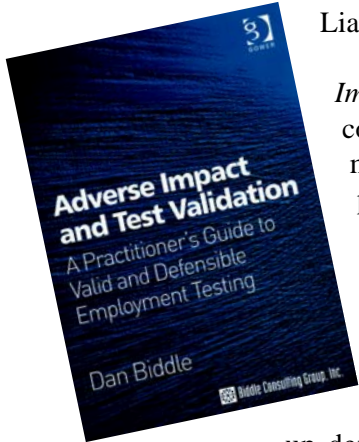


Book Release: Adverse Impact and Test Validation book, 2nd Ed.

Biddle Consulting Group, Inc. unveiled the second edition of *Adverse Impact and Test Validation: A Practitioner's Guide to Valid and Defensible Employment Testing* at the 24th Annual Industry Liaison Group Conference.



The 2nd edition of the *Adverse Impact and Test Validation* book contains new material on using multiple regression to evaluate pay practices and provides step-by-step instructions for using SPSS or Excel for evaluating your company's pay practices for possible inequities. New content on how to define "Internet applicants" and set up defensible Basic Qualifications

(BQs) for online recruiting will help employers insure compliance with Equal Employment Opportunity (EEO) regulations and screen in qualified applicants.

The second edition is more robust than the first edition with 70 additional pages, containing new chapters on:

1. Using Multiple Regression in Compensation Analyses
 - a. Elaborates on OFCCP statistical expert presentation on regression (by Dr. Marika Litras, OFCCP Pacific Region).
 - b. Includes a section on using Excel to conduct regression analyses.
2. New internet applicant regulations
 - a. Elaborates on OFCCP testing expert presentation on validation (by Dr. Richard Fisher, OFCCP National Office).
 - b. Includes detailed description of how to validate basic qualifications per the new definition of internet applicant.
3. Steps for developing content valid job knowledge written tests

Visit <http://www.biddle.com/shoppingcart.stm> to order the *Adverse Impact and Test Validation, 2nd Edition*, book today or call (800) 999-0438!

Breakfast with the OFCCP Regional Directors at NILG 2006

Speakers:

- Moderator - Bill Smitherman, Regional Director, Pacific Region
 Patsy Blackshear, Ph.D., Regional Director, Mid-Atlantic Region
 Lorenzo Harrison, Regional Director, Northeast Region
 Evelyn Teague, Regional Director, Southeast Region
 Sandra Zeigler, Regional Director, Midwest Region
 Fred Azua, Regional Director, Southwest and Rocky Mountain Region

1. Contractors should be more concerned with how to achieve EEO rather than simply being minimally compliant.
2. Developments are on the way to bring AAPs into alignment with the EEO-1 report changes

- (hopefully by September 2007).
3. OFCCP has implemented a nationwide effort regarding recordkeeping practices.
 4. Compliance reviews:
 - a. If contractors have questions, ask your auditor.
 - b. Be prepared to discuss data that "appears" to have issues (e.g., one to one ratio of applicants and hires, more terminations than the number of employees in the job group at the start of the period, etc.).
 - c. Review data prior to submittal to ensure there are no inconsistencies.
 - d. Respond to questions from the OFCCP in a timely manner.

5. Corporate scheduling letters are sent as soon as the list is created.
6. The specific process for conducting compensation audits is still evolving. ❄️

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NILG Session: The Mantel-Haenszel and Breslow-Day Defined: Combining Adverse Impact Analyses Across Multiple Events

Speaker:

Dan Biddle, Ph.D., President, Biddle Consulting Group, Inc.

When small numbers of applicants are hired in any given period it's impossible to see trends and yield meaningful statistical results. As a result, the Office of Federal Contract Compliance Programs (OFCCP) and plaintiff groups will almost universally attempt to aggregate data across larger timeframes in order to increase the likelihood of identifying problem areas. However, the typical approach used by the OFCCP is to simply aggregate all applicants and hires into a single impact ratio analysis. Unfortunately this will almost always result in inaccurate results.

For example:

Dr. Biddle discussed in detail how to conduct proper adverse impact analyses:

1. When data tends to have limited sample size, meaningful adverse impact analyses can still be conducted by aggregating data across:
 - a. Years or Timeframes
 - b. Jobs or job groups
 - c. Divisions or locations
 - d. Practices, procedures or tests
2. When aggregating data, be cognizant of the Simpson's

SIMPSON'S PARADOX EXAMPLE				
Testing Year	Group	# Applicants	# Selected	Selection Rate %
2004 Test	Men	400	200	50.00%
	Women	100	50	50.00%
2005 Test	Men	100	20	20.00%
	Women	100	20	20.00%
2004 + 2005	Men	500	220	44.00%
Tests Combined	Women	200	70	35.00%

Paradox (i.e., improperly aggregating data just for the sake of increasing the sample size, see example above).

