



***CHAPTER V***  
***CORPORATE MANAGEMENT REVIEWS***



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## 5A INTRODUCTION TO CHAPTER V

### **5A00 CONTENTS OF CHAPTER**

This Chapter provides background information and guidance on evaluating whether a contractor has refrained from unlawful discrimination and has made good faith affirmative action (AA) efforts to ensure equal employment opportunity in developing, selecting, and treating mid-level and senior corporate managers. This Chapter supplements other Chapters in this Manual by addressing factors to be considered in investigating potential discrimination and good-faith effort issues concerning such corporate management positions.

### **5A01 APPLICABILITY OF CHAPTER**

This Chapter applies to designated corporate management reviews of headquarters establishments of multi-establishment contractors subject to the Office of Federal Contract Compliance Programs (OFCCP) mandates under Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212.

### **5A02 PURPOSE OF CORPORATE MANAGEMENT REVIEWS**

As increasing numbers of minorities, women, individuals with disabilities, and covered veterans, with qualifications comparable to their peers, move into management and other key positions, corporate management reviews are designed to ensure that they do not encounter artificial barriers to further advancement into mid-level and senior corporate management. These reviews have a dual focus:

- (a) Affirmative Action. A contractor's obligation to make good-faith efforts to ensure equal employment opportunity (EEO) extends to all levels of its workforce, including the developmental and selection processes for corporate management positions.

OFCCP has long required covered contractors to engage in self-audit to identify and remove impediments to EEO (see, for example, 41 CFR 60-2.13(d) through (g)). Such internal efforts are particularly important in higher level developmental and selection processes, where criteria tend



to become more subjective and closely related to corporate culture and values that are central and unique to each contractor.

Each contractor, therefore, is obligated to:

- (1) Examine its developmental and selection criteria and practices for mid-level and senior management positions,
- (2) Identify any EEO problems or potential barriers to EEO, and
- (3) Devise strategies best suited to address those problems within the context of its own particular corporate environment.

A corporate management review will determine whether such good-faith efforts have, in fact, been made to ensure that qualified minorities, women, individuals with disabilities, and covered veterans have an equal opportunity to advance to mid-level and senior corporate management.

(b) Potential Discrimination. A corporate management review will also determine:

- (1) Whether there is any unlawful discrimination in selection processes and practices for mid-level and senior corporate management positions, including in any employee review procedures, or decisions on developmental assignments; and
- (2) Whether minorities, women, individuals with disabilities, and covered veterans already in those positions are treated in a non-discriminatory manner in all aspects of their employment, including, but not limited to, assignments, total compensation (including benefits and perquisites), and developmental opportunities.

### ***5A03 RELATIONSHIP TO STANDARD COMPLIANCE REVIEWS***

A corporate management review includes all aspects of a standard compliance review, as described elsewhere in this Manual. In a corporate management review, however:

- (a) Special attention is given to developmental and selection processes and practices for advancement into mid- and upper-level corporate management positions, and
- (b) Treatment in such positions.



#### ***5A04 SCOPE OF CORPORATE MANAGEMENT REVIEWS***

As indicated in Section 2C05, any review of a corporate headquarters includes ensuring that its Executive order Affirmative Action Plan (AAP) includes all jobs for which that headquarters has decision-making authority, regardless of where those jobs are physically located. Jobs for which the corporate headquarters retains decision-making or approval/disapproval authority usually include senior management positions at lower-level establishments. Such jobs are often an important contributor to feeder pools for mid-level and senior corporate management. Additionally, the progress of persons in such jobs may be periodically monitored by corporate headquarters to ensure a supply of well-qualified candidates for future corporate openings.

Corporate management reviews, therefore, may include an analysis of feeder pools at lower-level establishments from which selection for management positions at the headquarters establishment may be made. In determining whether to include such an analysis, OFCCP will consider the degree to which such corporate headquarters positions have historically and/or recently been filled from elsewhere in the corporation (see Section 5I02 below), and/or the degree to which corporate headquarters tracks/ monitors the progress of key personnel in lower-level establishments.

#### ***5A05 OFCCP PARTICIPANTS IN CORPORATE MANAGEMENT REVIEWS***

These reviews will be conducted under the National Office's (NO) direction and oversight. The Regional Director (RD) or Deputy Regional Director (DRD) will head the onsite team, which will include the District Director (DD), for those aspects of the review which involve corporate management issues. With respect to such issues, the RD/DRD must be present for:

- (a) Interviews/meetings with corporate officials;
- (b) Presentation of findings; and
- (c) As applicable, negotiation of remedy.

The RD/DRD need not be present for aspects of the review that do not involve corporate management issues.



### ***5A06 USE OF TERM "MINORITIES"***

At desk audit and the initial stages of the onsite, the term "minorities" may mean the four minority groups in the aggregate or individually depending on the characteristics of the particular contractor's workforce. For example, members of each group may be similarly distributed in management levels or there may be marked differences in that distribution. However, as used in onsite analysis of potential discrimination, "minorities" means the particular minority group or groups for whom a problem has been identified (see Sections 3K00(d) and 3K03(a)(2)).

## **5B PRE-DESK AUDIT ACTIONS IN CORPORATE MANAGEMENT REVIEWS**

### ***5B00 NOTICE OF CORPORATE MANAGEMENT REVIEW***

The standard Scheduling Letter and Itemized Listing given in Figure 2-2 will be signed by the RD and sent by certified mail to the corporate Chief Executive Officer (CEO). Shortly after the contractor's receipt of the Letter and Listing, the RD will contact the top official in charge of the corporate personnel/human resources function and will inform him/her that the compliance review will include discussion and examination of corporate management issues. The RD will inform the corporation who will lead the review, and should discuss what the corporate management aspects of the review will cover and the type of information that will be needed.

### ***5B01 REQUEST FOR LITERATURE SEARCH***

At the same time the Scheduling Letter is sent, the Request for Literature Search Letter in Figure 5-1 will be sent to the central USDOL Library. This Letter requests a search of the following sources of information on the corporation:

- (a) Industrial Manuals and Handbooks, such as Moody's, Hoover's, Standard and Poor's.
- (b) Publications providing information on company histories and the backgrounds of top officials, such as the International Directory of Company Histories, Reference Book of Corporate Managements - America's Corporate Leaders;





- (c) Articles on the corporation within the past two years in business oriented newspapers and periodicals, such as The Wall Street Journal, Forbes, Fortune.

The Library will provide hard copy of materials in (a) and (b) above. In (c), they will provide a list (title, publication, date, etc.) of articles located on the corporation. The RO/DO then may either obtain copies of the articles from a local library, or may request a copy of up to three of the articles from the USDOL Library (Reference Desk, FTS 8/219-6992).

Appendix 5A to this Chapter provides a brief synopsis and/or sample of this type of information. Use of this information is discussed in Section 5B08 below.

### ***5B02 REQUEST FOR "FORM 10-K" REPORTS***

Also at the same time the Scheduling Letter is sent, send Figure 5-2 to the Securities and Exchange Commission (SEC). This letter requests a copy of the corporation's two most recent "Form 10-K" reports filed with SEC. The SEC requires that all publicly held companies file a "Form 10-K" report annually (if the RO/DO knows that the corporation is privately held, do not send this Figure). The "Form 10-K" normally consists of the company's annual report to shareholders along with supplemental financial data.

The SEC will provide the requested reports on microfiche to another Federal Government agency for no charge. Use of this information is discussed in Section 5B08 below.

### ***5B03 REQUEST FOR EEO-1 REPORTS***

Also at the same time the Scheduling Letter is sent, Figure 5-2 should be sent to the NO Division of Program Operations requesting a copy of the corporation's latest EEO-1 filing and its immediately preceding filing. Each filing includes the following three types of reports a multi-establishment corporation must submit:

- (a) A consolidated report (Status 2) covering all employees corporate-wide, including those at headquarters and those in establishments too small to require a separate establishment report (see Status 4 below);
- (b) A corporate headquarters report (Status 3); and
- (c) A separate report for each establishment employing 50 or more persons (Status 4).



Use of this information is discussed in Section 5B09 below.

***5B04 REQUEST FOR NATIONAL COMPLIANCE REVIEW INFORMATION SYSTEM (CRIS) AND COMPLAINT ADMINISTRATION SYSTEM (CAS) REPORTS***

Figure 5-3 (see Section 5B03 above) also includes a request for a CRIS and CAS run of compliance reviews and complaint investigations, respectively, conducted of the corporation's establishments nationally over the last two years. Use of this information is discussed in Section 5B07(b) below.

***5B05 INFORMATION ON COMPLAINTS FILED WITH OTHER AGENCIES***

In a corporate management review, as in any other review, information on complaints and on the contractor's overall EEO posture is requested from the Equal Employment Opportunity Commission (EEOC), State/local Fair Employment Practices (FEP) agencies, and the Veterans' Employment and Training Service (VETS) representative at the appropriate State Employment Security office (see Figure 2-3 and Section 2B05). Upon receipt of this information, specifically note any complaints involving management jobs. If the EEOC/FEP response does not provide enough information to determine whether a complaint involves a management job, call EEOC/FEP to obtain that information.

As applicable, arrange to review the complaint, case file, and/or discuss findings with the investigator. In conducting the desk audit, pay particular attention to any indication of a potentially broader problem in the type of activity and management area/level involved; e.g., promotion to District Sales Manager.

***5B06 COMMUNITY RESOURCE AND WOMEN'S BUREAU INFORMATION***

In examining community resource file information (see Section 2B06), identify any organizations that may refer candidates for management jobs, and contact them concerning their experience with the corporation with respect to such referrals and/or impressions they may have regarding treatment of minorities/women in such jobs.

Also contact the RD of the Womens' Bureau to obtain any information Bureau may have, either Regionally or through their national Clearinghouse, concerning the corporation's EEO posture with respect to women in management jobs.



***5B07 REVIEW OF PAST COMPLIANCE ACTIONS***

- (a) Corporate Headquarters: In examining case files of previous corporate head-quarters compliance actions (see Section 2B08), note any information given or problems identified concerning management positions. Particularly important are any commitments made in a past CA/LOC that relate to management jobs, whether directly or indirectly; e.g., a commitment to implement an internal audit and reporting system to monitor promotion activity generally would include promotions to management jobs. The review should specifically audit whether such commitments have been implemented and maintained (see Section 8G02).
- (b) Lower-Level Establishments: Upon receipt of the Compliance Review Information System (CRIS) and Complaint Administrative System (CAS) runs requested earlier (see Section 5B03 above), review them to identify those cases (usually closed with a CA) with violations that may have involved a corporate policy; e.g., benefits, leave policy, medical screening, testing. As appropriate, through channels, contact the OFCCP office that conducted the review or investigation to obtain further information on the violation and its resolution, and whether it applied to management jobs. The purpose of obtaining this information is not to revisit closed compliance actions, but to ensure there is not a similar problem corporate-wide.

