$5,000 plus attorneys' fees

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THANK YOU!