Managing the Applicant Pool

A presentation of the
BCG Institute for Workforce Development (BCGi)
June 9, 2010

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Agenda

**OFCCP Observations and Insights**

**Definition of Internet Applicant and Record Keeping Obligations (a Review)**

**Applicant Tracking Issues and Recommendations**
OFCCP: Observations and Insights

- New OFCCP Appointee
  - Patricia Shiu – Director

- Budget Increase in 2010
  - $20M increase in budget
  - Employing 213 additional FTEs
OFCCP: Observations and Insights

• **OFCCP 2000-2009**
  o Dramatic reduction in enforcement personnel (788 FTEs-2000; 575 FTEs-2009)
  o 2009 Budget $83M
  o Neglected “classical” affirmative action principles (e.g., outreach, recruitment, underutilization)
  o Sole focus on identifying and addressing systemic disparities (i.e., primarily adverse impact in hiring)
  o All audits driven by statistics – OFCCP “went where the statistics took them”
    • Approximately $20M in “Make-Whole Relief” in 2000
    • Approximately $67M in “Make-Whole Relief” in 2009

Successful approach/focus on systemic disparities now mimicked by EEOC

• **OFCCP 2010+**
  o President Obama elected/enters office January 21, 2009
  o First law signed by President Obama – Lilly Ledbetter Equal Pay Act (January 29, 2009)
  o Clear message sent by Obama administration – Equal employment opportunity will be a major priority – and measurable results, not efforts, will be key

• OFCCP will begin enforcing **all** of its mandates
  o Systemic issues (e.g., adverse impact, compensation)
  o Individual claims of discrimination
  o Outreach/Recruitment
  o Section 503 of the Rehabilitation Act (persons with disabilities)
  o Vietnam Era Veterans Readjustment Assistance Act (VEVRAA)
  o Classical affirmative action principles (EO 11246)
OFCCP: Observations and Insights

• Major increases in funding/personnel
  • FY 2009: $83M (579 FTEs)
  • FY2010: $105M (788 FTEs)
  • FY2011: $113M (788 FTEs)
• Increased funding/personnel comes with significant expectations – increased enforcement and measurable increase in results

IMPORTANT: OFCCP must see measurable results and continued increases in “make-whole relief” in 2010+ to justify increased budget

OFCCP: Observations and Insights

“OFCCP intends to implement full scale, aggressive enforcement efforts in FY2011. This is a significant shift from the enforcement strategy utilized during the past several years, wherein OFCCP employed a case management system that decreased the number of full reviews the agency conducted. Additionally, the agency’s former enforcement strategy prioritized our statutory responsibility to enforce EO11246 and resulted in a decline of enforcement of other OFCCP laws and program areas, mainly affirmative action . . . Consequently, OFCCP will broaden its enforcement efforts and focus on identifying and resolving both individual and systemic discrimination . . . OFCCP’s new enforcement posture will dedicate resources to enforcing Section 503 of the Rehabilitation Act, VEVRAA, as well as EO11246.”

FY 2011 Congressional Budget Justification, OFCCP
OFCCP: Observations and Insights

• **Additional OFCCP Goals**
  
  o To resolve, at a minimum, 80 cases of discrimination in FY2010 (70% increase over the FY 2009 goal)
  
  o To increase the percentage of compliance evaluations that resolve compensation discrimination (2010 will be a baseline year for OFCCP to establish enforcement expectations for compensation investigations)
  
  o To increase the total number of compliance evaluations:
    
    - 4160: FY 2009
    - 5000 (expected): FY 2010
    - 5500 (expected): FY 2011
  
  o OFCCP will re-prioritize compensation and promotions cases along with entry-level hiring

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OFCCP: Observations and Insights

More aggressive compliance reviews. Requests for additional information is mounting.

• Proof of Outreach
• Compensation cohort analysis
• Accommodations provided
• Reasons for non-hire
• Previous year’s job group report
Key Websites:


Revisiting the Definition of Applicant
There are no record retention obligations at this stage.

Records must be retained for all applicants who are considered for a specific position.

Only individuals who meet all four “prongs” are applicants and will be included in the Personnel Transactions and Adverse Impact Analyses.

Definition of Applicant

1. Individual Submits Expression of Interest
2. Contractor Considers Individual for a Particular Position
3. Individual Possesses Basic Qualifications
4. Individual Does NOT Self-Eliminate Before Offer is Made

Individual is an Applicant

Applicant Tracking

Common Issues and Recommendations
1. Large Pool to Review

• **Issue**: The pool of job seekers is too large to review.