***5B08 REVIEW AND ANALYSIS OF CORPORATE INFORMATION***

- (a) Corporate Information - General: Upon receipt of the results of DOL Library's literature search, the material provided should be reviewed and analyzed to identify information in three main areas:
- (1) Corporate organization;
  - (2) Corporate history and trends; and
  - (3) Backgrounds of top corporate officials.
- (b) Corporate Organization: This refers to how the corporation itself is organized, rather than to how its corporate head-quarters is organized (compare Section 5D00). Industrial directories/handbooks normally provide an overview of this information, with detail often provided in the corporation's Annual Report and other portions of its "10-K" submission to the SEC. For example:



- (1) What are its major components--variously called businesses, groups, divisions, etc.--and subsidiaries, both domestic and foreign;
- (2) What are their major functions or products;
- (3) Where are they located; and
- (4) About what percentage of total corporate personnel do they employ; e.g., the ADC Products Group accounts for about 40% of total corporate employment.

This information will assist, for example, in identifying potential feeder pools for headquarters management jobs, rotational assignments, the degree to which relocation may be an issue in advancement, etc.

Upon receipt of the contractor's desk audit submission, compare corporate structure as shown in this information with that shown in any corporate organization charts.

- (c) History and Recent Trends: Industrial directories and handbooks, particularly Hoover's, specialized publications, such as the International Directory of Company Histories, the corporation's Annual Report/"10-K," and newspapers and periodicals (including the business section of local newspapers) normally provide one or more of the following items of information:
- (1) When was the corporation founded?
  - (2) What was its initial main business? How has this changed over time?
  - (3) Has the corporation undergone any recent mergers with or acquisitions of another company?
  - (4) What have been its most and least profitable components over the last several years?
  - (5) Has the corporation recently undergone or is it projecting substantial growth or cutbacks in particular areas of its business?
  - (6) Has it recently been awarded or lost any major contracts? In what business areas?
  - (7) What are its long-range projections for areas of business growth?



Such information is relevant to a preliminary understanding of the business/ economic context within which the corporation operates, and will also assist in evaluating particular corporate management issues.

For example, recent mergers or major acquisitions may have caused a substantial change in the overall business mix of the corporation and in top management. Such changes may correspondingly impact corporate "culture," and the skills mix which the corporation seeks in mid-level and senior management staff.

Sources of current profitability usually influence allocation of bonus pools among different business components and often indicate where growth in management opportunities is likely to occur.

- (d) Background of Top Officials: The Reference Book of Corporate Managements - America's Corporate Leaders (and, to a lesser degree, the corporation's "10-K" report) provides information on the backgrounds of top corporate officials (see Appendix 5A for a sample listing). This usually includes at least education, date joined the company and positions held.

Such information can help verify past corporate practices; e.g. the degree to which top positions have traditionally been filled internally vs. externally. It also may help identify shifts in the type of background that may be valued in top management; e.g., are there differences in the backgrounds, experiences, educational fields, and/or levels of more recent entries to top management vs. others.

### ***5B09 EVALUATION OF EEO-1 REPORTS***

Upon receipt of the corporation's latest and immediately preceding EEO-1 filings:

- (a) Note total corporate-wide employment shown in its latest consolidated (Status 2) report. Compare this with corporate-wide employment in the immediately preceding Status 2 report to determine whether total employment has been stable, growing, or declining, and, in the latter two instances, what EEO-1 categories have been most affected.
- (b) Use the corporate headquarters (Status 3) EEO-1 reports to complete lines c (latest data) and b (immediately preceding data) on SCRR page 6. Use the Equal Employment Data System (EEDS) microfiche for line a. Conduct standard EEO trend analyses on the direction of



headquarters employment generally and by EEO-1 category, including changes in minority and female participation. Record the results on SCRR page 7.

- (c) Compare the current participation of minorities and women in Officials and Managers (O&M) and Professional positions at corporate headquarters (line c above) with their current representation in those same categories outside of corporate headquarters (latest corporate-wide Status 2 data minus line c above). If there is considerable movement to corporate headquarters from lower-level establishments, this will help approximate the broad pool of minorities/women potentially available for such movement (see Section 5I02).
- (d) Review the latest individual establishment reports to note major plant locations. Also note any large differences among establishments in the participation of minorities and women in O&M and Professional jobs.

## **5C FOCUS OF DESK AUDIT IN CORPORATE MANAGEMENT REVIEWS**

The desk audit for a supply and service corporate management review includes all elements of a standard desk audit as described in detail in Chapter 2, but with a particular focus on determining:

- (a) The management level at which there is a marked decline in the participation of minorities/women;
- (b) The type of management jobs at that level, both generally and by major functional area; e.g., vice-president, director, senior analyst; finance, legal, sales;
- (c) The type of jobs held by minorities/women below that level in probable feeder pools;
- (d) Any information provided on developmental and/or selection processes or practices that may apply to jobs around that level; and
- (e) the amount and type of employment activity in job groups around that level.

The Sections below discuss each of these considerations.

## **5D DESK AUDIT - REVIEW OF THE WORKFORCE ANALYSIS**



**5D00 AT WHAT LEVEL DOES THE PARTICIPATION OF MINORITIES/ WOMEN  
DECLINE?**

In reviewing the workforce analysis, establish the management level where there is a marked decline in the participation of minorities/women.

- (a) Towards the top of most corporations, management title, in conjunction with reporting relationship to the CEO, is normally a reliable indicator of management level.
  - (1) Typical titles at top levels include; e.g., Executive Vice-President, Senior Vice-President, Comptroller/Chief Financial Officer, Vice-President. It is common for some or all of the heads of a corporation's major components to have dual titles. For example, Corporate Vice-President/ President of the ABC Products Group, Division, or whatever the corporation names its components.
  - (2) Reporting relationships are normally reflected in the corporation's organizational charts. As used here, the very top level consists of managers reporting directly to the CEO; the second level of managers reporting to those "direct reports," etc. While the number of reporting levels regarded as "top management" varies with both the size and structure of the particular corporation, more than three levels down usually is considered middle management, speaking from a corporate standpoint only. Persons at that level may be top management at non-headquarters establishments (see Section 5A04).

As an initial step, therefore, determine the race/sex composition, by management title, of at least the top three reporting levels to the CEO.

- (b) Below top management, management level is usually more reliably determined by salary than by title. Therefore, below top management, it is normally best to use salary level, range or grade (hereafter, referred to as grade), as reflected in the workforce analysis, to identify where minority/female participation declines.

Note: A workforce analysis normally reflects base salary, not total compensation. As discussed in Section 5J01, at higher management levels (variable with the corporation), other forms of compensation usually considerably increase--and sometimes exceed--base salary. For desk audit analytical purposes, however, base salary is an adequate starting point.



- (c) To do so, aggregate the number of O&M jobs by grade, minority group, and sex across department lines. In doing so, keep track of departments in order to examine the functional distribution of the jobs later (see Section 5D01 below).
- (d) The level at which there is a marked decline in minority/female participation will differ at each contractor, and may differ for minorities, for members of a particular minority group (see Section 5A06), and/or for women at the same contractor. It also may differ in various functional areas (see Section 5D01 below).
- (e) There is no hard and fast definition of what constitutes a marked decline. It is not, however, the management level above which there are no minorities/ women. It is the highest management level with proportionately many fewer minorities/women than the level immediately below. This is usually best viewed on a percentage basis. Whatever method is used, however, should be tailored to the distribution of jobs and of minority group members and women in the particular contractor's workforce.
- (f) This determination of where there is a marked decline in minority/female management participation will focus the onsite portion of the corporate management review into two portions; i.e.:
  - (1) At and above the grade where minority/female participation declines, the focus will be on whether minorities/women are treated in a non-discriminatory manner in all aspects of their employment, including, for example, total compensation (benefits, perquisites), developmental assignments.
  - (2) Below that grade the focus will be on why minorities/women have not advanced further. More specifically, the focus should be on:
    - (i) Whether the contractor has made a good-faith effort to identify and remove any impediments to EEO in selection processes and practices for higher-graded positions, including any management review procedures, formal or informal career paths and feeder pools leading to those positions;
    - (ii) Whether unlawful discrimination has kept minorities/women from advancing beyond that grade, either because of discrimination in the selection process itself and/or in assignment to career paths/feeder pools for higher-graded positions; and/or





- (iii) Whether non-discriminatory factors are explanatory.

### ***5D01 DISTRIBUTION WITHIN FUNCTIONAL AREAS***

- (a) Major Functional Areas: Return to the underlying data on departments, and look at the data by major function.
- (1) Although what is a "major function" will vary with a given corporation's structure, a major function is usually headed by a manager who has either a "direct" or "second level" reporting relationship to the CEO (see Section 5D00(a)), and typically (but not always) encompasses several departments.
  - (2) Common "major functions" at a corporate headquarters are, for example: Finance (under a Comptroller/Chief Financial Officer); Legal (under a General Counsel or similar title); Personnel/Labor Relations (under a Vice-President for Human Relations or similar title); Marketing; Sales; Research.
- (b) Absences/Concentrations: In each major functional area, look at minority/female participation in Exempt jobs (Managerial, Professional, and as applicable, Sales). Note any functional areas where members of a minority group/women are absent or poorly represented in Exempt jobs, and any where they are concentrated in such jobs. Record the results on SCRR page 14.
- (c) "Line" vs. "Staff": Note whether these major functional areas are "line" or "staff." A line area is one that directly contributes to the corporation's profitability; a staff area is one that primarily supports line functions. More specifically:
- (1) Line jobs will vary a great deal depending on the company's product or service, but will include whatever is "hands-on" essential to producing and selling the product or service. For example, at a consumer products firm, manufacturing, marketing, and sales will be major line functions; at a consulting firm, the consultants will be line; at a high-tech firm, research and engineering will be line.
  - (2) Staff jobs typically include: personnel, labor relations, purchasing, finance, legal, facilities management, etc. While line and staff jobs are often at the same salary grades, at "bonus-eligible" levels (see Section 5J02), total compensation is likely to be considerably higher in line jobs--among other things, because their contribution to corporate profitability can be more directly measured. Also, at most corporations, top



management is considerably more likely to have been drawn from line than from staff functions.

Therefore, note the proportion of line vs. staff Exempt jobs in the workforce, and whether minorities/women are better represented in line or in staff functions. While this latter distribution may well be a matter of education/experience and/or personal choice, a marked concentration of minorities/women in staff functions should be noted.

For example, in reviewing files onsite, minorities/women with education/ experience pertinent to the corporation's line functions should be identified to ensure that their presence in staff positions is not because of any race/sex related "steering," whether at time of hire or subsequently (see Section 5103(b)(3)).

#### ***5D02 JOBS WITHIN FUNCTIONAL AREAS AND POSSIBLE FEEDER POOLS***

- (a) Feeder Pools: The potential feeder pool for management jobs at and above the grade where minority/female participation declines, will not necessarily be limited to lower-level O&M jobs, but may also include professional jobs (and/or other positions at comparable Exempt grades; e.g., sales jobs at a consumer products firm).

While feeder pools are not necessarily restricted to functional areas, they are most often related to them; e.g., it is generally more common for someone in finance to move to a financial management position than it is for someone in engineering to do so.

