



## **Glossary of Equal Opportunity/Affirmative Action Terms**

### **Affirmative Action (AA)**

Actions, policies, and procedures undertaken by a contractor in recruiting, hiring, promotions and all other personnel actions that are designed to achieve equal employment opportunity and eliminate the present effects of past discrimination. Affirmative action requires: (1) thorough, systematic efforts to prevent discrimination from occurring or to detect and eliminate it as promptly as possible; and (2) recruitment and outreach measures.

### **Affirmative Action Plan (AAP)**

A written set of specific, results-oriented procedures to be followed by all federal contractors holding contracts of \$50,000 or more and employing 50 or more people and intended to remedy the effects of past discrimination against or underutilization of women and minorities. The effectiveness of the plan is measured by the results it actually achieves rather than by the results intended and by the good faith efforts undertaken by the contractor to increase the pool of qualified women and minorities in all parts of the organization. It describes a company's programs, policies and procedures designed to assure that all individuals have equal opportunities in all employment decisions and practices. In addition, it also contains certain statistical analyses of the company's workforce. The purpose of these analyses is to assist the company in identifying potential problem areas, including possible discriminatory practices, so that the company can take the appropriate affirmative action where needed. Federal regulations establish a twelve-month cycle for AAPs and contractors must update them annually.

The purpose of affirmative action is not to provide employment preferences to members of protected classes. If that were the case, affirmative action would likely result in illegal discrimination. For example, if you make a decision to hire a minority female for a position because she is a minority, and not because he is the most qualified individual for the job, you have made an employment decision on the basis of race. Because your decision was based solely on race, you have probably discriminated against those applicants who were non-minority. The regulations clearly indicate that affirmative action is not intended to provide preferences to protected groups, but rather to provide equal employment opportunity for all individuals. Equal employment opportunity does not mean that you are required to hire a less qualified member of a protected group. For example, you are interviewing a white male and a Hispanic male for an opening.

If the white male is clearly the most qualified applicant for the position, he is the applicant you should select. Civil rights laws afford the same protections to all individuals, including white males.

### **Adverse Impact**

Practices or policies which result in the selection of members of a protected class at a rate lower than that of other groups. Enforcement agencies look for a selection rate for a race, sex or ethnic group which is less than four-fifths (80%) of the group with the highest rate as evidence of adverse impact.

### **Affected Class**

Groups of employees, former employees or applicants who have experienced and/or continue to experience the loss of employment opportunities or benefits due to discriminatory practices or policies of the employer.

### **American Indian or Alaskan Native**

A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.

### **Annual Goal**

An annual target for the placement of underutilized groups of protected class members in job groups where underutilization exists.

### **Applicant**

A person who seeks work at a certain employers' facilities who meets certain prescribed standards, as defined by the employer.

### **Applicant Flow**

The number of people who apply for employment for a job title over a certain period of time, sorted and analyzed by gender and race.

### **Applicant Flow Log**

A chronological listing which records each applicant who applies for employment or promotion. Data includes applicant's name, race, national origin, gender, referral source, date of application, job title applied for and disposition.

### **Applicant Pool**

All of the people who have applied for particular jobs over a period of time who form the collection of candidates from which selection decisions are made.

## **Asian**

A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

## **Availability**

The availability of minorities or women for a job group means the percentage of minorities or women among persons in the relevant labor area and/or internal feeder pools having the requisite qualifications to perform the positions included in the job group. The term is broad enough to include any factor that is in fact relevant to determining the availability of individuals for the jobs in the job group. Availability figures are used in determining whether underutilization exists, and, where a goal is established, in determining the level of the goal.

In determining availability for a job group, a contractor must consider at least the two factors specified in 21 C.F.R Section 2.14 (c)

## **Black (or African-American)**

An individual, not of Hispanic origin, with origins in any of the black racial groups of Africa.

## **Bona Fide Occupational Qualification (BFOQ)**

A defense allowing an employer to limit a particular job to members of one sex, religion, or national origin group. The courts have held that the statutory BFOQ provision in Title VII is a very narrow exception to the general prohibition against discrimination on the basis of those characteristics. In enforcing the Executive Order, OFCCP follows Title VII principles regarding the BFOQ exception. An employer claiming that sex is a BFOQ for a job has to show that all (or substantially all) members of the excluded sex are incapable of performing the duties of the job and that failure to allow the exclusion would undermine the "essence"-the central purpose or mission-of the employer's business. Race can never be considered a BFOQ for a job.

## **Compliance**

Meeting the requirements and obligations of affirmative action imposed by Executive Order 11246, Section 503 of the Rehabilitation Act, Section 4212 of the Vietnam Era Veterans' Readjustment Assistance Act, and their implementing regulations.

## **Compliance Officer**

An employee of the OFCCP engaged in the investigation of employment discrimination charges and conducting compliance reviews. The former name for this position was Equal Opportunity Specialist (EOS).

## **Conciliation Agreement**

A binding written agreement between a contractor and OFCCP that details specific contractor commitments to resolve major or substantive violations of Executive Order 11246, the Rehabilitation Act, or the Vietnam Era Veterans' Readjustment Assistance Act.