3. When aggregating data, it is advised to first run the Breslow-Day test . . . this test determines

whether it's appropriate to combine data for analysis purposes.

4. Use the Mantel-Haenszel test when you aggregate individual selection processes that have discrete applicant pools. ❌

The NILG General Session

Speaker:

Charles James, Deputy Assistant Secretary, Office of Federal Contract Compliance Programs (OFCCP) National Office

Key highlights include:

1. Contractors soon might be able to submit electronic copies of their AAPs.
2. Outsourcing:
 - a. Some work that is now being done by OFCCP (starting from the administrative tasks) might soon be "outsourced."
 - b. Outsourcing of OFCCP work will go through a competitive bid process.
 - c. OFCCP believes that outsourcing will make the agency more efficient and reduce costs.
3. Internet applicants:
 - a. Too technical, Mr. James avoided too much detail with regards to questions on Internet applicants.

- b. Questions (as well as responses) will be posted on the OFCCP website in the form of FAQ's (<http://www.dol.gov/esa/ofccp/index.htm>).

4. Vacancy at the OFCCP: Director of Division of Policy and Planning
5. Internet recordkeeping:
 - a. Recordkeeping violation is the most frequently cited violation.
 - b. OFCCP has not yet begun the enforcement of internet recordkeeping, but will do so soon (no date was mentioned).
 - c. Mr. James advises the contractors to "have those records in place." He emphasized that (per the Uniform Guidelines, 41 CFR 60-3) the OFCCP infers non-compliance in the absence of records.

...see General Session page 5

Staff Contributions

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NILG Session: Compliance Beyond the “Internet Applicant”

Speaker:

Mickey Silberman, Attorney, Jackson-Lewis

1. The OFCCP is (typically) not focusing on small cases and is more interested in systemic discrimination (similar to class action litigation).
 - a. Statisticians, attorneys, and validation experts employed
 - b. Use the Uniform Guidelines on Employee Selection Procedures (UGESP) to review selection decisions
 - c. According to the UGESP, when an employer identifies statistically significant adverse impact in the overall selection process, the employer should isolate the specific stage in the selection process that is causing the adverse impact. If no impact is found in any component of the step analysis, then the case is closed.
 - d. If impact is found in a specific component the company needs to be able to defend it as being “job related and consistent with business necessity” or eliminate the component all together.
 - e. OFCCP may interview all personnel involved to help understand the selection process.
 - f. OFCCP may attempt to interview all employees in the impacted group as well as the non-selected candidates, if possible.
- g. OFCCP may demand all documents describing the hiring process or generated during the process.
2. The new approach is more burdensome for contractors during an audit and typically produces stronger cases.
3. The Agency is primarily focusing on audits with statistically significant disparities in compensation and/or selection rates.
4. When impact is discovered contractors should look at the job titles within the job groups.
5. Good applicant tracking includes the ability to identify where each applicant fell out of the selection process and why (for use in the step analyses). ❏

NILG Session: Functional Affirmative Action Programs (FAAP)

Speaker:

Cynthia Deutermann, Deputy Director of the Division of Program Operation, Office of Federal Contract Compliance Programs (OFCCP) National Office

1. Benefits
 - a. Permits contractors to develop AAPs in a way that reflects actual business practices
 - b. Results are more meaningful and can be used more readily
2. Currently more than 175 requests for FAAPs have been received
 - a. 125 executed agreements
 - b. 1500 AAPs
 - c. 1.8 million covered workers
 - d. Submit request for FAAP to the Deputy Assistant Secretary – this part of the process does not have to be formal. Requests should include justification, explanation for FAAP, and corporate contact person.
3. If a FAAP is requested, a member of the OFCCP FAAP Unit will contact the contractor to outline the necessary information, review materials already submitted, schedule meeting (if necessary), and work with the contractor throughout the application process.
 - a. The FAAP Unit has 120 days to respond to a contractor’s request.
 - b. If the FAAP unit has not responded in 120 days then FAAP request is automatically approved.
4. If a FAAP application is approved, the FAAP Unit prepares an agreement for the Deputy Assistant Secretary’s review and approval. Upon approval, the agreement is sent to the company for review and signature. The contractor has 120 days past the agreement date to have a FAAP in place.
5. Contractors can combine FAAPs as well as establishment-based AAPs (e.g. a contractor with FAAPs merges with an establishment-based AAP organization).
6. FAAP agreement is valid for five years. Upon termination, the contractor must create establishment-based AAPs or request renewal.
7. All audits of FAAPs are randomly scheduled through the OFCCP National Office. ❏

Compensation Info Online!