• **Recommendations**:
  - Employ Data Management Techniques
  - Establish a Search Protocol
  - Staggered Search for Basic Qualifications
1. Large Pool to Review

• Recommendations:

 1. Employ Data Management Techniques
     - Random Sampling – small subset of random
     - Absolute Numerical Limit – contractor reviews only pre-destined number of resumes
     - Give me the first 100 resumes
1. Large Pool to Review

2. Search Protocol (Example):

- Basic Qualification: B.S. in Engineering
- Location: Cleveland, OH
- Salary Requirement: $60,000/year
3. Staggered Search for BQ’s (Example):
   - Position: Emergency Room Nursing Supervisor
   - Basic Qualifications (must be pre-established):
     • B.S. in Nursing
     • State Registered Nurse
     • Bi-Lingual in English and Spanish
     • 3 years of emergency room nursing experience
     • 2 years of supervisory experience

IMPORTANT! All BQ’s must be pre-established
2. Applicant Tracking System (ATS) and Human Resources Information System (HRIS)

- **Issue:** Identifying the correct applicant pool for the hires
- ATS and HRIS are not talking to each other (i.e., no connection)

Mrs. ATS  Mr. HRIS

2. ATS and HRIS

- **Issue:** ATS and HRIS
  - Information differs from one system to another
    - Race/gender information
    - Location
    - Job title
    - Are there requisitions not filled?
  - Harder to identify the appropriate applicants to the hires
2. ATS and HRIS

- **Common Data Challenges (During an Audit)**
  - Hires are not in the applicant pool
  - Not enough applicants for the hires
    - Hires > Applicants
    - One to One Ratio
  - **BEWARE:** Total numbers could be deceiving
    - Number of applicants seem appropriate
    - Further review reveals that some hires are ACTUALLY not present in the applicant pool

2. ATS and HRIS

- **10 Female Applicants with 5 female hires**

<table>
<thead>
<tr>
<th>Applicants = 10</th>
<th>Hires = 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jane 1</td>
<td>Jane 1</td>
</tr>
<tr>
<td>Jane 2</td>
<td>Jane 2</td>
</tr>
<tr>
<td>Jane 3</td>
<td>Jane 3</td>
</tr>
<tr>
<td>Jane 4</td>
<td>Mary</td>
</tr>
<tr>
<td>Jane 5</td>
<td>Joan</td>
</tr>
<tr>
<td>Jane 6</td>
<td></td>
</tr>
<tr>
<td>Jane 7</td>
<td></td>
</tr>
<tr>
<td>Jane 8</td>
<td></td>
</tr>
<tr>
<td>Jane 9</td>
<td></td>
</tr>
<tr>
<td>Jane 10</td>
<td></td>
</tr>
</tbody>
</table>
2. ATS and HRIS

- **Recommendations:**
  
  *Artificially force these two systems to “talk”*
  
  - Make it a protocol to transfer requisition numbers in HRIS when applicants get hired
  - Can the ATS store employee numbers?
  - Periodically update applicant pool (when feasible) every time hires occur
  - Perform regular self-audit

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3. One Pool for Different Jobs

- **Scenario:** One Pool for Different Jobs

- **Issues:**
  
  - Unable to argue for analysis by job title
  - Hire is being compared to applicants who don’t possess the same qualifications
  - One to One Ratio?
3. One Pool for Different Jobs

- **Recommendations:**
  - Create separate reqs for each job title
  - Advertise for a generic job title
    - Example: Nurses vs. Nurse I, Nurse II, Nurse III
  - Set BQ’s that could be considered “generic”
    - Example: State registered nurse
  - Pick from the pool of applicants for positions needed filled
    - Example: If Nurse II is needed, then everybody from the pool who possess the BQ to be a Nurse II is your applicant pool

4. Centralized Application

- **Scenario:** Centralized Application

- **Issues:**
  - Same applicant pool BUT location gets no credit for the hire
  - Possible presence of adverse impact in locations where hire did not occur
4. Centralized Application

**Recommendation:**
- To get credit for the hire, create a different “hire” code for locations where hire did not occur.
  - **Example:**
    - Hired into Location 1
    - Hired into another job/requisition

<table>
<thead>
<tr>
<th>Location</th>
<th>Applicants</th>
<th>Hires</th>
<th>Standard Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Males/Females</td>
<td>Males/Females</td>
<td></td>
</tr>
<tr>
<td>Location 1</td>
<td>50/50</td>
<td>10/10</td>
<td>N/A</td>
</tr>
<tr>
<td>Location 2</td>
<td>50/50</td>
<td>5/0</td>
<td>2.03</td>
</tr>
</tbody>
</table>

- **Location 2 Get Audited**

<table>
<thead>
<tr>
<th>Location</th>
<th>Applicants</th>
<th>Hires</th>
<th>Standard Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Males/Females</td>
<td>Males/Females</td>
<td></td>
</tr>
<tr>
<td>Location 2</td>
<td>50/50</td>
<td>5/0</td>
<td>2.03</td>
</tr>
<tr>
<td>Add: Hires from other location</td>
<td>10/10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL:</td>
<td>50/50</td>
<td>15/10</td>
<td>1.02</td>
</tr>
</tbody>
</table>
5. Applicant Dispositions

- **Issue:** Lack of, Improper, and/or No disposition information stored in the ATS

There are two primary reasons (aside from the legal requirement) why it is in the employers best interests to ensure proper use of disposition codes within their ATS:
- To “filter-out” individuals who do not meet the definition of applicant
- To conduct adverse impact step analyses necessary to pinpoint specific issues

