

§ 60-2.14

each job group established pursuant to § 60-2.12.

§ 60-2.14 Determining availability.

(a) Purpose: Availability is 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. 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.

(b) The contractor must separately determine the availability of minorities and women for each job group.

(c) In determining availability, the contractor must consider at least the following factors:

(1) The percentage of minorities or women with requisite skills in the reasonable recruitment area. The reasonable recruitment area is defined as the geographical area from which the contractor usually seeks or reasonably could seek workers to fill the positions in question.

(2) The percentage of minorities or women among those promotable, transferable, and trainable within the contractor's organization. Trainable refers to those employees within the contractor's organization who could, with appropriate training which the contractor is reasonably able to provide, become promotable or transferable during the AAP year.

(d) The contractor must use the most current and discrete statistical information available to derive availability figures. Examples of such information include census data, data from local job service offices, and data from colleges or other training institutions.

(e) The contractor may not draw its reasonable recruitment area in such a way as to have the effect of excluding minorities or women. For each job group, the reasonable recruitment area must be identified, with a brief explanation of the rationale for selection of that recruitment area.

(f) The contractor may not define the pool of promotable, transferable, and

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trainable employees in such a way as to have the effect of excluding minorities or women. For each job group, the pool of promotable, transferable, and trainable employees must be identified with a brief explanation of the rationale for the selection of that pool.

(g) Where a job group is composed of job titles with different availability rates, a composite availability figure for the job group must be calculated. The contractor must separately determine the availability for each job title within the job group and must determine the proportion of job group incumbents employed in each job title. The contractor must weight the availability for each job title by the proportion of job group incumbents employed in that job group. The sum of the weighted availability estimates for all job titles in the job group must be the composite availability for the job group.

§ 60-2.15 Comparing incumbency to availability.

(a) The contractor must compare the percentage of minorities and women in each job group determined pursuant to § 60-2.13 with the availability for those job groups determined pursuant to § 60-2.14.

(b) When the percentage of minorities or women employed in a particular job group is less than would reasonably be expected given their availability percentage in that particular job group, the contractor must establish a placement goal in accordance with § 60-2.16.

§ 60-2.16 Placement goals.

(a) Purpose: Placement goals serve as objectives or targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire affirmative action program work. Placement goals also are used to measure progress toward achieving equal employment opportunity.

(b) A contractor's determination under § 60-2.15 that a placement goal is required constitutes neither a finding nor an admission of discrimination.

(c) Where, pursuant to § 60-2.15, a contractor is required to establish a placement goal for a particular job group,

the contractor must establish a percentage annual placement goal at least equal to the availability figure derived for women or minorities, as appropriate, for that job group.

(d) The placement goal-setting process described above contemplates that contractors will, where required, establish a single goal for all minorities. In the event of a substantial disparity in the utilization of a particular minority group or in the utilization of men or women of a particular minority group, a contractor may be required to establish separate goals for those groups.

(e) In establishing placement goals, the following principles also apply:

(1) Placement goals may not be rigid and inflexible quotas, which must be met, nor are they to be considered as either a ceiling or a floor for the employment of particular groups. Quotas are expressly forbidden.

(2) In all employment decisions, the contractor must make selections in a nondiscriminatory manner. Placement goals do not provide the contractor with a justification to extend a preference to any individual, select an individual, or adversely affect an individual's employment status, on the basis of that person's race, color, religion, sex, or national origin.

(3) Placement goals do not create set-asides for specific groups, nor are they intended to achieve proportional representation or equal results.

(4) Placement goals may not be used to supersede merit selection principles. Affirmative action programs prescribed by the regulations in this part do not require a contractor to hire a person who lacks qualifications to perform the job successfully, or hire a less qualified person in preference to a more qualified one.

(f) A contractor extending a publicly announced preference for American Indians as is authorized in 41 CFR 60-1.5(a)(6) may reflect in its placement goals the permissive employment preference for American Indians living on or near an Indian reservation.

§ 60-2.17 Additional required elements of affirmative action programs.

In addition to the elements required by § 60-2.10 through § 60-2.16, an accept-

able affirmative action program must include the following:

(a) *Designation of responsibility.* The contractor must provide for the implementation of equal employment opportunity and the affirmative action program by assigning responsibility and accountability to an official of the organization. Depending upon the size of the contractor, this may be the official's sole responsibility. He or she must have the authority, resources, support of and access to top management to ensure the effective implementation of the affirmative action program.

(b) *Identification of problem areas.* The contractor must perform in-depth analyses of its total employment process to determine whether and where impediments to equal employment opportunity exist. At a minimum the contractor must evaluate:

(1) The workforce by organizational unit and job group to determine whether there are problems of minority or female utilization (*i.e.*, employment in the unit or group), or of minority or female distribution (*i.e.*, placement in the different jobs within the unit or group);

(2) Personnel activity (applicant flow, hires, terminations, promotions, and other personnel actions) to determine whether there are selection disparities;

(3) Compensation system(s) to determine whether there are gender-, race-, or ethnicity-based disparities;

(4) Selection, recruitment, referral, and other personnel procedures to determine whether they result in disparities in the employment or advancement of minorities or women; and

(5) Any other areas that might impact the success of the affirmative action program.

(c) *Action-oriented programs.* The contractor must develop and execute action-oriented programs designed to correct any problem areas identified pursuant to § 60-2.17(b) and to attain established goals and objectives. In order for these action-oriented programs to be effective, the contractor must ensure that they consist of more than following the same procedures which have previously produced inadequate results. Furthermore, a contractor must