

# Affirmative Action SOLUTIONS

A Monthly Newsletter for "How to Write an Affirmative Action Plan"

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## Swissport USA Settles Discrimination Claim for \$94,065

Swissport USA, Inc., settled discrimination charges by the Office of Federal Contract Compliance Programs (OFCCP) by agreeing to pay \$94,065 in back pay and interest to 17 female and minority job applicants, offering them jobs and revising hiring procedures to prevent future discrimination. OFCCP alleged that Swissport discriminatorily refused to hire female and minority job applicants



for ramp worker jobs at the Anchorage, Alaska, Airport. Allegations arose from an OFCCP compliance review based on information provided by Swissport under a previous agreement with the agency.

Swissport USA, Inc., (formerly Dynair) of Anchorage, is part of Swissport North America, Inc., located in Dulles, Virginia. It provides airport ground-handling services to the federal government.

## Medical University Will Pay \$61,215 to Rejected Applicants

The Medical University of South Carolina (MUSE) will pay \$61,215 in back pay to 10 female and minority job applicants and offer jobs to two minority applicants to settle hiring discrimination charges by OFCCP. OFCCP alleged that MUSE discriminated against women and minority applicants in 1997 for jobs located in Charleston in clerical support, laboratory technology, and security.

The allegations against MUSE stemmed from a follow-up compliance review based on a previous review. "We have formed an alliance with the University to ensure future compliance and applaud their cooperation and positive action following our investigation," said OFCCP director Charles James, Sr. MUSE has a federal contract with the Department of Veteran Affairs Medical Center in Charleston for medical resources and services.

## DOL Asks the House to Increase the Budget

On May 1, Victoria A. Lipnic, assistant secretary to the U.S. Department of Labor (DOL), Employment Standards Administration (ESA), spoke before the U.S. House of Representatives Appropriations Committee. Lipnic testified that DOL's request to increase the OFCCP's 2004 budget by \$2 million will allow it to continue conducting traditional compliance evaluations while it starts reviewing the business units or functions of contractors approved for Functional Affirmative Action Program (AAP) agreements.

Lipnic told the committee that Functional AAPs cover far more workers than traditional single establishment reviews. Enhancements to OFCCP's

case management process will improve the agency's ability to investigate systemic discrimination, and the program will continue to monitor corporate headquarters facilities for compensation discrimination against women and minorities through its corporate management review process, Lipnic said.

OFCCP will also continue to promote voluntary best practices and equal employment opportunity programs through the Secretary's Opportunity Award as well as its partnerships with nationwide industry liaison groups, she said.

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# Recruitment Resources

## Database of Student Jobseekers with Disabilities

Looking for workers to undertake special projects postponed for lack of time or resources, assist staff with key projects, or assume responsibilities of staff on leave? Take advantage of a free database of students and recent graduates with disabilities through the U.S. Department of Labor's (DOL) Workforce Recruitment Program, spearheaded by the Office of Disability Employment Policy. Searches through the CD-ROM database generate candidate profiles, academic and demographic data, and contact information for temporary and permanent employment. For more information, go to <http://www.wrpjobs.com>.

## Women Work! Supports Economic Equity

Women Work!, run by the National Network for Women's Employment, is a nonprofit organization rooted in advocating for the economic security of women and families through education, job training, and support services, particularly for displaced homemakers and single parents. According to

Executive Director Jill Miller, the network manages more than 1,000 programs that serve 400,000 women annually. To find out how you can support the network, contact <http://www.womenwork.org>.

## Manpower Inc. and DOL Unite to Tackle Unemployment

Manpower Inc. and DOL's Employment and Training Administration (ETA) have formed a National Business Partnership to get unemployed and underemployed people to work. The partnership was kicked off in May with 120 meetings at local Manpower offices and local ETA One-Stop Career Centers. Milwaukee-based Manpower Inc. is a world leader in the staffing industry, providing workforce management services and solutions to customers through 1,100 offices nationwide. With 1,900 local One-Stop Career Centers, ETA, through its state and local partners, seeks to build a strong workforce by matching job training and employment services with employer needs. Additional information about the National Business Partnership may be found at <http://www.nbjobs.com>.

## Best Practices in Affirmative Action

### Big Four Accounting Firm Wins Awards for Diversity

Making a "Best Company" list is a feather in the cap of a corporate human resources department. In the competitive environment of recruitment and market share, such external recognition of a company's commitment to diversity is becoming a key tool for attracting both potential employees and consumers.