## **Contractor**

A Contractor is a firm which does business with the federal government. A prime contractor is one who receives \$50,000 or more in contracts each year and employs more than 50 people in total employment. A subcontractor is a firm that performs part of the contract at the direction of the prime contractor and receives \$10,000 or more in subcontracts each year.

## **Corrective Action**

Correction of deficiencies identified during a compliance review of an affirmative action plan.

## **Debarment**

An order declaring a contractor ineligible for the award of future contracts or cancellation of current contracts. Debarment is one of the sanctions that can be imposed on a contractor who is found to be in violation of Executive Order 11246, Section 503 of the Rehabilitation Act, or Section 4212 of the Vietnam Era Veterans' Readjustment Assistance Act.

## **Deficiency**

Failure to fulfill a requirement of Executive Order 11246, Section 503 of the Rehabilitation Act, or Section 4212 of the Vietnam Era Veterans' Readjustment Assistance act, including implementing rules, regulations, and orders. "Deficiency" and "Violation" are often used interchangeably.

## **Desk Audit**

A review of a contractor's documents and materials to determine compliance with affirmative action practices and equal employment obligations as they relate to workforce structure, personnel policies and procedures, good-faith efforts, and areas of potential discrimination. The Standard Compliance Review Report (SCRR) provides instructions for conducting a desk audit, which takes its name from the fact that this review and analysis is done at the desk of the Compliance Officer assigned to conduct the audit.

## **Disability**

A Disability is a physical or mental impairment, which substantially limits one or more major life activity, a record of having such an impairment, or being perceived as having such impairment.

## **Disabled Veteran**

A person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty and who is entitled to a 30% or more disability payment under the regulations of the Veteran's Administration.

## **Discrimination**

Illegal treatment of a person or group of persons based on race, sex, or other prohibited factor.

## **Disparate Impact**

A theory or category of employment discrimination. Disparate impact discrimination can be found when a contractor's or employer's use of an otherwise neutral selection standard-such as a test, an interview, or a degree requirement-disqualifies members of a particular race or gender at a significantly higher rate than others and is not justified by business necessity or job-relatedness. An intent to discriminate is not necessary to this type of employment discrimination. The disparate impact theory can be used to analyze both objective and subjective selection standards.

## **Disparate Treatment**

A theory or category of employment discrimination. Disparate treatment discrimination can be found when a contractor or employer treats an individual or group differently because of its race, color, religion, sex, national origin, disability, or veteran status. An intent to discriminate is a necessary element in this type of employment discrimination, and can be shown by direct evidence or inferred through statistical, anecdotal, and/or comparative evidence.

## **"Eighty Percent" Rule**

Method of determining adverse impact. Selection rates for any group which are less than 80% (four-fifths) of the rate for other groups is evidence of a violation of this rule.

## **Employer Information Report EEO-1**

Also known as Standard Form 100, this annual report shows the representation of female and minority employees in an employer's total workforce as well as in standard job groupings (i.e., officials & managers, professionals, etc.). This report must be filed each year by any employer with 100 or more employees (50 or more for government contractors).

## **EEO-1 Category or Code**

One of nine broad job categories used on the EEO-1 Report. They are Executive/Senior level Officials & Managers, First/Mid level Officials and Managers, Professionals, Technicians, Sales Workers, Office & Clerical, Craft Workers, Operatives, Laborers, and Service Workers. **EEO-1 Report (See Employer Information Report EEO-1)**

## **Ethnic Group**

A group identified on the basis of religion, color or national origin.

## **Executive Orders 11246, 11375 and 12086**

Regulations promulgated by the President that have the effect of law on those governmental matters with which they deal. These orders require contractors with contracts of \$10,000 or more to provide equal employment opportunity on the basis of race, color, religion, sex and national origin. These orders also require the preparation of a written affirmative action plan for contractors with \$50,000 or more in contracts and 50 or more employees.

## **Goal Achievement**

How well a contractor has progressed toward meeting employment or promotion targets set to correct underutilization of protected class members.

## **Good Faith Efforts**

Actions voluntarily developed by contractors to achieve compliance with equal employment opportunity and affirmative action clauses. The basic components of good-faith efforts are: (1) outreach and recruitment measures to broaden candidate pools from which selection decisions are made to include minorities and women; and (2) systematic efforts to assure that selections thereafter are made without regard to race, sex, or other prohibited factors. Results of these efforts are measured in terms of their effectiveness in assisting the contractor in meeting or making progress toward targets set to correct underutilization.

## **Hispanic**

A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race. This does not include persons of Portuguese descent or persons from Central or South America who are not of Spanish origin or culture

## **Impact Ratio**

Selection rate, for an employment opportunity, for a group of people in a protected class, divided by the selection rate for the group with the highest selection rate. For an adverse employment situation, the impact ratio is the rate of the group with the lowest rate divided by the rate of the group in question. Impact ratios are compared to the 80% Rule to determine adverse impact.

