



How to Move Beyond the Data... Let's Get Strategic!

**2017 National ILG Conference
San Antonio, TX**

August 3, 2017

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Important Legal Notice

This presentation is to provide general information and updates. These materials are not intended to provide legal advice.

Employers' representatives should consult either with their in-house counsel or, as directed, with an experienced employment attorney for legal advice about whether, based on their specific facts and circumstances, their company complies with the applicable federal and state laws and regulations.



Roadmap: What We Will Cover Today

- **Legal Background**
- **EEO and Affirmative Action**
- **AAP Overview**
 - **Reviewing AAP Reports – Roll Up Your Sleeves!**
- **Turning findings into strategic actions**



Why Are We Here?!

“Employment discrimination and underutilization of qualified workers, such as individuals with disabilities and veterans, contribute to broader societal problems such as income inequality and poverty.”

– Office of Federal Contract Compliance Programs (OFCCP)



What is...Executive Order 11246?

- Issued by President Lyndon Johnson in 1965
- Amended and strengthened over the years
- Requires Federal government contractors to “take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin”
- “Contractors must take affirmative steps to identify and eliminate impediments to equal employment opportunity”



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What is...Section 503?

- **Section 503 of the Rehabilitation Act of 1973**
- **New regulations effective March 24, 2014**
- **Prohibits discrimination by covered Federal contractors and subcontractors against individuals on the basis of disability, and requires affirmative action on behalf of qualified individuals with disabilities**
- **Reporting requirements “provide contractors with the tools needed to evaluate their own compliance and proactively identify and correct any deficiencies in their employment practices”**