Identification of feeder pools is ultimately an onsite factual determination; e.g., requiring examination of raw data on promotions, prior job of incumbents. However, for desk audit purposes:

- (1) In each major functional area, note the number of O&M jobs, by race/sex, at and above the grade where the participation of minorities/women declines in the workforce as a whole; and
  - (2) the number of Exempt jobs, by race/sex, below that level.
- (b) Comparison of Feeder Pool to Higher-Level Jobs: There can be any number of reasons for minorities and/or women being clustered at management grades below that of their peers, some discriminatory, some nondiscriminatory. A basic distinction, however, is whether:



- (1) Minorities/Women Hold Jobs with More Limited Advancement Potential: Are minorities/women concentrated in functional areas that have few jobs graded higher than those they hold, and poorly represented in functional areas with many higher graded jobs? If so, plan to investigate whether there may be a potential placement problem.
- (2) Minorities/Women Hold Jobs with Advancement Potential, but Have Not Advanced Comparably with their Peers: Are minorities/women in functional areas that have a grade distribution as high as other functional areas? If so, plan to investigate whether the reason minorities/women are in lower-graded jobs than their peers is attributable to some legitimate nondiscriminatory factor(s), or is because of discrimination in promotion (or in factors--such as developmental programs, performance appraisals, assignments--related to promotions).
- (c) Disproportion: As a general rule, plan to focus first on functional areas where there is the greatest disproportion between the participation of minorities/women above and below the grade where minority/female participation declines in the workforce as a whole.

## **5E DESK AUDIT: SELECTION PROCESSES AND DEVELOPMENTAL PROGRAMS**

### ***5E00 AAP NARRATIVE INFORMATION***

Review the contractor's AAP to identify any information provided on:

- (a) Selection processes that may apply to positions around the grade where minority/female participation declines; e.g., does the contractor indicate a policy of promoting from within to management jobs, does it indicate any means of making job openings known to potential candidates--whether within corporate headquarters or outside of headquarters, etc.
- (b) Developmental programs that may apply to positions around the grade where minority/female participation declines; e.g., management training.
- (c) Outreach designed to improve access of minorities, women, individuals with disabilities, and covered veterans to management positions.



### ***5E01 EMPLOYMENT ACTIVITY***

Review the amount and type of employment activity in job groups that, to the degree it can be determined from the contractor's AAP, may include jobs around the grade where minority/female participation declines.

Specifically note the volume of hires (and applicant flow) at and above the grade where participation declines. An important first step pre-onsite/onsite (see Sections 5F and 5G07 below) will be to determine how jobs at and above that level are filled; e.g., from outside or internally.

While a preliminary comparison can be made between the volume of hires, promotions and transfers around the grade where representation declines, job group promotion and transfer data at desk audit usually need to be viewed with reservation until it can be determined how the contractor defines these terms and the basis on which the data were compiled (from, to, within or some combination thereof, etc.).

Note any terminations of minorities/women around and above the grade where their participation declines.

### **5F NOTICE OF ONSITE REVIEW/FOLLOW-UP DATA REQUEST**

As in any other review, upon completion of the desk audit, the contractor should be notified in writing of the onsite and initial data to be made available onsite (see Section 2S). The data needed will vary depending on desk audit results and on the management level at which minority/female participation declines in the particular contractor's workforce.

Generally, however, for jobs filled around or above that management level, sufficient data should be requested to determine the particular jobs filled and how they were filled; e.g., by hire, promotion, transfer. The request for data should also note that where such jobs have been filled by promotion or transfer from lower-level establishments, the originating establishment should be identified.

As pertinent, request other activity data; e.g., applicant flow, terminations, and/or general information; e.g., jobs in lower-level establishments included in the corporate AAP, that will be needed onsite.



The notice of onsite review (see Section 2S) should confirm, per Section 5B00 above, that the review will include corporate management issues and should request an initial meeting to discuss those issues with appropriate corporate officials.

## **5G ONSITE CORPORATE MANAGEMENT REVIEW - GENERAL**

### ***5G00 INITIAL MEETING WITH CORPORATE OFFICIALS***

The purpose of the initial onsite meeting with top corporate officials in a corporate management review is to obtain any clarification needed of corporate organization (e.g., any organization charts not obtained to date), general corporate background (e.g., annual reports not obtained to date), and to discuss the broad issues of:

- (a) What does the contractor value in candidates for mid- and senior-level positions generally? (See 5G05 on Corporate Culture and 5G06 on General Qualification Standards.)
- (b) Has the contractor developed any special program(s) designed to help improve the access of minorities and/or women to such positions?

As in any other review, address any questions the contractor may have concerning the review, and indicate the need to reconvene at the conclusion of the review for an Exit Conference at which review findings will be presented and discussed.

### ***5G01 SUBSEQUENT MEETINGS WITH CORPORATE PERSONNEL/HUMAN RESOURCES OFFICIALS***

In subsequent meetings with corporate personnel/human resources officials, focus on corporate policies and practices in the following major areas (the Section of this Chapter where the topic is discussed in detail is noted parenthetically after each area):

- (a) What does the contractor consider to be its mid- and senior-level corporate management positions?



- (b) If the contractor fills some such positions by hire, how does it locate and screen outside candidates? (See Section 5H.)
- (c) If the contractor usually fills such positions internally:
  - (1) What does it consider the "pool" for those positions?
  - (2) What mechanisms does it use to identify and develop candidates for those positions, both within corporate headquarters and in lower-level establishments? (See 5I, particularly 5I00.)
- (d) What reward systems--both monetary and non-monetary--does the contractor use to retain key personnel? (See Section 5J.)

The following Sections, beginning with 5G07, deal with each of these aspects of the review and, as applicable, are organized into a discussion of the topic, sample questions, and sample types of data analysis.

### ***5G02 GENERAL CORPORATE MANUALS AND GUIDANCE***

Early in a corporate management review, obtain copies of any corporate written material that addresses overall corporate policy matters, such as personnel/human resources manuals, policy manuals, supervisory handbooks, sample newsletters and other internal publications, employment handbooks, and other materials given to new Exempt employees. If the corporation has a video tape used for new employee orientation, supervisory/management training and/or for policy reminders from top officials to component establishments, ask to view it.

Throughout the review, as meetings are held with appropriate corporate officials, request copies of any written materials pertinent to the subject under discussion.

### ***5G03 INTERVIEWS***

In a corporate management review, a prime source of information will be interviews, of both corporate management and other employees. Consistent with Section 6F07(d), contractor representatives, including attorneys, may be present during interviews of bona fide Exempt management and supervisory employees



(unless the management or supervisory employee being interviewed is a complainant; see Section 6F07(d)(4)-(6)). Interviews with other employees, however, should be conducted privately.

#### ***5G04 CONFIDENTIALITY***

Some of the data examined during a corporate management review may be particularly sensitive to the contractor; e.g., human resource development plans, total compensation packages at higher management levels. Such data will be requested only where relevant and, where possible, will be examined onsite. If the contractor expresses concerns about confidentiality, indicate that under the Department's Freedom of Information Act (FOIA) regulations at 29 CFR Part 70, no such data is releasable without first notifying the contractor of the FOIA request and giving the contractor an opportunity to object to disclosure. Such data often are exempt from mandatory disclosure under FOIA, either as trade secrets (Exemption 4) or personnel files (Exemption 6). More-over, the contractor may be advised that under the Trade Secrets Act, 18 U.S.C. 1905, it is a criminal offense for a Government employee to release trade secrets and other forms of confidential commercial and financial information except insofar as such disclosure is authorized by law. Also see 41 CFR 60-60.4.

#### ***5G05 CORPORATE CULTURE***

Each corporation has distinct characteristics, not only in terms of its major business and the skill backgrounds it needs, but in terms of its management style and what behaviors it tends to foster and reward among its employees.

- (a) Company Business: The nature of a company's business will be a primary consideration because it tends to determine what company components are most essential to its profitability. For example, in a company that produces a fairly simple consumer product, marketing and sales are likely to be most central to profitability. On the other hand, in a company engaged in advanced research, engineering and/or scientific expertise is likely to be central to profitability.
- (b) Other Factors: There are usually meaningful differences in predominant management style and encouraged employee behavior between different companies even in the same industry. For example, one employer may value somewhat egalitarian management, while another prefers a more authoritarian approach. Or, one employer may value employee initiative and creativity, while another may place a higher value on mastery of standard procedures. Or, one employer may require rotational assignments (with or without frequent relocations and/or international stints) to develop a broad knowledge of the business, while another may more heavily weigh



depth of expertise in the business area to be managed. Such differences can also extend to matters such as acceptable dress, expectations concerning uncompensated overtime or socializing outside work hours, etc.

These and other differences are not necessarily conscious ones. However, the degree of usually unspoken "fit" between what a corporation values and what an employee values or learns to value can influence whether a person will advance to management and, if so, what management level he or she is likely to reach. The importance of such "fit" usually increases with management level.

### ***5G06 GENERAL QUALIFICATION STANDARDS***

Company officials may cite any number of factors in describing what background and characteristics they look for in candidates for management positions. Among these, for example, may be particular degree areas and/or advanced degrees, time with the company, successful profit and loss responsibility, international stints, and broad knowledge of the business. Whatever factors are cited, ask sufficient follow-up questions to define those factors as fully as possible and to determine how the company believes persons acquire or could acquire such characteristics. For example:

- (a) If advanced and/or specialized degrees are viewed as important:
  - (1) In what fields? For what positions?
  - (2) How important is the college/university?
  - (3) Can a person earn an advanced degree while employed? After hours only? Any company sponsored full-time programs?
- (b) If time with the company is viewed as important, how much company service is typical for employees at and above the management level where minority/female participation declines?
- (c) If successful profit and loss responsibility is important:
  - (1) In what areas of the business is one most likely to gain that experience? Least likely?
  - (2) At what management level does one usually gain it? Does this differ among business areas?





- (3) Is the number of profit and loss centers increasing, declining, remaining about the same?
- (d) If international stints are important, at what points in one's career? How are persons chosen?
- (e) If exposure to different facets of the business is viewed as critical:
  - (1) Which business areas should that cover?
  - (2) How does one learn such exposure is important to advancement?
  - (3) How does one obtain such exposure?

In employee interviews also, any number of factors important to advancement may be cited. Similarly explore how one goes about acquiring such characteristics, with particular attention to any factors that may be informal; e.g., mentoring and/or networking (see Section 5I07); high visibility special projects (see Section 5I05); rotational assignments (see Section 5I02(c)).

#### ***5G07 HOW ARE MANAGEMENT JOBS FILLED?***

As indicated in Section 5F above, information will have been re-requested on hires, promotions and transfers into managerial jobs around and above the level where the participation of minorities/women declines. Upon receipt of the data, determine by which method(s) management jobs at each grade level have been filled.

During the data period, if the contractor has filled any such management jobs by hire, see 5H below. If the contractor has filled any such jobs internally, see Section 5I below.

### **5H EXTERNAL HIRES**

#### ***5H00 GENERAL***

In filling management jobs externally, generally the higher the job level, the less likely a contractor is to use only conventional recruitment sources, such as newspaper or trade publication advertising, and the



more likely it is to use executive search firms and/or informal referrals from current managers/professionals in the field, or corporate raiding.

Review the list of hires around and above the level where minority/female participation declines to establish the source of referral for each person hired.

If the source is a conventional one such as newspaper advertising, do standard examinations; e.g., what papers carried the ad, review ad for EEO/AA tagline, stated qualification standards, is ad language sex-neutral?

