

Complete AAP News

Yocom & McKee, Inc.

Spring 2003

“Applicant” Definition Still Undecided

Inside this issue:

<i>Applicant Definition</i>	1
<i>EEO-1 Racial & Ethnic Guidelines</i>	1
<i>OFCCP Field Update</i>	2
<i>University of Michigan</i>	3
<i>Students with Disabilities</i>	4

Special points of interest:

- “Applicant” definition postponed until at least June 30, 2003
- New “Race/Ethnic” classifications for AAPs scheduled for release Fall 2003
- 2000 Census Data for AAPs scheduled for release fall 2003

The interagency task force working on a definition of “job applicant” was granted yet another deadline extension. The task force includes representatives from the Equal Employment Opportunity Commission, Office of Federal Contract Compliance Programs, Department of Justice, and Office of Personnel Management.

The Office of Management and Budget has given the task force until June 30, 2003 to define “job applicant.”

The current definition of applicant was taken from 1978 Employee Selection

Guidelines Questions and Answers which states: “The concept of an applicant is that of a person who has indicated an interest in being considered for hiring, promotion, or other employment opportunities.”

The 1978 Employee Selection Guidelines definition is generally considered by employers as too broad in light of modern recruitment tools such as the Internet.

Sources close to the task force have indicated that some form of “minimal qualification” standard will probably be adopted by the task force, but so far this is

purely speculative.

The task force’s decision, once reached, must be submitted to OMB before being published in the Federal Register for public comment.



EEO-1 Racial & Ethnic Guidelines

Companies who complete an EEO-1 report in 2003 will see the same familiar format used in 2002. However, look for changes in the 2004 report.

The Equal Employment Opportunity Commission has been given until January

1, 2004 to update its racial and ethnic reporting guidelines.

The updated EEO-1 report under consideration will likely increase the current five ethnic reporting categories and may allow individuals to identify themselves

under multiple categories.

Employers with 100 or more employees and contractors with 50 or more employees are required to file an annual EEO-1 report which breaks down their workforce by race, ethnicity and sex.

OFCCP Field Update

Yocom & McKee often has several clients actively involved in OFCCP compliance reviews during any given week. We have noticed an increase in the number of companies selected for compliance reviews in 2003.

OFCCP Director Charles James recently stated that he intends to focus primarily on systematic discrimination issues by concentrating on auditing larger establishments. Part of this strategy involves scheduling more compliance reviews and emphasizing the Desk Audit review.

A typical compliance review scheduling letter requests a copy of your current affirmative action plans for women & minorities, and veterans & disabled. An attached itemized listing then requests copies of EEO-1 reports, preceding AAP goals, progress toward those goals, and data on employment activity (applicants, hires, promotions and terminations). A sample Scheduling Letter, Itemized Listing and explanation is available by clicking on Maintenance Releases on our web site at www.yocom-mckee.com.

Receipt of a Scheduling Letter initiates a Desk Audit. A

desk Audit was followed by an On-site visit. The OFCCP now appears to be using the Desk Audit as a screening mechanism. Only those contractors that exhibit identifiable problems are subject to an On-site investigation.

OFCCP's new procedure gives companies an opportunity to avoid costly and time-consuming On-site investigations. The new procedure, does not exempt anyone from closer scrutiny. It is more important than ever to completely address all the items in the scheduling letter and itemized listing. In addition, pay particular attention to the following:

1. Review prior Conciliation Agreements for compliance. (These are agreements with the OFCCP that are the result of previous Compliance Reviews)
2. Review your affirmative action plan to be sure that it contains all the required elements.
3. Review your Annual Goals report to ensure that goals were set for each underutilized job group and that the goal is equal to availability as noted on the Availability Analysis.
4. Be prepared to explain adverse impact, failure to

meet goals, and declines in protected group representation. If these conditions exist, give legitimate reasons.

5. You should closely review any Job Group that fails the Adverse Impact Analysis. If the statistical analysis reveals what appears to be a problem, you should attempt to discover any nondiscriminatory causes. For example, where an Adverse Impact Analysis of Applicant Flow shows that the male hire rate significantly exceeded the female hire rate, you should examine each applicant and consider the following: Were all persons who applied minimally qualified? Were there persons who did not complete the application process? Were there persons who withdrew from the process by accepting another job or refusing a test? These people can arguably be eliminated from the "applicant pool." Any applicant who was offered a position, but turned it down should be noted as well. Look over interview questionnaires and notes by recruiters.

6. Review last year's goals and this year's Goals Progress report. You should include a page after the Goals Progress report that describes the good faith efforts taken to achieve goals and what changes in these



Visit our web site at www.yocom-mckee.com and click on Maintenance Releases to view our paper on "Preparing for Audits" which includes a sample Scheduling Letter.



University of Michigan Case heard by Supreme Court

On April 1, 2003, the U.S. Supreme Court heard oral arguments in two cases challenging the race-conscious admissions policies at its law school and undergraduate programs.

At issue is whether a university can use race as a selection tool for enrollment in order to achieve student diversity.

Although the cases may affect how public employers apply their affirmative action programs, most analysts agree the cases will not touch private sector companies subject to Executive Order 11246.

Under EO 11246, companies use census data to compare their workforce against

the percentage of women and minorities available in the area they recruit. Good faith goals are then set for recruiting qualified women and minority applicants. All applicants then compete equally based on their qualifications. The most qualified applicant should always be chosen, regardless of race or gender. The emphasis in EO 11246 AAP's is on recruiting qualified women and minorities.

The University of Michigan and some other public sector employers give some applicants "bonus points" based on their race and ethnic background. The emphasis on these public sector AAP's is achieving (hiring or enrolling) a certain

mix of races and ethnicities.

Private companies complete affirmative action plans pursuant to Executive Order 11246. This executive order is not being reviewed by the US Supreme Court. The decision in these two cases will have narrow application regarding how universities admit students.

Decisions are expected from the high court by the end of June.

"...most analysts agree the University of Michigan cases will not affect private sector companies..."



OFCCP Field Update (continued)

year.

7. Analyze various segments of the selection process as necessary. Break the selection process down into objective and subjective criteria. Compare objective criteria with qualifications of successful and unsuccessful applicants.

8. Review any data the OFCCP is likely to request. This includes employee handbooks, policies, applications, resumes etc. related to issues under review.

9. Create a list of "good things" or accomplishments.

10. Workforce Analysis – look for concentrations of women and minorities in your Workforce Analysis and explain why they exist.

Yocom & McKee, Inc.
Spring 2003

15401 West 9th Avenue
Golden, CO 80401

Phone: 303.277.0692

Fax: 303.277.9098

Email: info@yocom-mckee.com

VISIT US IN THE WEB AT
WWW.YOCOM-MCKEE.COM



Training using the Complete AAP software

We offer training classes in our training facility in beautiful Golden, Colorado. The first day you will learn all the secrets of using the software to produce a fully compliant AAP. The second day is spent using the software with your data. Many students complete the bulk of their plan during class! Check our website for scheduled training dates. Additional dates can be arranged for your group. Call us for details.

Our instructors are also available to conduct on-site training.

Students with Disabilities Database



The Office of Disability Employment policy has created a database of more than 1600 persons with disabilities who are college students or recent graduates seeking employment.

The list is available free to employers on the internet at www.wrpjobs.com. You

may also request the data on a free CD by calling (202) 693-7880.

Other helpful disability related recruitment resources include the Job Accommodation Network www.jan.wvu.edu and the Employer Assistance Referral Network www.earnworks.com.