"Big Four" accounting firm KPMG, LLP, is on several "Best Company" lists this year. The firm made *Asian Enterprise Magazine's* "10 Best Companies for Asian Americans" honoring good corporate citizens that serve as role models for investing in minority communities.

KPMG was highlighted by DiversityInc.com as one of the "Top 50 Companies for Diversity" for 2003 and 2002. Best practices include respect and dignity training, work/life programs, and support of collegiate and professional minority organizations.

For the past three years, KPMG was saluted by *Hispanic Magazine's* "Corporate: 100 Best Places for Latinos to Work" for advancing the Latino community through recruitment, minority vendor programs, scholarships, and support of Hispanic organizations.

*Black Collegian Magazine's* Top 100 Employers Survey ranked KPMG 10th by major employers in industry, government, and business.

Also, the National Multiple Sclerosis Society recognized KPMG as its 2003 Employer of the Year for its concern for people with disabilities and its dedication to diversity.

# Ask the EXPERT

## Modern Technology and OFCCP Audits

Last month, experts Chris Lindholm, EEO manager, and Patrick Nooren, Ph.D., executive vice president of Biddle Consulting Group, Inc., discussed some of the changes in the auditing process used by OFCCP. Those changes included a greater reliance by OFCCP on what the Biddle experts call the "mail in your plan" form of auditing. This month Mr. Lindholm and Mr. Nooren continue their discussion, with particular emphasis on how technology is changing audits. Also included are the comments from Ellen Shong Bergman, former national director of OFCCP and currently a planning "expert to the experts," including Biddle Consulting.

**Q:** What is the impact of the Internet on how federal contractors track data and respond to OFCCP audits?

**A:** *Chris Lindholm and Patrick Nooren:* As we mentioned, OFCCP has instituted a new "mail in your plan" format that has caused federal contractors to make internal changes in response to the agency's enhanced regulatory enforcement. Now that we are fully engaged in the Internet age, companies are required to track all human interaction within their company.

For years there has been technology available for use in what business executives considered to be primary or revenue-generating elements of their business. Only recently has technology been viewed as a must in the world of human resources. The days of HR generalists in larger organizations monitoring and implementing data collection protocols are over. With large centralized HR databases becoming more prolific and necessary, it's imperative that individuals with a technical background be placed in charge. HR departments must now budget for and implement advanced technology to track all the detailed decisions that are made in their department. EEO data need to be collected for every step of the employee and applicant process that they manage, including application, hire, promotion, transfer, and termination. This is a huge task for any contractor and a financial burden for smaller companies that must find a way to automate tasks that were not historically tracked with this level of detail.

The conversion from paper to databases is still somewhat in its infancy from an EEO consultant's point of view. Every single day we talk to clients that are under audit that do not have the data required to complete a proper affirmative action plan. In the mid-size to smaller contractors, it is far more common not to have all the needed historical data than it is to have the data in an accessible format. We spend a tremendous amount of time teaching contractors what data elements are needed and how to go about creating a plan to collect the information going forward, and most every time clients are bewildered by the changes that they must undergo.

As longtime consultants, the viewpoint of Biddle Consulting is simple: "Develop a plan for managing your tasks and follow it." Companies have vastly different needs when it comes to implementing a game plan to become compliant with the OFCCP requirements. There is help out there from consultants like us, and we have an ample amount of experience when it comes to helping federal contractors develop an EEO tracking and implementation plan that works for companies of all shapes and sizes. Even without consulting help, there are significant resources available directly from OFCCP and their regional offices. You will find that OFCCP smiles on those who are proactive in their diversity efforts. It is worth seeking that help before you get a letter with a deadline, and you are starting from square one.

*Ellen Shong Bergman:* It is virtually impossible for you, or for us, to write an AAP and compile and analyze accurate selection and compensation data in the 30 days OFCCP allows for submission following your receipt of a notice of review. While untimely submissions (pursuant to a Notice to Show Cause) are not in and of themselves problematic, it is much better to be late and correct, than on time and wrong! Many of you would prefer not to start a review "behind the 8-ball," so to speak. So I encourage you to plan for "when," not "if," you begin to receive notices from OFCCP scheduling compliance evaluations.