If the source is an executive search firm or other recruitment/referral agency, see 5H02 below. If the source is, or may be, employee referrals, see 5H03 below (as noted there, some data analysis may be necessary to determine the role played by employee referrals).

Note that the decision to seek external candidates for a job can in itself be a selection decision where there are internal candidates with similar qualifications. While filling a job by hire rather than by promotion or transfer (or vice versa) is, in itself, EEO neutral, the CO should be alert to any patterns that correlate with race, sex, or another prohibited factor.

### **5H01 APPLICANT RECORDS**

Regardless of the source of referral, the contractor is obligated by 41 CFR 60-3.4 and 3.15 (and also by 41 CFR Part 60-2, see Section 2H01(b) for specific citations) to maintain applicant flow data, by sex and minority group, on all applicants for each job.

This includes referrals from search firms and employee referrals, as well as persons responding to more traditional advertising, walk-ins, etc.

### **5H02 EXECUTIVE SEARCH FIRMS**

#### DISCUSSION

- (a) A contractor may maintain several different types of arrangements with executive search firms. For example:



- (1) It may have the firm on retainer. In this arrangement, the employer usually has a contract with the search firm under which the firm is paid a basic fee for its services, with that fee supplemented for each referral hired. This type of arrangement is more common for professional or entry-management positions, where the employer anticipates a continuing need for hires in certain fields and/or at certain levels where there is a skills shortage internally, externally or both.
- (2) It may have the firm on contingency. In this arrangement, the firm is usually paid a fee only if a candidate it refers is hired. This type of arrangement is more common for mid-to upper-level management jobs, and may be preferred where the contractor only occasionally hires from outside.
- (3) It may sometimes hire from among unsolicited referrals from executive search firms. In this arrangement also, the firm is paid a fee only if the candidate is hired.

- (b) EEO/AA in Referrals: The contractor, under the EEO clause in its contracts (see 41 CFR 60-1.4(a)(2)), retains responsibility for solicitations for employees placed on its behalf by a search firm or other referral source.

Consistent with that clause, as well as with its obligation to disseminate its EEO policy and engage in outreach/positive recruitment (see 41 CFR 60-2.13(b), 60-250.6(f), and 60-741.6(f)), the contractor must notify the search firm that it is an EEO/AA employer and that the firm, in seeking candidates on its behalf, should actively seek to include qualified minorities, women, individuals with disabilities, and covered veterans among those recruited and referred for listed jobs.

- (c) Monitoring Referrals: A contractor which uses a search firm is obligated to monitor referrals received by sex and minority group as part of its internal auditing and reporting systems under 41 CFR 60-2.13(g). If a search firm, despite being informed of the contractor's EEO policy, continually refers only nonminority males, the contractor should inquire as to how their search firm assembles candidates. If, in the course of such an inquiry, the contractor:
- (1) Identifies illegal discrimination, the contractor must discontinue use of the firm; or
  - (2) Finds a failure of the firm to take affirmative action on the contractor's behalf, the contractor should either change firms or supplement it with a firm, agency, or organization willing and able to refer a more diverse mix of applicants.



- (d) If, in the course of a corporate management review, it comes to OFCCP's attention that a particular search firm may be illegally discriminating in its recruitment and/or referral practices, the RD will notify the Director, OFCCP. OFCCP may coordinate with EEOC in seeking an investigation of the firm under Section 703(b) of the Civil Rights Act of 1964, as amended, which specifically covers the referral practices of employment agencies. If a contractor knowingly uses a search firm that illegally discriminates, the contractor will be found in violation of the Executive order.

SAMPLE QUESTIONS AND/OR ANALYSES

- (e) Sample Questions:
- (1) Do you use executive or other search firms? How often? Which firms do you use most? For what kinds of positions (fields, levels)?
  - (2) Have you informed those firms of your EEO/AA policy? How? When?
  - (3) Who is responsible for monitoring search firm referrals for EEO/AA?
  - (4) Have minorities and women, as well as others, been hired from among search firm referrals? Have they been among those referred? If not, was any effort made to expand the candidate pool?
- (f) Sample Analysis: For each job filled with a referral from a search firm, determine:
- (1) Whether there were any minorities/women among those referred by that firm;
  - (2) Whether there were any minority/female applicants for the job from other external sources; and/or
  - (3) Whether there were any minority/female internal candidates for the job.

**5H03 EMPLOYEE REFERRALS**

DISCUSSION



- (a) Reliance on employee referrals for new hires is, in itself, EEO neutral. However, where the result of such a reliance effectively excludes minorities/women from the candidate pool for jobs above a certain level and/or in certain fields, the contractor has an obligation to make a good-faith effort to broaden its applicant pool; e.g., by supplementing such employee referrals with sources able to refer qualified minorities/women for the jobs involved.
- (b) Additionally, such a practice may be discriminatory where there is evidence that the intent behind reliance on employee referrals is to exclude minorities/women from consideration for certain jobs, or where such reliance has a demonstrable and significant disparate impact on minorities/women, and does not serve significant business purposes.
- (c) Given a general tendency for persons to network more with others of their same group, reliance on employee referrals is most likely to be an EEO problem where the incumbents in jobs at the level/field involved are substantially all nonminorities and/or substantially all men. There is, however, no intrinsic reason a homogeneous group cannot refer persons from different groups. To the degree the contractor relies on employee referrals from a homogeneous group, it has an affirmative obligation to make clear to that group its desire for referrals of qualified minorities/women as well as others. Where there are some minorities/ women among those making referrals, the contractor should especially encourage their referrals, but not to the exclusion of making all referrers aware of the contractor's desire for a diverse candidate pool.

SAMPLE QUESTIONS AND/OR ANALYSES

- (d) Sample Questions:
  - (1) To what degree do you rely upon employee referrals for mid- to upper- level management jobs? Is this practice formal or informal?
  - (2) What is most often the relationship between the employee and person referred; e.g., used to work together, went to the same school, met through a professional association, belong to the same club, a neighbor, a relative, a personal friend.
  - (3) Have you received employee referrals of minority/female candidates, as well as others, for jobs at that level? Who were the minorities/women referred? Were any of them hired?



- (4) Have you let employees likely to refer for jobs at that level know that the company is actively interested in referrals of minorities and women as well as others? How did you let them know this?
- (e) Sample Analysis: Information on whether a person was an employee referral will not necessarily be in an applicant log. If there are no such referrals shown on a log, examine a sample of files of persons hired at the level involved for any indication he/she was an employee referral--whether on an application blank, interview notes, etc.

## **5I INTERNAL DEVELOPMENT**

### **5I00 SUCCESSION AND RELATED PLANNING**

#### DISCUSSION

- (a) The vast majority of corporations engage in some form of planning for future management personnel needs. Such plans go under many different names, such as "human resource development plans," "succession plans," "business plans," "management reviews," "replacement tables," "developmental needs assessment," "high-potentials" (sometimes shortened to "hi-pos"), "fast-track," "promotion rosters," etc.

These plans vary considerably in factors such as:

- (1) How deep into the organization they reach (How long-term is the planning?);
  - (2) How centralized they are (What degree of control is exercised by corporate vs. intermediate headquarters and/or lower-level establishments?);
  - (3) How formal they are (Are there written guidelines? Are there annual, or other regular, meetings/reviews?); and
  - (4) To what extent they are part of standard appraisal or other personnel processes vs. supplementary to them.
- (b) Where such planning is explicit, for each management job included, there may be several layers of options, including identification of:



- (1) A person currently ready to step into the job as a permanent replacement for the incumbent;
- (2) If no one is currently ready:
  - (i) a person who could take over until a permanent replacement is developed; or
  - (ii) a person(s) who could be a permanent replacement, given additional developmental experiences (including identification of the experiences needed, how long it will take, etc.).
- (c) Below this level of specificity, a company may identify:
  - (1) A broad pool of employees considered to have a high-potential to develop into mid- to senior-level managers;
  - (2) A broader pool of employees considered promotable.

Such identification of employees, whether for a particular job or generally, is normally fluid; i.e., people may move on or off lists depending on shifting business needs as well as personal performance.

#### SAMPLE QUESTIONS AND/OR ANALYSES

- (d) Sample Questions
  - (1) Is there any planning for likely successors if a particular management position were to vacate?
  - (2) Down to what management level does any such planning extend?
  - (3) Does it include both short- and long-term planning; i.e., persons who are ready now for the position (permanent replacement) vs. those who may be ready after further developmental experiences?
  - (4) Does it include consideration of candidates in intermediate headquarters and other lower-level establishments as well as at corporate head-quarters?



- (5) If so, how are such non-headquarters candidates identified? How are headquarters candidates identified?
- (6) Are there any written materials describing the plan and/or offering guidance on selection and development of candidates?
- (7) Is the plan usually successful; i.e., does the permanent successor most often come from among those identified?
- (8) How often is the plan reviewed? By whom? Does anyone review for EEO aspects?
- (9) What is the race/sex composition of persons identified as potential permanent successors? How does that compare to the race/sex composition of the total candidate pool for those management jobs?
- (10) Where the proportion of minorities/women identified in the plan is well below their proportion in the general pool, what explanation was found in the EEO audit?
- (11) What kind of developmental experiences may be identified; e.g., training--on site, offsite, rotational assignments, special projects. Are there any individual development plans?  
  
(See the more detailed discussion of each of these elements in the remainder of Section 5I below.)
- (12) Below the level where there may be specific succession planning, does the company have any mechanism for identifying persons with a high potential for advancement? Within corporate headquarters? At lower-level establishments? If so:
  - (i) How does that process work? Who identifies? Based on what factors? Does a person need to be sponsored?
  - (ii) Down to what level of the workforce does it extend?
  - (iii) Are there any written materials describing the process and/or offering guidance on selecting and developing participants?





- (iv) How closely and how often does corporate monitor it? Is EEO a part of that monitoring?
  - (v) What is the race/sex composition of those identified as "high-potentials" vs. those eligible to be so identified?
  - (vi) Where the proportion of minorities/women identified is well below their proportion of those eligible, what explanation was found in the EEO audit?
  - (vii) Who (by race/sex) has graduated from "hi-po" into management?
- (13) Does the company identify promotables separately from a "high potential" group above? If so, same questions as in (12) immediately above.

(e) Sample Analysis

Where the contractor has such programs and there is a disparity between the proportion of minorities/women included and in the candidate pool:

- (1) If there is EEO monitoring and an explanation is offered for a disparity, verify the explanation in the course of examining data and files concerning internal mobility below.
- (2) If there is no EEO monitoring or no explanation is offered for a disparity, proceed based on what has been said concerning the scope of the program and the criteria for inclusion. For example:
  - (i) Where there is multi-establishment participation in the program, do any establishments have a particularly large gap between minorities/women included vs. eligible?
  - (ii) Where criteria can be clearly identified, conduct standard analyses for uniform application as discussed in Sections 3N01, 3O03, and 7E04. For example, if a performance rating of "3 or more" makes someone a "high potential," confirm:
    - a) That "3 or more" is, in fact, the standard (all nonminority/ male "high potentials" were rated "3 or more");



- b) That there are not minorities/women rated "3 or more" who were not included in "high potentials;"
- c) If neither is a problem, the standard is uniformly applied, but the disparity remains. Examine the standard in more detail (here, performance appraisals (see Section 5I04 below); whether criteria used to arrive at a rating were uniformly applied; etc.).

