



Notice on OFCCP's Use of Census 2000 Special EEO File For Determining Reasonableness of Availability Determinations

The Office of Federal Contract Compliance Programs (OFCCP) requires covered federal contractors and subcontractors to prepare and maintain affirmative action programs. *See* 41 CFR 60-2.1. OFCCP regulations also specify the details of the requirements for these affirmative action programs. *See* 41 CFR 60-2.10 through 2.17.

One of the requirements of an affirmative action program is determining availability of qualified minorities or women for job openings. Availability is defined as "an estimate of the number of qualified minorities or women available for employment in a given job group, expressed as a percentage of all qualified persons available for employment in the job group." 41 CFR 60-2.14 (a). "The purpose of the availability determination is to establish a benchmark against which the demographic composition of the contractor's incumbent workforce can be compared in order to determine whether barriers to equal employment opportunity may exist within particular job groups." *Id.* Job groups are groupings of "jobs at the establishment with similar content, wage rates, and opportunities." 41 CFR 60-2.12(b). "Similarity of content refers to the duties and responsibilities of the job titles which make up the job group. Similarity of opportunities refers to training, transfers, promotions, pay, mobility, and other career enhancement opportunities offered by the jobs within the job group." *Id.*

OFCCP regulations further require that "[t]he contractor must use the most current and discrete statistical information available to derive availability figures." 41 CFR 60-2.14 (d). "Examples of such information include census data, data from local job service offices, and data from colleges or other training institutions." *Id.*

Contractors frequently use U.S. Census Bureau data to determine availability and OFCCP relies on Census data to assess whether a contractor's availability determination is reasonable. Because OFCCP uses Census data it is part of a Federal Consortium consisting of the Equal Employment Opportunity Commission (EEOC), the Department of Justice, and the Office of Personnel Management that entered into a reimbursable agreement with the Census Bureau to construct the Census 2000 Special EEO File according to specifications developed by the Consortium. The Census 2000 Special EEO File was released to the public on December 29, 2003. This data file, which contains information on 472 occupations, is similar to comparable files from the 1970, 1980 and 1990 censuses.

The Census 2000 Special EEO File data is available under the "Access to Data from the Special EEO Tabulation" link on the Census Bureau's website at www.census.gov/hhes/www/eoindex.html. Contractors who use the Special EEO File to

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determine availability may begin using data from the Census 2000 Special EEO File immediately. However, OFCCP recognizes that some contractors have already prepared their AAPs for 2004 based on earlier census data, which was the most current data available at the time they developed their AAPs. OFCCP will provide contractors using Special EEO File census data time to update their AAPs. OFCCP will expect all contractors who use census data to determine availability estimates to use data from the Census 2000 Special EEO file to complete their AAPs for 2005. OFCCP will begin to use data from the Census 2000 Special EEO File to assess the reasonableness of the contractor's availability determinations beginning with AAP years that commence on or after January 1, 2005.