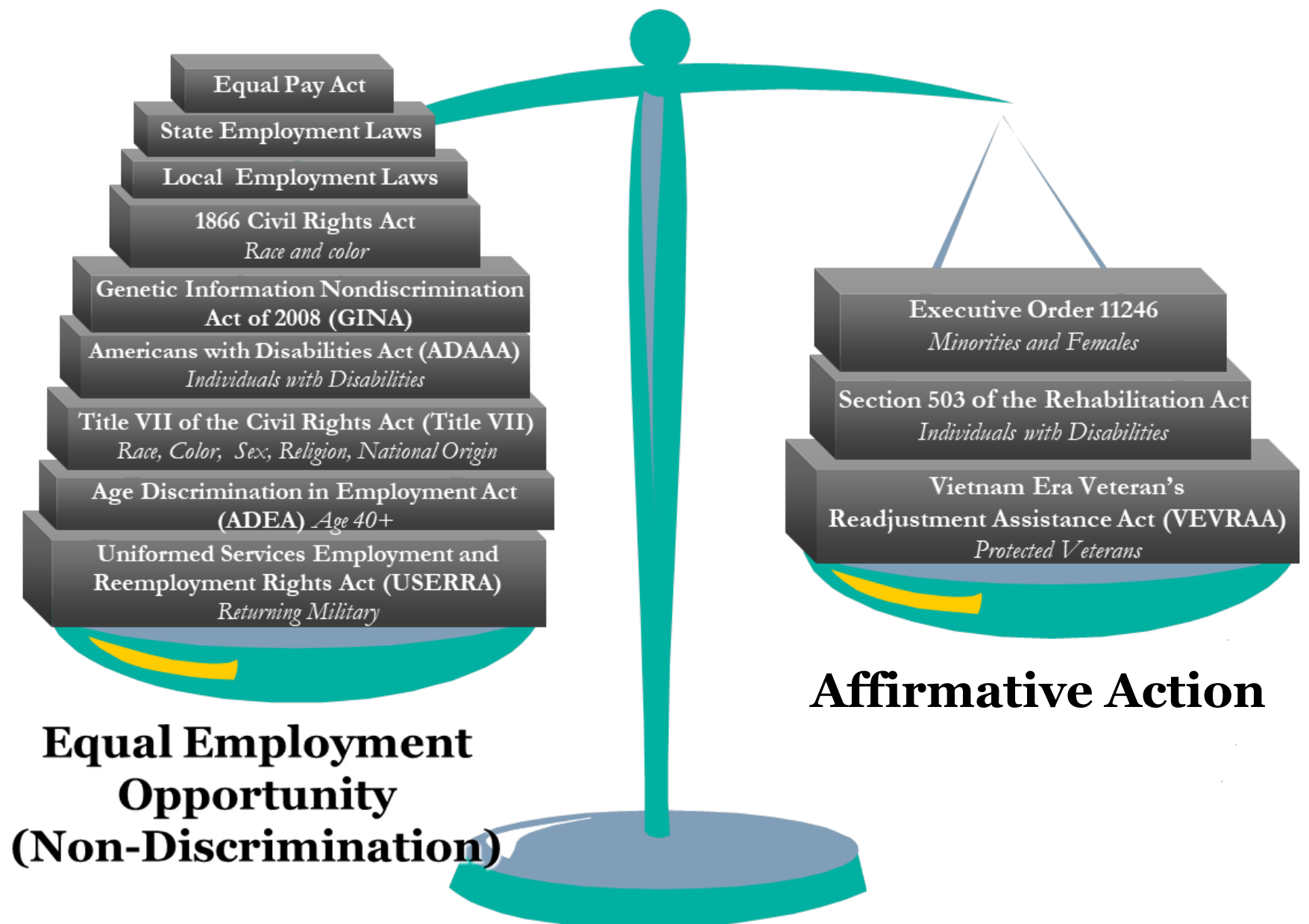


What is...VEVRAA?

- **Vietnam Era Veterans' Readjustment Assistance Act of 1974**
- **Revised regulations effective March 24, 2014**
- **Prohibits employment discrimination against protected veterans by covered Federal contractors and subcontractors**
- **VEVRAA also requires each covered Federal contractor and subcontractor to take affirmative action to employ and advance in employment these veterans**



The Legal Complexities



Let's Talk About...

...Equal Employment Opportunity!

- What it *is* and what it *is not*



What is EEO?

- **Put simply, employment or employment-related decisions may not be made based on a protected characteristic**
 - **This includes training opportunities, work assignments, company-sponsored social events, etc.**



What are Protected Characteristics?

- **What are protected characteristics?**
 - **Race, color, religion, sex, national origin**
 - **Disability**
 - **Age (over 40)**
 - **Discrimination in the payment of wages**
 - **Genetics or genetic information**
 - **Sexual orientation and gender identity**
 - **Protected Veterans**



What EEO is NOT

- **Selecting an individual because of his or her protected characteristics is not equal employment opportunity..it is “reverse discrimination”**





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The Challenge

The law requires affirmative action for minorities, women, individual's with disabilities and covered veterans



What is Affirmative Action?

The central premise of affirmative action is that, over time and absent discrimination, an employer's workforce will generally reflect the gender and racial/ethnic profile of the qualified labor force from which the employer recruits and selects employees



What is the Difference Between EEO and Affirmative Action?

Affirmative Action implements EEO

- EEO is *passive*
 - Do Nothing (Don't Discriminate)
- AA is *active*
 - Do Something (Implement EEO)



Affirmative Action – For Example

In other words...all things being equal, when you reach into your applicant pool, the selection result should closely mirror the qualified, available minority and female pools

- If it doesn't, you have to take special steps to try to remedy the problem (“Affirmative Action”)**



How Does Affirmative Action Work??

Affirmative Action—External

Outreach, including
“Diversity” search firms

Targeted Advertising

Community Relations;
Company Branding

College Recruiting

Job Fairs

Posting job openings with
the State Unemployment
agency

Affirmative Action—Internal

Formal Training

Challenging, high-visibility
assignments

“O-J-T”

Candidate slates for
promotions and transfer
opportunities

Mentoring Program

Equal Employment Opportunity

Selection decisions (e.g., selection for interview, conditional offer, etc.) must be based on qualifications and documented job requirements, without regard to race/ethnicity, gender, gender identity, sexual orientation, national origin, religion, genetic information, disability or protected veteran status



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How is Affirmative Action Measured?