### ***5I01 PROMOTION AND TRANSFERS, GENERAL***

#### DISCUSSION

- (a) Definitions: If not already obtained, ask how the contractor defines promotions and transfers. For example, is a promotion considered any increase in job grade, only an increase in job grade that also involves a change in job title, or is a transfer considered any change in job title without a grade change, any change in department without a grade change, etc.
- (b) Processes: As in any other review, establish how the promotion and transfer processes work but, in a corporate management review, give special attention to those processes as they apply to:
  - (1) Jobs around the management level where minority/female participation declines, and
  - (2) Movement from lower-level establishments to corporate headquarters and vice versa.

Generally speaking, the higher the management level, the less likely it is that jobs are included in any formal job announcement system the contractor may have, and the more likely it is that jobs are included in some kind of formal or informal succession planning (see Section 5I00 above). At intermediate man-agement levels, jobs may be filled internally within functions (within corporate or cross-establishment with, in the latter case, word circulated to establishment functional heads who may recommend candidates).

#### SAMPLE QUESTIONS AND/OR ANALYSES

- (c) Sample Questions:
  - (1) Are promotion (transfer) opportunities made known to potential candidates?



- (i) If so, how? Up to what level? What happens above that level?
- (ii) Is the process the same in all functional areas?
- (2) Are openings at corporate headquarters made known to persons in lower-level establishments as well as to persons at headquarters? How? How does a person at a lower-level establishment express an interest in being considered for an opening at corporate headquarters?
- (3) Are openings at lower-level establishments made known to persons at corporate headquarters? How? How does a person at corporate headquarters express an interest in being considered for an opening at a lower-level establishment?
- (4) Are there any restrictions on cross-establishment moves; e.g., must current manager approve?
- (d) Sample Analysis.
  - (1) Collect any written information on the promotion and transfer policies and processes. Where appropriate, audit a sample of such actions for conformity with the description given. In employee interviews, confirm employee understanding of and experience with the policies and processes.
  - (2) Examine a sample of personnel files of managers above the level where minority/female participation declines to get a sense of the type of information in files at that level and of how persons at that level moved to it.

## **5I02 CROSS-ESTABLISHMENT MOVEMENT**

### DISCUSSION

- (a) Movement to Headquarters from Lower-Level Establishments: Early in the corporate management review, determine the degree to which management openings at corporate headquarters are filled by promotion or transfer from lower-level establishments rather than from within headquarters itself.



This balance may well vary depending on the management level and/or functional area. For example, at lower management levels, promotions/transfers may be predominantly within headquarters, while at higher levels they are predominantly from outside headquarters.

Such information will assist in identifying feeder pools for management jobs (and thus may influence whether to expand the review to include a lower-level establishment(s) and, if so, which one(s)). (See Section 5A04.)

- (b) Movement from Headquarters to Lower-Level Establishments: Promotion and transfers out of headquarters to lower-level establishments may also be relevant, particularly in situations where exposure to different operating business components is viewed as important to advancement to or above the level where minority/ female participation declines.
- (c) Rotational Assignments: Cross-establishment transfers, whether into or out of headquarters, may represent planned rotational assignments as a part of a formal or informal development program (see Section 5I00 above).
- (d) Relocation: Where headquarters and lower-level establishments are geographically distant, and there is substantial movement between them, willingness to relocate may be an important factor in advancement at the company.
- (e) As with the choice to fill a job by hire or promotion, the choice to fill it by transfer rather than promotion, or from a lower-level establishment rather than within headquarters, is itself a selection decision. While that decision is itself EEO neutral, the CO should be alert for any patterns that suggest a correlation with a prohibited factor.

#### SAMPLE QUESTIONS AND/OR ANALYSES

- (f) Sample Questions:
  - (1) Is work experience in lower-level establishments important to advancement in corporate management positions? In what fields? Is a stint at corporate important to advancement to senior management at lower-level establishments?
  - (2) At what points in a person's career are cross-establishment moves usually made?
  - (3) Are such moves ever part of a formal career planning process? How does that fit in with any long-term succession planning?



- (4) Is willingness to relocate important? Are there any safeguards to ensure that pre-judgement on "willingness to move" does not bias job offers involving relocation?
  - (5) Are overseas assignments important?
  - (6) What happens if someone refuses a job offer requiring relocation? Is the effect on career prospects similar for all?
- (g) Sample Analysis: Review any written material on corporate policies relating to promotions and/or transfers, and the data requested earlier on promotions and on transfers to management jobs around the level where minority/female participation declines. As noted in Section 5F, the data will include at least date of promotion (or transfer), race/sex, and the job title, grade and department (including establishment, if not within corporate headquarters) from which and to which promoted (or transferred).
- (1) Promotions and Transfers into Headquarters vs. within Headquarters: Determine to what extent feeder pools for those headquarters positions are outside vs. inside headquarters. Separate promotions into ones from lower-level establishments into headquarters vs. ones within headquarters itself. Do the same with transfers.  
  
At given grades and/or types of functions, how does the volume of promotions (transfers) into headquarters compare with the volume within headquarters?
  - (2) Promotions and Transfers into Headquarters from Lower-Level Establishments: Where lower-level establishments are an important feeder pool, examine minority/female participation in those pools.  
  
For promotions and transfers from lower-level establishments into headquarters, note the grade level and originating establishment.
    - (i) Are most of these movements into headquarters coming from only a few establishments? Are those establishments part of a particular intermediate business group?
    - (ii) How does minority/female Exempt participation in establishments from which promotions/transfers occurred compare to their Exempt participation in other establishments? See Section 5B09(d) on establishment EEO-1 reports.



### ***5I03 MOVEMENT WITHIN HEADQUARTERS***

- (a) Transfers within Headquarters: As with lateral cross-establishment moves, transfers within headquarters may represent planned rotational assignments. Note particularly common lateral moves within headquarters and interview some employees involved to determine the reason for the move and how it was accomplished. Also, if the data permits, note instances in which persons transferring were subsequently promoted.
- (b) Promotions within Headquarters:
- (1) Particularly if there are a large number of within-headquarters promotions, it is useful to first determine:
    - (i) What is the typical grade increment involved; e.g., one grade increase, two?, and
    - (ii) To what extent promotions tend to be within broad functional areas; e.g., finance, engineering, personnel.
  - (2) Where there is considerable cross-functional movement, Impact Ratio Analyses (IRAs, see Chapter 2) may be used to help focus the investigation<sup>1</sup>. For example, if the typical grade increment is one, promotions by race/sex at each relevant grade may be compared to incumbency by race/sex in the next lowest grade (preferably at the beginning of the data period).
  - (3) Where movement is predominantly within function:
    - (i) Identify functions in which:
      - a) Promotions occurred,
      - b) There was good participation of minorities/women in the source grade, but

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<sup>1</sup> As in any review situation, such IRAs need not be adverse to be pursued; e.g., see Appendix 2A-2, pages 35-36.



- c) Minorities/women were not promoted.

Note particularly any functional areas identified at desk audit as ones with the greatest disproportion between the participation of minorities/ women above and below the grade where their participation declines in the workforce as a whole (see Section 5D02(c)).

- (ii) Where minorities/women are concentrated in particular functions and absent or poorly represented in others, and movement is primarily within function, they are likely to stay there. Examine a sample of files of minorities/women in the concentrated areas for any placement problems. For example, if minorities/women are heavily in staff positions at a "high-tech" firm, do any have technical backgrounds that would have qualified them for line functions? If so, did they start in staff or move later? In either case, why?

- (c) Average Time in Grade/Company Service: One way to evaluate whether minorities and women are progressing in the managerial ranks comparably with their peers is to look at the average time that they have spent in their current pay grade as compared to nonminorities/men in that grade (the comparison can be extended to company service). If at one or more grades, minorities or women have considerably more time in grade than their counterparts, this can focus the inquiry; e.g., at those grades, is it the type of job or is it being passed over for promotion? Alternatively, assuming that time in grade for nonminority males tends to increase with grade, the analysis may show that minorities/women have less time in grade than their peers. Where this is the case, service time may be an explanatory factor for minorities/women not having yet advanced further.
- (d) "Typical" Career Paths: Do promotions show any repetitive patterns that may represent typical career paths generally or within major functional areas? For example, in a purchasing area, do promotions tend to be from Buyer to Purchasing Supervisor to Purchasing Manager?; or in sales, do they tend to be from Account Executive III to II to I, Area Sales Manager, District Sales Manager? Where there appear to be such progressions, compare the minority/ female composition of the feeder title with the composition of those promoted.

## **5I04 PERFORMANCE APPRAISALS**

### DISCUSSION



The vast majority of corporations have a formal performance appraisal process for Exempt staff. These processes differ in a number of ways, among them:

- (a) How often such appraisals are conducted (although most are annual).
- (b) The degree to which the employee being appraised contributes to the process. For example, in some instances, the process begins with the employee giving a written self-evaluation of his/her progress against performance goals established in the last appraisal cycle. Sometimes this includes indicating what his/her goals are for the coming year (or a longer number of years).
- (c) Whether the appraiser expresses his/her evaluation in only numeric, only narrative, or both numeric and narrative form.
- (d) Whether the employee signs/can comment on the appraisal.
- (e) At what level the appraisal is reviewed.
- (f) Whether the regular appraisal cycle is supplemented by a "bench-mark" longer term career assessment process; e.g., career reviews at 3rd, 7th, years of employment (such career assessment processes may be a component of succession planning, see Section 5I00).
- (g) How the appraisal is tied to wage increases, to bonuses (see Section 5J02) and/or to promotability (see Section 5I00, particularly (c) and (e)(2)(ii)). For example, do persons in the same grade who receive a given rating typically receive the same percentage raise? Where a formula is used for figuring raises and/or bonuses, how heavily is the rating weighted?

Appraisal factors for supervisors/managers typically differ from those for professionals and, the higher-level the manager, the less likely it is that the appraisal is only numeric.

SAMPLE QUESTIONS AND/OR ANALYSES

- (h) Sample Questions:
  - (1) Describe the performance appraisal process for Exempt staff. Is the same appraisal process used for all Exempt staff? Different for Managers vs. Professionals? Different at higher grade levels?
  - (2) Is the result of the appraisal a numeric rating? Narrative rating? Both?





- (3) If numeric, what is the highest and lowest score? How are people generally distributed? What score is generally needed for promotion?
  - (4) Are there any written guidelines on how to do the appraisal? Is reference made to EEO?
  - (5) How often are appraisals done? Who appraises? Who approves? What is the degree of employee input?
  - (6) Does the process include any career planning? Short term, long term, both?
  - (7) Are there any "benchmark" special appraisals; e.g., career review at 5, 10, 15 years?
  - (8) Does the company monitor appraisal results for EEO? If so, how? What have been the results?
  - (9) Are raises (bonuses, promotions) based on appraisals? If so, what is the relationship?
- (i) Sample Analysis:
- (1) If a numeric system, in whole or in part, what is the average appraisal result by sex and minority group at the level just below where minority/ female representation declines?  
  
If the appraisal results are substantially lower for women or minorities, did the contractor's EEO audit show any reasons?  
  
