

Northern California Industry Liaison Group



January 12, 2006

Hon. Charles E. James, Sr.
Deputy Assistant Secretary
Office of Federal Contract Compliance Programs
U.S. Department of Labor
Room C-3325
200 Constitution Avenue, NW
Washington, DC 20210

Honorable John D. Graham, PhD.
Administrator, Office of Information and Regulatory Affairs,
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Re: Request To Amend OFCCP's Final "Internet Applicant" Rule (70 Fed. Reg. 58949)

Dear Mr. James and Dr. Graham:

The Silicon Valley Industry Liaison Group (SVILG) and the Northern California Industry Liaison Group (NCILG) comprise two of the largest liaison groups in the country (over 450 members) and our members include many leading high-tech, bio-tech and other major employers in Northern California. Many are sophisticated and technology-savvy in their recruiting and selection processes. All have enviable records in regard to EEO/AA compliance.

For reasons set forth below, we respectfully ask OFCCP to delay implementation of the external record keeping portion its regulation 41 CFR 60-1.12, scheduled to become effective on February 6, 2006.

Simply stated, many of our members, separately and in combined gatherings, have analyzed ways to achieve compliance with the detailed and extensive record-keeping requirements as set forth in the Final Internet Applicant Regulation. Our members are unable to develop cost-effective solutions.

In addition, the NCILG and SVILG have grave concerns that the external database record keeping requirements may have an adverse unintended consequence: The internet search engines are likely to build this functionality into their systems, and by doing so, are likely to prevent recruiters from casting a wide net that previously included the websites of minority/women's organizations.

The external database search record-keeping requirement was not part of the proposed regulations published in the Federal Register in May of 2004. Government contractors had no opportunity to comment on the cost and difficulty of data storage this additional requirement would create before the regulations were issued in final form.

While we wholeheartedly support OFCCP's objective of finding and eliminating systemic discrimination, we ask that you reconsider the considerable expense required of contractors, especially because 1) race or gender data on the candidates will be incomplete or unavailable and 2) many of the candidates "captured" in such a search will either not meet the qualifications or not be interested in working at the company doing the search. In the preamble to CFR 60-1.12, OFCCP states its intent not to create a record-keeping burden. However, the regulations, as they are written, create an enormous record-keeping and data storage problem. Moreover, since these data may not contain information on race and gender, warehousing all of the searches would be pointless, since meaningful statistical analyses could not be performed on this data.

The following examples from Bay Area companies are typical responses we selected from information provided by our memberships:

- A company with 500 US employees estimates that complying with the regulations will take five additional hours per search (approximately 2000 additional hours per year for this small company with few hiring opportunities). The extra time per search would require they hire an additional recruiter at a cost of approximately \$80,000 per year plus equipment. All of the information would be kept in hard copy, requiring more file cabinets and space.
- A company with 2000 US employees and an average of 300 openings per month estimates an implementation cost of \$1,000,000 for technology storage, retrieval and hardware.
- A company with 8000 US employees estimates that it would need 10 new recruiters and two additional clerical employees. That would be 20,800 additional professional hours (\$100/hour) and 4160 clerical hours at \$30/hour. In addition to the costs of office space, there would be approximately \$80,000 additional budget for computer technology. Total costs: approximately \$2,300,000 the first year. Thereafter this company anticipates the use of new technology to reduce the amount of professional hours required internally to fulfill record-keeping requirements.
- A company with 9000 US employees that performs up to 1000 external searches per week believes that the additional time involved would be from 2.5 - 25 hours per external search at an additional cost of \$672,000 per year.
- A company with 15,000 US employees will have a system in place in 6 months, at a cost of \$500,000. They estimate that this will require about 5000 additional hours annually. As a result, a headcount would be necessary to manage that process: three high-level professionals at the cost of \$450,000 per year.

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- A company with 20,000 US employees has contracted with a full-time software programmer to implement the data storage requirements at a cost of approximately \$150,000. The company estimates it will take a year for the program to be fully implemented and operational. Their estimate did not include headcount, equipment or office space costs.

In the future, external job boards are likely to develop services to assist in this record-keeping burden, with the consequence that companies would be tied to narrower searches involving only those boards able to provide the lowest cost record-keeping services.

We believe that OFCCP's desire to undertake greater analyses of applicant data and potential discrimination cannot be reasonably and cost-effectively achieved by February 6, 2006.

Sincerely,



SVILG and NCILG

Linda Hutchinson Grossman
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