The Affirmative Action Plan measures the success of affirmative action for Minorities/Women, Individuals with Disabilities and Protected Veterans



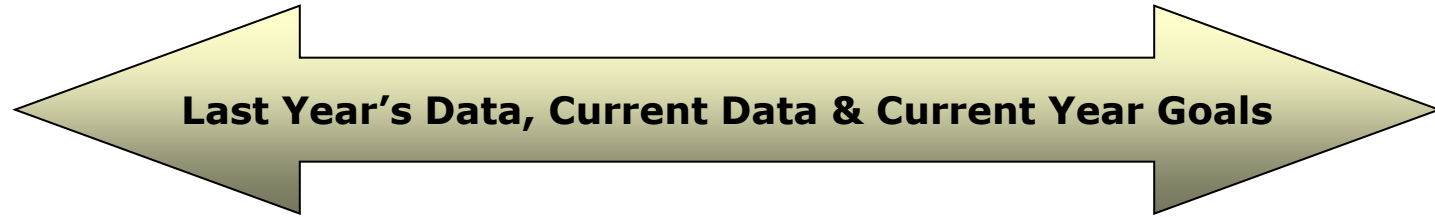


Introducing... the AAP!



AAP Overview-The Basics

Recurring, Annual Executive Order
(female and minority) AAP



Last Year

- Applicant Flow
- Hires
- Promotions
- Terminations
- IRA
- Prior Yr Goal Attainment

Current Year Begin

- Work Force Analysis
- Job Group Analysis
- Utilization Analysis
- Availability Analysis

Going Forward

- Establish % Placement Goals



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Understanding Job Groups

- **Job Groups are the foundation of the AAP and are comprised of jobs with similar:**

- **C**ontent
- **O**pportunities
- **W**ages



Job Group Guidelines

Job Groups should:

- Be designed to accurately represent your workforce;
- Be numbered and named so you can “read” them; and
- Be large enough to conduct meaningful analysis



Job Group Guidelines (cont.)



Job Groups should not:

- **Cross over EEO-1 Categories; or**
- **Mix exempt, non-exempt, commissioned or employees covered by a CBA**



What do Job Groups Tell You?



**“Who You Have” by
similar jobs, race, and sex**



Activity 1

Review the following Job Group Analysis. Note any and all jobs that don't seem to be a good fit; note any other issues that you observe.

What is Availability?

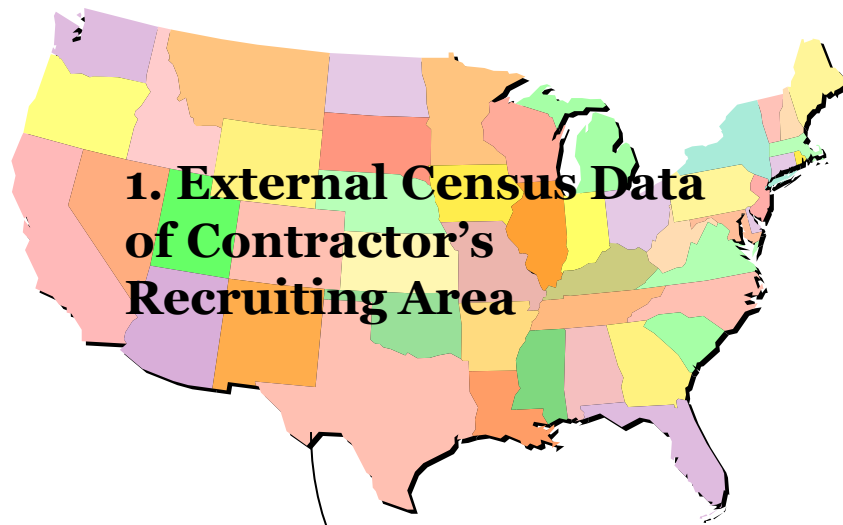
Availability is:

- **An estimate of the percentage of women and minorities who might reasonably be expected to be employed in particular jobs**
- **Based on a weighted average for each job title within a Job Group**
- **Calculated separately for women and for minorities by Job Group**
 - **External (census data + Internal (contractor's own workforce)**





The Availability Model



2. Internal "Feeder Pool" Workforce



+

**2-Factor (Availability)
Analysis**

What Does Availability Tell You?