If not, is the disparity traceable to certain functional areas?
  - (2) If a narrative system, in whole or in part, is there a difference in tone; e.g., level of contribution to the company, discussion of potential, between appraisals of minorities and nonminorities or of men and women?

**5105 VISIBILITY**

- (a) General: An element in advancement can be the amount and type of exposure to senior corporate management through assignment to special projects/task forces, corporate committees, or through appointment to special assistant/ executive assistant type positions.



(b) Special Projects/Task Forces:

- (1) Discussion: There is considerable variation in the degree to which corporations use special project/task force teams.

For some companies, use of interdisciplinary teams is their normal operating procedure. Persons may be functionally assigned to a department, but their work is performed on particular projects that serve as cost centers. Some projects may be more desirable than others in terms of opportunities for skills development, visibility, etc. Distinguishing this from outside, however, is difficult. Employee interviews can be valuable in this area, as can any group award program maintained by the contractor which, ex post facto, may reflect projects that were particularly desirable. See Section 5J06 below.

On the other hand, in more traditional management structures, special projects or task forces may be the exception, and data on participants by race/sex easier to obtain and analyze.

(2) Sample Questions:

- (i) Does the company make much use of special project teams and/or task forces?
- (ii) If so, in what areas of the business? How are people chosen?
- (iii) What project teams/task forces are currently operating?
- (iv) Does anyone monitor EEO in selections for such teams/task forces? What is the race/sex composition of each?

- (3) Sample Analysis: Compare the race/sex composition of special project teams/task forces with the race/sex composition of the jobs/functional areas from which members were or reasonably could be drawn.

(c) Corporate Committees:

- (1) Discussion: Most Boards of Directors appoint some standing committees (other than committees composed exclusively of Board members).



In many cases, these committees may simply reflect functions; e.g., all establishment Personnel Managers, all Manufacturing Managers. While the composition of such committees is useful in knowing the race/sex composition corporate-wide of such positions, the committee itself is essentially non-discretionary.

Other special purpose committees, however, may draw from a wider range of positions and levels within the corporation. Serving on such committees may provide members an opportunity to become known to top corporate officials, to network and/or establish mentoring relationships with other members, to broaden their knowledge of how the corporation functions, etc. Since such memberships, therefore, can represent a career-enhancing opportunity, minority and female participation should be examined.

(2) Sample Questions:

- (i) How many standing committees are there in the corporation? What is the title and purpose of each?
- (ii) For each, who appoints the members? Who heads it? Who is on it by race/sex?
- (iii) Where membership is discretionary (vs. by function), does anyone audit for EEO?

(3) Sample Analysis: Compare the membership of functional standing committees with those eligible for such membership. Compare the membership of discretionary committees with those eligible for such membership.

(d) Special Assistants/Executive Assistants:

(1) Discussion: Persons holding such positions, particularly ones reporting directly to senior corporate management, may be on a "fast-track" to mid-management positions. While titles may vary, if, for example, in an organizational unit containing a corporate officer there are one or more lower-level Exempt staff members in "general" titles, they may be fulfilling a special assistant/executive assistant function.

(2) Sample Questions:

- (i) Does the company have any Special Assistant/Executive Assistant type of positions?



- (ii) If so, in what functional areas? How are they filled?
  - (iii) How long does the incumbent usually stay in such a position; e.g., does the job tend to be rotational? What is his/her likely subsequent type of assignment?
  - (iv) What is the race/sex of those holding such jobs now? In the past two years?
  - (v) Where are past incumbents now? If minorities/women have held such positions in the past, has their subsequent progress been comparable to that of nonminorities/men who have held such positions?
- (3) Sample Analyses: Review the workforce analysis for any special assistant/executive assistant type of positions, including any Exempt positions with "general" titles on the staff of corporate officers. Note that if such titles are non-Exempt, or relatively low-level Exempt, the incumbents are likely to be in support staff rather than "fast track" positions.
- (e) Assignments in Particular Industries/Lines of Work:
- (1) Discussion: There are a number of occupations in which a number of persons may share the same or very similar titles and yet differ substantially in the career growth potential offered by their assignments. For example:
    - (i) Newspapers, Magazines, TV/Radio: For reporters and writers, the type of territory, both geographic and news area (e.g., city vs. national; business vs. politics vs. style) and story assignments received are important to advancement.
    - (ii) Ad Agencies: For account managers, the dollar volume and growth potential of accounts managed are important to advancement.
    - (iii) Marketing Departments: The sales volume (actual and potential) of the product line(s) managed is important to advancement.
    - (iv) Sales Departments: Both territory and product matter. Some product lines may offer higher commission potential than others. Some territories may have been worked extensively, and thus offer primarily opportunities for renewal or upgrade of orders. Others may be relatively unworked and thus offer much opportunity for new business.



- (2) Sample Questions: In any industry, what assignments are particularly desirable or undesirable for advancement is very difficult to determine from outside. Employee interviews in which that question is raised are usually the most reliable source of this type of information.
- (3) Sample Analysis: If the industry is one in which there are fairly clear distinctions between favorable and less favorable assignments, are minorities/women under-represented in the former and concentrated in the latter?

### ***5106 TRAINING***

A corporate management review should cover both management training and executive development programs.

- (a) Management Training: If the company offers any management training, determine:
  - (1) Is it offered in-house, offsite, or both?
  - (2) Of what does it consist; e.g., single course, series of courses?
  - (3) Who is eligible; e.g., only current managers or also those viewed as potential managers? If the latter, how are they identified?
  - (4) Is the training a requirement for a management position? Have any persons been placed directly into management without such training? If so, race/sex.
  - (5) How does one learn of the training? How is one selected for it?
  - (6) Who monitors participation in training to ensure EEO?
  - (7) What is the race/sex composition of persons participating over the last year (or review period)?
  - (8) How does that compare with the race/sex composition of those eligible?



- (9) If there is a substantial difference between the proportion of minorities/women eligible and those participating, what cause was found?
- (10) Does the training include any segments on EEO, diversity management? Up to what level managers attend?
- (b) Executive Development: Executive development programs are typically off-site and of a month or more duration. They represent a substantial investment by the company in the development of persons viewed as potential senior executives. These programs may vary both in length and in the prestige of the program (often correlated with the prestige of the university offering them). It is therefore relevant to look at participants by specific program.

Because the number of participants is typically small, it may be most useful to look at who has participated at some point in their career rather than only who has participated during the review period. Specifically:

- (1) What level manager is eligible? Are there any exceptions; e.g., what was the lowest level manager (when he/she participated) who has participated?
- (2) How are persons selected for executive development programs?
- (3) Among managers at the eligible level, who has been sent by race/sex? If minorities/women have been sent, was it to programs comparable (school, duration, etc.) to those attended by their peers?
- (4) If minorities/women have not yet been sent, are there plans to do so? Was their predecessor sent? At what point in his/her career? To what program?

### ***5107 MENTORING AND NETWORKING***

Relationships within the work place are usually a key component of advancement. Those relationships may be with higher level managers and/or with peers.

- (a) Mentoring: Most senior managers report having had mentors, at some point in their career, who served as role models, translators of corporate culture and/or advocates. At some companies, the mentoring role is formalized. For example, in some "fast-track" programs, a person has to be sponsored by a manager who will essentially "coach" him or her, and share the responsibility for



his/her success or failure. In the vast majority of cases, however, mentoring is informal, and may be initiated by either the potential mentor or "mentoree."

Ask whether the company has any formal mentoring program, and if so, obtain a description of it, who participates, how persons are matched with a mentor, etc.

- (b) **Networking:** As used here, networking is the establishment of contacts, beyond one's immediate work setting (e.g., in other departments; in other corporations), that confer a business benefit.
- (1) **Formal:** Some corporations have a management club that provides a formal opportunity for managers at a given level to network across division and often establishment lines. If the corporation has such a club, determine the level of manager eligible to join, and ensure that any minority or female managers at that level or above are offered membership on the same basis as their peers. Other networking opportunities may be found in outside professional associations and/or social clubs. Where the corporation supports membership in such outside organizations; e.g., by subsidizing membership fees, ensure that eligible minority/ female managers receive such support on the same basis as their peers.
- (2) **Informal:** Informal networking is largely a matter of peer level interaction particularly across establishment and/or functional lines. Where a company does not formally disseminate information on job openings or does so only up to a certain level, networking may be the prime source of information about job openings, particularly those at other establishments. Also, contacts established over time can be important in accomplishing work projects involving other departments or establishments.
- (c) While informal mentoring and networking are largely a matter of employee initiative, a company can affirmatively encourage the development of such contacts among groups not currently well-represented in management jobs by, for example, sponsoring meetings and/or establishing committees that bring together group members from different functions, establishments, and/or management levels.

## **5J RETENTION**

### **5J00 GENERAL**



A major way a company retains key personnel at all levels of its workforce is by paying a competitive salary for the type of work involved and offering benefits at least comparable to those offered by other companies in its industry. Companies may additionally have honor and award systems to recognize, reward and thereby encourage high performance.

### ***5J01 OVERVIEW OF TOTAL COMPENSATION PACKAGES***

- (a) As management level increases, the more likely it is that total compensation goes well beyond the base salary typically reflected in a workforce analysis, and that benefits go well beyond what is standard for all company employees. At higher management levels:
  - (1) Base salary is often supplemented (or exceeded, in the case of top executives) by other forms of compensation such as cash bonuses, stock awards, stock options, etc. (see Sections 5J02, 5J03, and 5J04 below); and
  - (2) Standard benefits are usually supplemented by what are often referred to as perquisites or "perks." Perquisites may include such items as company cars, financial counseling, medical exams, etc. (see Section 5J05 below).
- (b) As in any other salary analysis, the objective is to ensure that eligible minorities and women receive any such additional forms of compensation/benefits to the same extent and under the same standards as do their similarly situated peers.
- (c) The first inquiry concerning each such form of compensation is at what level persons become eligible to receive it and whether any exception has been made for persons below the specified level.

Generally speaking, if there are no minorities or women (current or terminated within the review period) at the level eligible for a particular form of compensation/benefit, OFCCP will seek information on recipients only where it is relevant. For example, such information may be needed to confirm that all recipients were at the stated level, or to develop remedy where OFCCP identifies a person(s) who, absent discrimination, would have received the form of compensation/benefit involved.

- (d) Upper level management compensation and benefits are normally specialized and closely held functions within a corporation; e.g., persons in other personnel areas may not have access to the information. It thus is usually necessary to directly interview the person(s) in charge of





compensation and benefits at the corporate level and/or occasionally the secretary of the corporation. Therefore, in discussing cash bonuses, stock awards and stock options, determine who maintains the data.

### **5J02 BONUSES, GENERAL**

- (a) Discussion: Bonuses are an addition to base salary, usually granted in cash, but sometimes in stock or in some combination of cash and stock. Bonuses are most often distributed annually, usually soon after the end of a corporation's fiscal year and/or performance appraisal cycle.

In a multi-establishment corporation, it is fairly typical for the bonus "pot" to be allocated (often by a committee of the Board of Directors) to component business groups in some proportion to their contribution to corporate profitability over the bonus period. Those business groups, in turn, may similarly allocate their bonus "pot" to their component establishments. Bonuses thus provide an incentive for managers to improve profitability. This incentive tends to increase as a larger proportion of a manager's compensation comes from bonuses rather than from base salary or other forms of compensation.