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## OFCCP Watch *(continued from page 1)*

### Women, Minorities Make Gains in Professional IT Jobs

There is good news and bad news for minorities and women in a new study by the Information Technology Association of America (ITAA). While women and minorities found it hard to get a toehold into high-tech employment between 1996 and 2002, when administrative positions were removed from consideration, the percentages of both groups rose slightly over the six years.

Women IT professionals rose slightly from 25% to 25.3%. African-American IT professionals also rose from 6% to 6.2%. But the percentage of women in the overall IT workforce fell from 41% to 34.9% while that of African Americans fell from 9.1% to 8.2% during the study's time frame.

Women and minorities in the IT workforce are underrepresented compared with their numbers in the entire U.S. workforce, according to the study. Women composed 46.6% and African Americans represented 10.9% of the U.S. workforce in 2002. Findings were based on data from the U.S. Bureau of Labor Statistics and Current Population Surveys.

Other minorities made gains in the IT workforce. Hispanic Americans composed 5.4% in 1996 and 6.3% in 2002, Native Americans jumped from 0.2% to 0.6%, and Asian Americans rose from 8.9% to 11.8%. ITAA provides public policy, business networking, and leadership to promote the growth of the IT industry among more than 400 U.S. corporations and 49 foreign IT associations.



## By the Book

### Components of an Affirmative Action Program

Federal supply and service (nonconstruction contractors) must develop and maintain an AAP for:

- Minorities and women
- Special disabled veterans, Vietnam-era veterans, and other covered veterans
- Individuals with disabilities

The basic components of an AAP are outlined here. All of these components are covered in detail in your manual, *How to Write an Affirmative Action Plan*.

**The diagnostic component of an AAP.** This section is the quantitative analyses of a contractor's workforce that evaluates the composition of the workforce and compares it with the composition of relevant labor pools. The quantitative analysis includes:

- Organizational Profile using either an organizational display or a workforce analysis.
- Job Group Analysis, including availability analysis by determining external availability and internal availability.
- Comparing Incumbency to Availability using either the any difference rule, the one-person rule, the 80 percent rule, or two-standard deviation analysis.
- Placement Goals. The good-faith annual placement goal of women and minorities that is at least equal to the availability figure of women and minorities in the applicable census analysis for each job group.

**AAP Narrative.** This portion of the AAP is in addition to the quantitative analyses and must include:

- An official designated to be responsible for the implementation and success of the AAP.
- Problem areas (underutilization, personnel activities such as compensation and promotions, and other areas) that have been identified that might impact the success of the AAP.
- Action-oriented programs that have been implemented to eliminate problem areas and reach goals. If underutilization of women and minority groups is identified in the diagnostic component and if any other problem areas are identified, a contractor is required to develop specific good-faith practical steps to remedy the problems.

\*Internal auditing and reporting systems to measure the AAP's effectiveness. A contractor should have in place internal auditing and reporting systems to measure the effectiveness of the action-oriented programs that have been put in place to remedy underutilization of women and minorities.

Remember: OFCCP expects a contractor to use the AAP as a management tool to help ensure that qualified applicants and employees have equal employment opportunity for the terms and conditions of employment, including recruitment, hiring, training and promotion, wages and benefits, termination and discipline. The AAP is not to be used as a quota system.

### Where to Obtain Census Data for External Availability Analysis

You will need to access census data to prepare your AAP. Census data are used to calculate availability percentages for Factor 1 of the Two-Factor Availability Analysis, part of the diagnostic component of your AAP.

Factor 1 of Availability Analysis is the part of your AAP in which you determine the availability of minorities and women for each job group. This is done by determining the percentage of women and minorities with the required skills in the recruitment area. This is called external availability.

(Factor 2 is the identification of women and minorities within the contractor's organization who are available for promotion, transfer, or training for each job group. This is called internal availability.)

The best available source for census data for AAPs is the U.S. Department of Labor, which will connect you to the state resource center for *Labor Market Information* and will generally direct you from there to *publications*, where you will find census data for the state under AAPs.

### Take a Look At Your Book



For a list of state sources for census data, go to Appendix C of your book. For more information on drafting your AAP for women and minorities, go to Chapter V of your manual *How to Write an Affirmative Action Plan*, which includes a model AAP, starting on page V-11.

For information on drafting your AAP for veterans and people with disabilities, go to Chapter VI. A model AAP starts on page VI-12.

### Tip of the Month

Start planning for National Disability Employment Awareness Month in October. This year's theme is *America Works Best When All Americans Work*.