**“Who You Should Have” by
similar jobs, race, and sex**

Sample 2 Factor (Availability)



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Job Group 1A Executives

As of 01/01/2017

Factor	Raw Statistics (%)		Value Weight	Weighted Factor (%)		Source of Data and Rationale for Selection of Recruitment Area
	Female	Minority		Female	Minority	
1 Percentage of Minorities and Women Among those having requisite skills in the reasonable recruiting area	28.17	20.06	20.00	5.63	4.01	Census 2010 Special EEO File Typical Recruiting Area: US
2 Percentage of Minorities and Women among those promotable, transferable and trainable within Company ABC's organization	14.81	3.70	80.00	11.85	2.96	Feeder Job Groups 1B Directors and Managers and 2A Professionals Technical
			100.00			
			Final Availability	17.49	6.97	

Utilization Analysis

Utilization Analysis is:

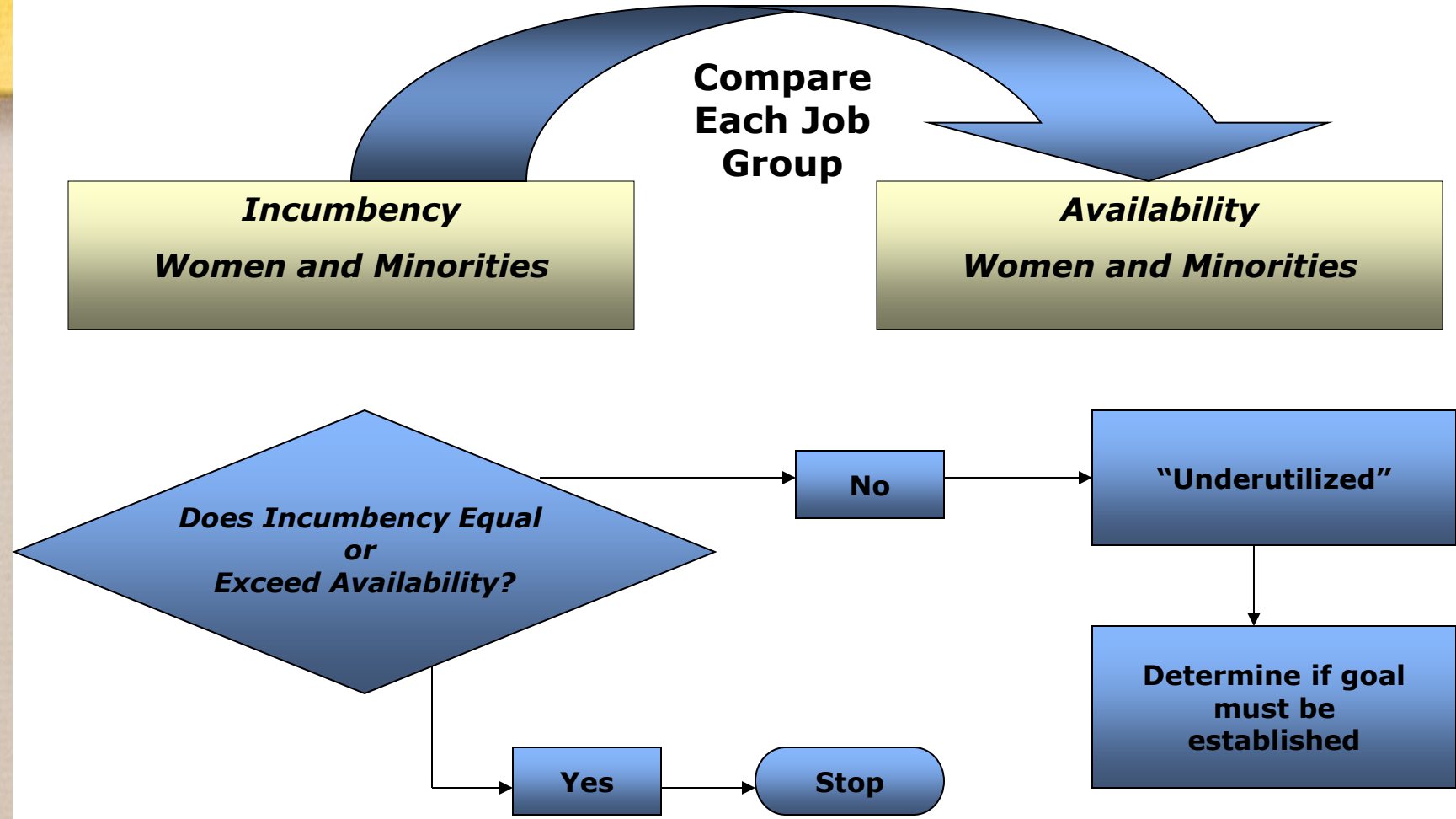
- **A comparison of incumbency to availability in each Job Group**
- **Calculated separately for women and for minorities**
- **Used to identify where percentage placement goals for women and/or for minorities must be established**