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<table>
<thead>
<tr>
<th>1. Applications Submitted</th>
<th>Hiring Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Application Review</td>
<td>Census Data</td>
</tr>
<tr>
<td>Applicant Pool</td>
<td></td>
</tr>
<tr>
<td>3. Invitation to Interview</td>
<td></td>
</tr>
<tr>
<td>4. Interview</td>
<td></td>
</tr>
<tr>
<td>5. Offer/Hire</td>
<td></td>
</tr>
</tbody>
</table>

- Q1: How would you conduct an overall analysis?
- Q2: How many steps are there in the process (subject to AI)?
- Q3: How would you analyze the BQ’s for AI?
- Q4: How would you analyze the pool of applications received (i.e., is the pool “tainted”)?
### 5. Applicant Dispositions

#### Adverse Impact Analysis

<table>
<thead>
<tr>
<th>Steps</th>
<th>Starting Count</th>
<th>Completing Count</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall (App vs. Hired)</td>
<td>Male - 100</td>
<td>Male - 50</td>
<td>2.80 SD</td>
</tr>
<tr>
<td></td>
<td>Female - 100</td>
<td>Female - 30</td>
<td></td>
</tr>
<tr>
<td>1. Basic Qualifications</td>
<td>Male - 79</td>
<td>Male - 79</td>
<td>0.25 SD</td>
</tr>
<tr>
<td></td>
<td>Female - 77</td>
<td>Female - 77</td>
<td></td>
</tr>
<tr>
<td>2. Test</td>
<td>Male - 79</td>
<td>Male - 65</td>
<td>4.80 SD</td>
</tr>
<tr>
<td></td>
<td>Female - 77</td>
<td>Female - 35</td>
<td></td>
</tr>
<tr>
<td>3. Interview</td>
<td>Male - 65</td>
<td>Male - 60</td>
<td>0.18 SD</td>
</tr>
<tr>
<td></td>
<td>Female - 35</td>
<td>Female - 32</td>
<td></td>
</tr>
<tr>
<td>4. Final Selection</td>
<td>Male - 60</td>
<td>Male - 50</td>
<td>0.00 SD</td>
</tr>
<tr>
<td></td>
<td>Female - 32</td>
<td>Female - 30</td>
<td></td>
</tr>
</tbody>
</table>

**Recommendations:**

Most ATS have the ability to collect disposition codes (i.e., status).

- Configure the ATS to collect/retain a history of disposition codes for each applicant
- Disposition codes should be job specific
- Train users on the proper use of the system
- Let users know WHY it is important (e.g., provide AAP/EEO training, get them involved in audits, etc.) - collaborate
5. Applicant Dispositions

Sample Disposition Codes

Not Considered:
• Data Management Technique
• Position filled

Screening Stage:
• Not Meet MQ/BQ (e.g. Educ.)
• Accepted another position
• Not interested in position

Testing Stage:
• Failed test
• Failed to show for test

Interview Stage:
• Failed interview (reason)
• Failed to show up for interview

Offer made:
• Declined (reason?)
• Not accepted background check
• Failed drug/alcohol screening test

6. Hybrid Applicant Pool

Both internal and external applicants can apply to an open requisition

Issues:
• How to analyze the transactions?
  • Promotions?
  • Hires?
• What does the OFCCP expect?
6. Hybrid Applicant Pool

- **Recommendation:**
  - Ensure that “applicant type” is captured (i.e., internal vs. external)

- **If you are to analyze....**
  - Identify reqs where there are only external applicants
    - External applicants vs. External hires
  - Identify reqs where there are only internal applicants
    - Internal applicants vs. Internal hires

- **Recommendation (Cont.):**
  - Identify reqs where both internal and external applicants are present
    - Final hire could either be internal or external
    - Conduct a selections analysis

**Note:** This type of detail might prove to be too time consuming for most employers. However, this is the proper way to analyze these transactions. If you need to pick your battle, only include external hires and external applicants in the analysis of hires. Internal hires will be compared to only internal applicants.
7. Overqualified Applicants

- **Issue:** Influx of “overqualified” applicants in the applicant pool

  - *Common Perceptions/Concerns:*
    - Will not be committed to the job – why waste time?
    - Will tend to be non team players
    - Will complain a lot
    - Unchallenged – easily bored
    - Overall “unhappy” employees

- **Things to Consider:**
  - Did he/she follow protocol regarding submission of the application? **YES**
  - Was the resume reviewed (i.e., considered)? **YES**
  - Did he/she meet the basic qualification? **YES**
  - Did he/she self-withdraw from the process? **NO**

  .... then he/she is an applicant!
7. Overqualified Applicants

WARNING!

- Most employers defend against potential litigation by claiming they hire the “most qualified person for the job”

- You cannot claim this if you eliminate job candidates who are “overqualified”

- Reducing experience or intelligence levels of current candidate pool may not be a good idea if promotions will be eventually filled from that pool

What to do....

- Explain job carefully to all candidates
- Offer a realistic job preview to all candidates
- Attempt to gather information about the validity of your using an upper limit approach
  - Do not rely heavily on unverified claims or report from newspapers, magazines, or internet
Contact Information

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Questions