Section 5J03 below addresses cash bonuses. Section 5J04 below addresses stock.

- (b) Sample Questions: Are bonuses granted? In what form? Cash? Stock? Both?

Depending on the answers, see Section 5J03 and/or 5J04(a) below.

### **5J03 CASH BONUSES**

Cash bonuses are most often expressed as a percentage of base salary.

- (a) Sample Questions:
- (1) At what level (salary grade) are employees eligible for cash bonuses? Have any such bonuses been granted to persons below that level?
  - (2) In allocating cash bonuses, what is the role of corporate headquarters? Of any intermediate headquarters? Of lower-level establishments?



- (3) Among those eligible, what standard is used to determine whether a person receives a cash bonus? Who makes that determination (recommends? reviews?)?
- (4) What standard is used to determine the amount of a cash bonus? Who makes that determination (recommends? reviews?)?
- (5) Who monitors for EEO in allocation of cash bonuses?
- (6) In the last bonus cycle:
  - (i) What proportion of those eligible, by race/sex, received a cash bonus?  
  
Where the proportion of eligible minorities/women receiving such bonuses was lower than that of eligible nonminorities/men, what did the company EEO audit show as the reason?
  - (ii) What was the average cash bonus by race/sex (as applicable, this may be expressed as the average percentage of base salary)?  
  
Where the average cash bonus received by minorities/women was lower than that received by nonminorities/men, what did the company EEO audit show as the reason?
- (b) Sample Analysis: Particularly where the number of minorities or women eligible for cash bonuses is small, averages may not be helpful. Instead, take whatever standard was offered for determining the amount of bonus, identify cohorts (i.e., for each minority/woman, identify nonminorities/men who, under the stated standard, should have received comparable bonuses), and obtain and compare cash bonus amounts.

#### **5J04 STOCK**

Company stock plans can provide a particularly strong incentive to improve company performance, since such improved performance usually increases the stock's share price and thus the value of any given number of shares of company stock held.



Company stock is sometimes used as a bonus (see (a) below), but most often, via vesting, is used as a way to retain key employees or to provide an incentive for a given action (see (b) below). The company also may offer employees the option to purchase company stock on favorable terms (see (c) below).

(a) Stock Awards - One-time Bonuses:

(1) Discussion: As noted in Section 5J02 above, bonuses are occasionally paid, in whole or in part, in company stock. This may be an out-right grant, usually annual, of a certain number of shares of stock at the market value at the time of the grant. More often, however, a stock award is vested over a number of years (see (b) immediately below).

(2) Sample Questions: The same as that under Cash Bonuses (Section 5J03(a)) above, but substitute stock for cash. For comparison of the amount of stock received, the stock's value may be expressed as:

- (i) The number of shares received (but only if all comparitors were granted the stock on the same date(s)), or
- (ii) The cash value of those shares; e.g., the number of shares received multiplied by the market price of one share on the date the stock was granted.

(3) Sample Analysis: See Section 5J03 (b) above.

(b) Stock Awards - Vested:

(1) Discussion:

- (i) A stock award is vested when a person, instead of immediately receiving a given number of shares, receives those shares after a given number of years (the "vesting period"). For example, a person may be awarded 300 shares of stock, with 100 shares received immediately, and the remaining 200 to be received at the end of three years. The most common vesting period is, as in this example, three years. The vesting period rarely exceeds five years.

Such vested stock awards provide an incentive for the recipient to remain with the corporation, since he/she will not receive any remaining stock due if he/she terminates.



- (ii) Vesting may also be for a specific limited purpose. For example, a stock award may be conditional on an employee action, such as completing a particular project by a given date. In this type of case, the stock would be "awarded" but would only be received if (and when) the date was met.
- (2) Sample Questions:
  - (i) Does the company award vested stock? For what purposes? Is such an award often conditional on an employee action?
  - (ii) At what level is an employee eligible for vested stock? Have there been any exceptions for persons below that level?
  - (iii) For what reasons are such stock awards given? How is the number of shares a person receives determined? Who recommends? Who reviews? Does anyone review for EEO?
  - (iv) Over the company's last fiscal year:
    - a) Who, by race/sex (and, as applicable, reason and/or level) received vested stock?  
  
Where the proportion of eligible minorities/ women receiving such stock was lower than that of nonminorities/men, what did the company EEO audit show as the reason?
    - b) What was the average number of shares of vested stock received by race/sex?  
  
Where the average number of shares received by minorities/women was lower than the average of those received by nonminorities/men, what did the company EEO audit show as the reason?
- (3) Sample Analysis: Where vested stock was awarded to keep nonminority/ male key persons with the company, review data on terminations (see Sections 5E01 and 5K) to determine if there were any minorities/women in similar positions who left the company around the same time. If so, determine whether they received vested stock or, if not, whether they should have under the company's criteria for receiving such stock.



(c) Stock Options<sup>2</sup>:

- (1) Discussion: Stock options offer the ability to choose to buy or not to buy a given number of shares of stock at a specified price (usually the market price at the time the option is granted) within a specified period of time.

For example, an employee is offered an option to buy 100 shares of company stock at \$30 a share (its current market price) at any time within the next five years. If the stock goes down, the employee simply does not exercise the option to buy. If it goes up, however, say to \$50 a share, and the employee buys, he/she has an immediate profit of \$20 a share or \$2,000.

(2) Sample Questions:

- (i) Does the company offer stock options? If so, who is eligible? Any exceptions?
- (ii) What standard is applied to determine who receives stock options, and in what amount? Who makes these recommendations? Who approves? Does anyone monitor for EEO?
- (iii) Over the company's last fiscal year:
- a) Who, by race/sex, received stock options?
- b) Where the proportion of eligible minorities/ women receiving stock options was lower than that of nonminorities/men, what did the company EEO audit show as the reason?
- c) What was the average number of stock option shares awarded by race/sex?

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<sup>2</sup> Some companies have stock purchase plans under which employees (sometimes all) can set aside a portion (usually a percentage) of their salary to buy stock on favorable terms. Such plans may be similar in some respects to stock options. However, stock options as discussed here are normally in addition to any such "all employee" plan and generally have more favorable terms (more shares, longer time to exercise, etc.)



Where the average number of shares were lower for minorities/women than for others, what did the company EEO audit show as the reason?

- (d) Special Remedial Considerations: When there is a finding of discrimination in the awarding of stock or stock options, there are some special considerations to be applied to remedy. See Appendix 5B.

### **5J05 PERQUISITES**

- (a) Perquisites, or "perks," are privileges that may be conferred upon persons when they reach a certain management level. "Perks" generally are benefits that have cash value (e.g., a company car), that save time (e.g., tax preparation), offer a convenience (e.g., use of company plane), and/or protection (e.g., paid medical exams). Some of the more common perquisites are:
- (1) Expense Accounts
  - (2) Company Cars
  - (3) Paid Parking
  - (4) Medical Exams
  - (5) Financial Counselling
  - (6) Tax Preparation
  - (7) Housing Expenses
  - (8) Low Cost Loans
- (b) As with other compensation elements, determine:
- (1) Whether the company offers a given "perk;"
  - (2) If so, who is eligible to receive it (and whether exceptions are ever made);  
and
  - (3) If minorities/women are at the level eligible, whether they are receiving the "perk" to the same extent as their peers.

### **5J06 RECOGNITION - AWARDS/HONORS**

#### DISCUSSION

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Companies may offer any number of incentive awards or honors, with or without accompanying money. Most often these are for meritorious achievement--whether individually or as part of a team--on a particular project at any point during a year.

They also, however, can be for superior performance generally, and be granted in conjunction with an annual performance appraisal. In the latter case, when persons have reached the top of the salary range for their jobs, cash awards may be used instead of a permanent increase to base salary to reward high performance.

#### SAMPLE QUESTIONS AND/OR ANALYSES

- (a) Sample Questions: After establishing whether the company has any awards/ honors programs, for each such program, determine:
- (1) Who is eligible to receive the award/honor?
  - (2) What standard is used to determine who receives it? Who recommends? Who reviews?
  - (3) If the award/honor is accompanied by money, and the amount of money varies:
    - (i) What standard is used to determine how much money is awarded?
    - (ii) Who recommends the amount to be awarded?
    - (iii) Who reviews the amount to be awarded?
  - (4) Is the honor/award primarily given to individuals or to groups (project teams, committees, etc.)?
  - (5) Who monitors the awards/honors for EEO?
  - (6) Over the company's last fiscal year:
    - (i) Who, by race/sex and reason, received the award/honor?
    - (ii) Where the proportion of eligible minorities/women receiving the honor/award was lower than that of nonminorities/men, what did company EEO audit show as the reason?



Were there any minorities/women recommended for the award/ honor who did not receive it?

In a group award:

- a) Were there any minority/female members of the group who were not included in the award? If so, why? Were they recommended?
- b) If not, were there any minorities/women who could have performed on the project?
- (iii) If the award was accompanied by money, and the amount of money varied, what was the average amount received by race/sex?

Where the average amount was lower for minorities/ women than for others, what did the company EEO audit show as the reason?

Were there any minorities/women who were recommended for a larger award than they received? If so, why was it lowered? By whom?

## **5K TERMINATIONS**

- (a) Discussion: In general, the higher the job level, the less likely a person is to be recorded as an involuntary termination, regardless of the circumstances surrounding his/her departure. Above a certain management level, if a company determines that a person is not working out, he/she is usually offered the opportunity to resign. Most of the time, therefore, mid- and senior-management terminations will all be recorded as voluntary.

Many terminations, of course, will be genuinely voluntary, some for reasons such as "better job opportunity," "to open own business," etc. Such departures, however, may have been influenced by any number of factors--such as a perception of lack of advancement prospects--that may or may not have EEO implications.

As a general rule, however, look at any involuntary terminations of minority/ female managers, and at least a sample of voluntary ones (see (c) and (d) immediately below).





- (b) Sample Questions:
- (1) Are terminations monitored for EEO? By whom?
  - (2) Does the company conduct exit interviews?
  - (3) Where terminations among minority/female managers are disproportionate, what did the company EEO audit show as the reason?
  - (4) Were any of the terminations of women for maternity related reasons? Is the company's maternity leave policy acceptable (see Section 3G01(h)(1) and (2))?
- (c) Sample Analysis: Look at the distribution of terminations by function/ department to identify areas with disproportionate minority/female terminations (both voluntary and involuntary). Are any such functions/departments ones identified earlier when examining promotions (see Section 5I03(b)(3) on areas with promotions, minorities/women in the feeder pool, but not promoted, etc.)?
- (d) Interviews: Based on the distribution of minority/female promotions, reasons given for terminating and exit inter-view/files review, it is desirable to select some minorities/women who terminated to contact and interview offsite.

## **5L REVIEW COMPLETION**

### ***5L00 EXIT CONFERENCE***

In a corporate management review, an exit conference will be conducted by the Regional Director/Deputy Regional Director with top corporate officials (including those involved in the initial onsite meeting, see Section 5G00):

- (a) To present and discuss any violation findings and required remedies to be incorporated in a Notice of Violations (see Section 3T).<sup>3</sup>

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<sup>3</sup> However, as in any other review, where there is a finding of a pattern and practice of discrimination, a Predetermination Notice is sent. See Section 3P.