Utilization Analysis (cont.)



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Activity 2

No, seriously...what does utilization tell you?

Utilization Analysis Sample



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Job	Job Group				Female		
Group	Title	Total Incumbents	Incumbents	% Population	Availability	Underutilized?	2017 Goal
1A	Executives	9	0	0.00	17.49	Y	17.49
1B	Directors and Managers	30	2	6.67	35.76	Y	35.76
2A	Professional Technical	31	11	35.48	33.77	N	
2B	Professionals Non-Technical	23	7	30.43	15.60	N	
3A	Technicians	37	13	35.14	33.33	N	
4A	Sales	28	12	42.86	31.84	N	
5A	Administrative Support	39	36	92.31	82.25	N	
6A	Craft Workers Skilled Leads	11	2	18.18	9.63	N	
6B	Skilled Trades Fabricaion	18	2	11.11	6.21	N	
6C	Skilled Trades	47	3	6.38	5.32	N	
7A	Operatives-Paint	68	3	4.41	18.90	Y	18.90
8A	Helpers	2	1	50.00	45.30	N	
9A	Maintenance	5	3	60.00	56.40	N	

Utilization Analysis Sample (cont.)



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Job	Job Group	Total Incumbents	Incumbents	% Population	Minority		
Group	Title				Availability	Underutilized?	2017 Goal
1A	Executives	9	1	11.11	6.97	N	
1B	Directors and Managers	30	1	3.33	8.44	Y	8.44
2A	Professional Technical	31	5	16.13	12.36	N	
2B	Professionals Non-Technical	23	7	30.43	9.29	N	
3A	Technicians	37	7	18.92	6.32	N	
4A	Sales	28	3	10.71	5.14	N	
5A	Administrative Support	39	12	30.77	11.41	N	
6A	Craft Workers Skilled Leads	11	1	9.09	8.37	N	
6B	Skilled Trades Fabricaion	18	2	11.11	6.21	N	
6C	Skilled Trades	47	3	6.38	5.32	N	
7A	Operatives-Paint	68	10	14.71	36.54	Y	36.54
8A	Helpers	2	1	50.00	39.65	N	
9A	Maintenance	5	4	80.00	61.53	N	

Look Back 12 Months

- **Prior Year Personnel Activity**
- **Prior Year Goal Attainment**



Applicant Flow



Job Group	Sex			
	Female	Male	Unknown	Total
1A	8	16	3	27
1B	1	16		17
7A	15	15		30
Grand Total	24	47	3	74