## **Invitation to Self-Identify**

An invitation by an employer extended to all employees who believe they are covered by Section 402 or 503 to identify themselves as having a disability, being a disabled veteran, a Vietnam era veteran or other eligible veteran for purposes of making reasonable accommodation and taking affirmative action. Applicants may no longer be asked to self-identify prior to an offer of employment being extended to them by the employer.

## **Job Group**

A division within the contractor's workforce for the purposes of analyzing the workforce for underutilization. Job grouping is done to group job titles together based on similarity of job content, pay rates, and opportunities for advancement.

## **Minorities**

Men and women of those minority groups for whom EEO-1 reporting is required; that is, black, Hispanic, Asian or Pacific Islander, American Indian or Alaskan Native. The term may refer to these groups in the aggregate or to an individual group.

## **National Origin**

The country-including those that no longer exist-of one's birth or of one's ancestors' birth. "National origin" and "ethnicity" often are used interchangeably, although "ethnic group" can refer to religion or color, as well as country of one's ancestry.

## **Native Hawaiian**

A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

## **Office of Federal Contract Compliance Programs (OFCCP)**

Division of the Employment Standards Administration in the Department of Labor responsible for enforcing three statutes for federal contractors and subcontractors: Executive Order No. 11246, the Rehabilitation Act, and the Vietnam Era Veterans' Readjustment Assistance Act. OFCCP enforces the three laws through the use of compliance reviews, complaint investigations, administrative procedures, and judicial procedures.

## **Organizational Display**

An organizational display is a detailed graphical or tabular chart, text, spreadsheet, or similar presentation of the contractor's organizational structure. It must identify each organizational unit in the establishment, and show the relationship of each organizational unit to the other organizational units in the establishment.

## **Organizational Profile**

An organizational profile is a depiction of the staffing pattern within an establishment. It is one method contractors use to determine whether barriers to equal employment opportunity exist in their organizations. It provides an overview of the workforce at the establishment that may assist in identifying organizational units where women or minorities are under represented or concentrated.

## **Other Eligible Veteran**

Other eligible veterans are those individuals who served on active duty in the U.S. military, ground, naval or air service during a war or in a campaign or expedition for which a campaign badge has been authorized.

## **Pacific Islander**

A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

## **Placement Goals**

Placement goals serve as objectives or targets reasonably attainable by applying good faith efforts to employment and promotion activities. Placement goals are used to measure progress toward achieving equal employment opportunity. Placement goals may not be rigid and inflexible quotas, which are forbidden.

## **Protected Class**

Groups of people protected from discrimination under government regulations and laws. The specific groups are defined as women, Blacks, Hispanics, Asians/Pacific Islanders or American Indians/Alaskan Natives, people over 40, the disabled as defined under Section 503 of the Rehabilitation Act and disabled veterans and Vietnam era veterans as defined under the Vietnam Era Veterans Readjustment Assistance Act.

## **Qualified Disabled Veteran**

A special disabled veteran who is capable of performing a particular job with or without a reasonable accommodation to his or her disability. A Qualified Disabled Veteran is a disabled veteran capable of performing a particular job, with or without reasonable accommodation.

## **Qualified Disabled Person**

A Qualified Disabled Person is an individual with a disability who is capable of performing a particular job, with or without reasonable accommodation.

## **Race**

Race is a division of humankind with certain distinguishing characteristics in common which indicate distinctive origins.

## **Reasonable Accommodation**

Used in connection with affirmative action for disabled persons: Changes in the job or workplace which enable the person with a disability to perform the job for which they are otherwise qualified. Such accommodations should be such that they do not create a business hardship and may involve such actions as adjusting the physical environment, equipment,

schedules, or procedures.

Used in connection with discrimination based on religion: Requirement that employer grant an employee time off for religious reasons. These accommodations may be adjustments to hours or days worked or other similar actions which will make it possible for employees to fulfill their religious obligations.

### **Selection Process**

Any step, combination of steps, or procedure used as a basis for any employment decision, including, but not limited to: informal or casual interviews; unscored application forms; paper and pencil tests; performance tests; training programs; probationary periods; and physical, education, and work experience requirements, as well as the decision making process used in determining whether or not to hire or promote.

### **Underutilization**

Having materially fewer minorities or women in a particular job group than reasonably would be expected based on their availability in the community. In order to determine whether underutilization exists, a contractor must compare the percentage of females and minorities currently in a particular job group with the percentage of females and minorities available for that job group. If the percentage available for a job group is greater (by a certain amount) than the percentage currently in that job group, underutilization exists. Where underutilization exists, the contractors must set an annual percentage goal equal to availability.

### **Vietnam Era Veteran**

A person who served on active duty for more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released there from with other than a dishonorable discharge; or from with other than a dishonorable discharge. Also, a person who was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975.

### **White**

An individual, not of Hispanic origin, with origins in any of the original peoples of Europe, North Africa, or the Middle East.

### **Workforce Analysis**

A listing of each job title as the title appears in applicable collective bargaining agreements or payroll records ranked from the lowest paid to the highest paid within each department including department or unit supervision. For each job title, the following information must be given: the total number of male and female employees; the total number of male and female employees who are Black (not Hispanic), Hispanic, American Indian/Alaskan Native, and Asian/Pacific Islander; and the wage rate or salary range.