The standards for violations and remedies (see particularly Chapter 7), and for whether to use a LOC or CA (see Chapter 8) are the same as for any other review.

- (b) To identify and discuss any particularly creative and/or innovative good-faith efforts the corporation has made to ensure equal opportunity for minorities and women to advance to mid and senior level corporate management positions.

### ***5L01 REPORT WRITING***

As noted in Section 5A03, a corporate management review includes all elements of a standard compliance review, but with a special emphasis on the issues discussed in this Chapter. The SCRR (SCRR, see Appendix 2A), therefore, will be completed, but will be supplemented by a concise narrative addressing the major topical areas listed in Appendix 5C.

### ***5L02 NOTICE OF REVIEW COMPLETION***

As in any other review, the corporation is sent a notice of review completion, using Figure 3-5 if no violations were found, Figure 8-15 if violations were resolved in a LOC, and Figure 8-13 or 8-14 (depending on whether a Show-Cause Notice was issued) if violations were resolved in a CA.



## FIGURES

### ***FIGURE 5-1: REQUEST FOR LITERATURE SEARCH***

Reference Librarian  
U.S. Department of Labor Library  
200 Constitution Avenue, N.W.  
Room N-2445  
Washington, D.C. 20210

Dear Reference Librarian:

We are writing to request a literature search on the following corporation(s):

(name and address of corporate headquarters)

This search should include at least the following publications:

1. America's Corporate Families
2. Directory of Corporate Affiliations
3. Hoover's Handbook
4. International Directory of Company Histories
5. Moody's Industrial Manual
6. Reference Book of Corporate Managements - America's Corporate Leaders
7. Standard and Poor's Register

Please also include a list of articles published about this corporation over the last two years in The Wall Street Journal and the following periodicals:

1. - "Business Week"
2. - "Forbes"
3. - "Fortune"
4. - "The Daily Labor Report"

We would appreciate receiving this material within two weeks of your receipt of this letter. Please contact (name, phone) if you have any questions.



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Thank you very much for your assistance.

Sincerely,

Regional/District Director



***FIGURE 5-2: REQUEST TO SECURITIES AND EXCHANGE COMMISSION FOR "FORM 10-K" REPORTS\****

Chief, Records Management  
Securities and Exchange Commission  
6441 D  
General Greenway Drive  
Alexandria, VA 22003

Dear Madam/Sir:

This is to request a microfiche copy of the current and immediately preceding Form 10-K Report submitted to the SEC by the following corporation:

(Name of Corporation)  
(Corporate Headquarters City, State)

These reports will be used by the U.S. Department of Labor, Employment Standards Administration, Office of Federal Contract Compliance Programs (OFCCP), in conjunction with other company related data, to conduct a Federal contract compliance review under OFCCP regulations in 41 CFR Chapter 60.

Your assistance to ensure that I receive these reports within the next two weeks is appreciated. If you desire additional information, please contact me at (telephone number).

Thank you in advance for your cooperation.

Sincerely,

Regional/District Director

---

\*To expedite this request, it may be faxed to SEC at 202-504-2699. The telephone number is 202-942-7850.

**NOTE: ADDRESS AND PHONE REVISED/CONFIRMED 10/22/98**



***FIGURE 5-3: REQUEST FOR EEO-1, CRIS AND CAS REPORTS***

MEMORANDUM FOR DIRECTOR

Division of Program Operations  
OFCCP National Office

FROM: (Name)

(Regional/District Director)  
(City, State)

SUBJECT: Request for EEO25 (EEO-1 Extract), CRIS and CAS Reports on Contractor  
Scheduled for a Corporate Management Review

We have scheduled the following contractor for a corporate management compliance review:

(Name of Corporation)  
(Corporate Headquarters City, State)

Corporate CO #: ( \* )

To prepare for that review, we request:

- (1) This contractor's latest and immediately preceding EEO-1 filing. Each such filing should include Status 2, 3 and 4 reports.
- (2) A CRIS and CAS run of compliance reviews and complaint investigations, respectively, conducted of this corporation's establishments nationally over the last two years.

We expect to receive this contractor's AAP and support data in approximately 30 days. To prepare for desk audit of that material, we would appreciate receiving these reports within the next 30 days.

Please contact (name, phone) if you have questions. Thank you very much for your assistance.

---

\*On the Equal Employment Data System (EEDS) microfiche, the six-digit number that appears beside "CO" at the top of the EEO-1 filing for the corporation or any of its establishments.



**APPENDICES**

***APPENDIX 5A: SAMPLE CORPORATE BACKGROUND MATERIALS***

The sample listings in this Appendix are reproduced with the permission of the publishers. The particular company listings were chosen randomly.

1. Hoover's Handbook .....5A-2  
Published by The Reference Press
2. International Directory of Company Histories.....5A-4  
Published by St. James Press
3. Moody's Industrial Manual .....5A-7  
Published by Moody's Investors Service,  
A Dun and Bradstreet Company
4. Reference Book of Corporate Managements -  
America's Corporate Leaders.....5A-9  
Published by Dun and Bradstreet  
Marketing Services

***HOOVER'S HANDBOOK - GUIDE***

[Not on disk. See guide at front of Handbook.]



***HOOVER'S HANDBOOK - SAMPLE LISTING***

[Not on disk. Sample is for Borden, Inc.]





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***INTERNATIONAL DIRECTORY OF COMPANY HISTORIES - SAMPLE LISTING***

[Not on disk. Sample is for Zenith Electronics Corp.]



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[Not on disk. Sample is p. 2 of Zenith listing.]

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[Not on disk. Sample is p. 3 of Zenith listing.]

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***MOODY'S INDUSTRIAL MANUAL - SAMPLE LISTING\****

[Not on disk. Sample is for Minnesota,  
Mining & Manufacturing Co.]

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\*This sample is from the "standard coverage" section. There are several other sections that provide more detail.

[Not on disk. Sample is **p. 2** of Minnesota,  
Mining & Manufacturing Co. listing.]

Page 2 of Moody's Industrial Manual



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***REFERENCE BOOK OF CORPORATE MANAGERMENTS - AMERICA'S CORPORATE  
LEADERS - SAMPLE LISTING***

[Not on disk. Sample is for Abbott Labs.]



## APPENDIX 5B: SPECIAL REMEDIAL CONSIDERATIONS APPLICABLE TO STOCK

(Reference Section 5J04(d))

When there is a finding of discrimination in the awarding of stock or stock options, the following considerations apply to remedy.

### ***I. STOCK AWARDS - VESTED***

When the discrimination was in the awarding of vested stock, and the vesting date has not yet occurred, the discriminatee is simply awarded the number of shares he or she would have received, absent discrimination, on the vesting date.

Example: Absent discrimination, on June 1, 1989, the victim would have received 100 shares of stock with a vesting period of three years. The remedy would be awarding the victim 100 shares of stock on June 1, 1992.

Where the vesting date has past, remedy will be calculated as indicated in II immediately below, with the vesting date considered the date the victim would have received the stock, absent discrimination.

### ***II. STOCK AWARDS - ONE-TIME BONUS***

(a) Shares of Stock:

- (1) Establish the number of shares (or additional number of shares) the discriminatee would have received absent discrimination and the date(s) he/she would have received them.
- (2) Find the dollar value of that number of shares as of the date, absent discrimination, the discriminatee would have received them, and the current dollar value. Take the higher of the two figures, expressed as the number of current shares.



Example: Absent discrimination, the discriminatee would have received 100 additional shares of stock. On the date he/she should have received the stock, the share price was \$20, for a total dollar value of \$2,000.

Scenario a: The stock has gone down to \$10 a share, so the 100 shares are now worth only \$1,000. The discriminatee should receive \$2,000 worth of stock at the current price; i.e., 200 shares of stock.

Scenario b: The stock has gone up to \$30 per share, so the 100 shares are now worth \$3,000. The discriminatee should receive 100 shares at the current price.

(b) Dividends:

- (1) Determine the dollar amount of stock dividends (or additional stock dividends) the discriminatee would have received, absent discrimination, and add simple interest (see Appendix 7A).

Example: Determine the dollar amount of dividends that would have been paid on the 100 shares of stock from the date the discriminatee should have received the stock to present, and add simple interest.

### ***III. STOCK OPTIONS***



## APPENDIX 5C: CORPORATE MANAGEMENT REVIEW SUPPLEMENTARY NARRATIVE REPORT

(Reference Section 5L01)

In a corporate management review, the standard review report will be supplemented by a narrative addressing the following major items (see Section number(s) indicated for discussion of each item):

- (a) Introduction: Corporate background, structure, observations concerning corporate culture, and values (5B07, 5B08, 5G05)
- (b) Corporate AAP: What positions at lower-level establishments are rolled-up into the Corporate AAP? Does this meet the intent of Section 2C05?
- (c) Scope: Did the review cover only corporate headquarters or was it extended to cover one or more intermediate headquarters or lower-level establishments? (5A04, 5I02(a))
- (d) Focus Level and Areas: Describe the company's pay and management structure. At what pay level does the representation of minorities/women decline? Are minorities/women concentrated in certain functional areas? Are those areas staff or line? (5D00, 5D01)
- (e) Good-Faith Effort: To what extent does the company already have in place programs designed to ensure equal employment opportunity in access to mid- and senior-level corporate management positions? Describe any such programs and what results they have yielded to date.
- (f) Jobs Filled at and above the Focus Level: During the review period, what jobs have been filled around the level where minority/female participation declines? How were they filled (hire, promotion, transfer)? (5G07)
  - (1) External Hires: If there were some hires, how were candidates located? If executive search firms were used, were minorities/women among those referred? Hired? If employee referrals were used, were minorities/ women among those referred? Hired? (5H) In either case, were any efforts made to expand the candidate pool?
  - (2) Internal Development - General: Where jobs were filled internally, were most by promotion? By transfer? Were most of these openings filled from within corporate





- headquarters or by movement into corporate from lower-level establishments? (5I02, 5I03)
- (g) Internal Development - Specific Programs: In each of the areas below, does the company have the program and, if so, describe it and discuss conclusions with respect to minority/female participation.
- (1) Succession and Related Planning (5I00)
  - (2) Performance Appraisals (5I04)
  - (3) Visibility (5I05):
    - (i) Special Projects/Task Forces
    - (ii) Committees
    - (iii) Special Assistants/Executive Assistants
  - (4) Management Training and Executive Development Programs (5I06)
  - (5) Mentoring and Networking (5I07)
- (h) Total Compensation
- (1) Bonuses (5J02, 5J03, 5J04(a))
  - (2) Stock (5J04)
  - (3) Perquisites (5J05)
  - (4) Award/Honor Programs (5J06)
- (i) Terminations (5K)
- (j) Conclusions: What reason(s) were found for minorities/women not having yet moved in any numbers beyond the grade/level they have?
- (k) Resolution: What commitments (whether remedial or improved good-faith efforts) has the corporation made to ensure that minorities/women have an equal opportunity to advance to mid- and senior level corporate management positions?

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