Job Group	Race							
	Asian	Black	Hispanic	Pacific Islander	2+ Races	Unknown	White	Total
1A	1	2	1		1	3	19	27
1B							17	17
7A	3	4	6		2		15	30
Grand Total	4	6	7	0	3	3	51	74

Selections (aka "Hires")



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Job Group	Sex			
	Female	Male	Total	
1A		1	8	9
1B		1	7	8
7A			12	12
Grand Total		2	27	29

Job Group	Race			Total	
	Asian	Black	White		
1A		1	1	7	9
1B				8	8
2A		3	1	8	12
Grand Total		4	2	23	29

Impact Ratio Analysis

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Job Group	Male Appls	Male Hires	Female Appls	Female Hires	Total Appls	Total Hires	Male Selection Rate	Female Selection Rate	Overall Selection Rate	Expected # Selects	Shortfall	Standard Deviation
1A	16	8	8	1	24	9	50.0%	12.5%	37.5%	3	2	
1B	16	7	1	1	17	8	43.8%	100.0%	47.1%	0	-1	
7A	15	12	15	0	30	12	80.0%	0.0%	40.0%	6	6	4.4721

Prior Year Goals



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Job Group	Job Title	Total # Placements	Female				Minority			
			% Placement Goal	# Placements	% Actual Placements	Goal Met?	Total # Placements	% Placement Goal	% Actual Placements	Goal Met?
1A	Executives	11	18.51	1	9.09	N		N/A		
1B	Directors and Managers	8	31.65	1	12.50	N	9.36	0	0.00	N
7A	Operatives-Paint	12	18.9	0	0.00	N	36.54	4	33.33	N

Now What?



If it is Broken, Fix It!

Selection Processes

- **Do not make exceptions to job qualifications... for anyone**
 - **Undercuts argument that requirements are “job-related and consistent with business necessity”**
- **Avoid inconsistent application of job qualifications**
- **Do reasonably accommodate individuals with disabilities who can perform the essential job functions with such accommodation**



Selection Processes (cont.)

- Do requirements for job openings match job descriptions? (And ultimately do they match the skills of the individual selected?)
 - If not, why not?

Well I know his experience doesn't match what I posted, but I could tell from the interview that he can do the job...he's a real go-getter.



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Outreach

- **Does your Applicant Tracking System track Outreach organizations?**
- **Is your Outreach effective?**
- **Focus on relationships with local Outreach sources**
- **If qualified Applicants are in your Applicant pool, are they being selected for open positions?**



Company Branding



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Internal Programs

- **Employee referral programs**
- **Mentoring**
- **Job assignment**
- **Promotional opportunities**
- **Performance management**
- **Exit interviews**



The Work Environment...

Manage the culture in your workplace. What is the real culture regarding equal employment opportunity and affirmative action? If it is broken, fix it.



So. Do I have to hire a woman or a minority or can I hire someone who is qualified?



Don't even bring me applicants who are disabled; the jobs are too hard...



Women can't do the job; there is no sense in even trying...

I'll lower the requirements for my next opening so I can get a [minority/woman] in here

Other...

- **Reduce social isolation of minorities, women, individuals with disabilities and protected Veterans through networking and mentoring**
- **Eliminate stereotyping and moderate managerial bias through training and breaking through glass ceilings**
- **Remove the term “preferential selections” from the workplace vocabulary; reinforce that the best qualified is ALWAYS the person chosen**



In Conclusion...

- **Make EEO/AA part of every day life**
- **Use your AAP as a management tool to identify problems and as the launching pad for corrective actions**
- **Identify the enablers and blockers to EEO and Affirmative Action**
- **What has been tried? What has been successful? What has failed?**

The definition of insanity is doing the same thing, the same way, over and over and expecting different results



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THANK
 BIYAN
 SHUKRIA
 GOZAIMASHITA
 EFCHARISTO
 KOMAPSUMNIDA
 GRAZIE
 MEHRBANI
 PALDIES
YOU
 BOLZIN
 MERCI
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 MAAKE
 MERRIEM
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 SAJIBO
 HENACALHYA
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Questions?

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