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www.biddle.com

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The Basics
 Step-by-Steps
 Outsourcing
 Software
 SSEGs
 Methodology
 OFCCP Compensation

You will also find documentation written by Jim Higgins', Ed.D., Senior Consultant of Biddle Consulting Group, Inc. on the following informative topics:

Introduction to Correlation

The Correlation Coefficient

Introduction to
 Linear Regression

Introduction to
 Multiple Regression

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Also, make sure you know about upcoming presentations and conferences where you will find BCG representatives.

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For more information, please contact BCG at (800) 999-0438

NILG Session: Testing the Tests

Speaker:


Richard Fischer, Ph.D., Director of Testing, OFCCP National Office

1. 2727 compliance evaluations (i.e., audits) in 2005.
2. 50-65% of employers use tests for selection.
3. A test is any device, practice, method, procedure, process, in any format that results in people passing and people failing (e.g., basic qualifications, written tests, online tests, personality tests, physical ability tests, etc.).
4. A test developed using psychometrically acceptable standards is legally defensible. To be psychometrically acceptable a test must be based on a thorough job analysis, including a validity study.
5. If passing scores are arbitrarily set, then it's likely the test is not valid.
6. Adverse impact alone IS NOT

discrimination. Adverse impact in the absence of validity evidence IS discrimination.

7. Aside from excessive legal exposure, a test without validity will not result in hiring the most qualified employees.
8. OFCCP is training compliance officers on basic principles of testing.
9. If adverse impact is found, contractors will be asked to provide evidence of validity.

Examples of selection tests:

- Basic qualifications (e.g., education, experience, lifting, licenses, etc.)
- Written tests (given in-person or on-line)
- Interview (phone or in-person)
- Performance test (e.g. driving test, physical agility)
- Biodata
- Physical ability tests 


Live! The New BCG Website is Online

Biddle Consulting Group, Inc. (BCG) unveiled the new www.biddle.com website on August 1, 2006. The website has a fresh new design and navigation to allow users easy and comprehensive access to the professional expertise of the company.

It includes the most current *EEO & Testing Quarterly Review* newsletter, in addition to newsletter and article archives covering topics ranging from compensation analysis to test development and validation, scheduled seminars and webinars, and industry insights. The website also provides topic-relevant links to other websites, additional PDFs and documents, and links within the [biddle.com](http://www.biddle.com) website to other topics of interest based on your location in the website.

Website users will also be able to order some of BCG's off-the-shelf

software (Adverse Impact Toolkit and Test Validation & Analysis Program), workbooks (Guidelines Oriented Job Analysis Workbook), and published books (*Adverse Impact and Test Validation: A Practical Guide to Valid and Defensible Employment Testing* - 1st and 2nd Editions) from the redesigned shopping cart. Users will also be able to register for webinars and seminars online via the training registration page in the shopping cart (www.biddle.com/shoppingcart.stm).

Take a look at www.biddle.com. If there's something relevant to the world of Equal Employment Opportunity, Affirmative Action Plans, Statistical Analyses, or Personnel Testing and Selection that you would like to see on our website, we welcome your suggestions. Just e-mail BCG at QReview@biddle.com. 

NILG Session: Recordkeeping - What's Required? Why is it Important?

Speaker:

Sandra Zeigler, Regional Director,
Midwest Region

1. Discrimination, which is a product of unconscious stereotypes, can be detected by good recordkeeping.
2. OFCCP investigates and uncovers a lot of recordkeeping violations.
3. An absence of good recordkeeping may not mean a simple slap on the wrist anymore.
4. OFCCP will also start reviewing
 - a. availability (e.g., reasonable recruitment areas)
5. If records are not available, OFCCP will:
 - a. Conduct an availability versus incumbency analysis
 - b. Attempt to approximate applicant flow
 - c. Reach fairly decent conclusions as to the gender/race of applicants
 - d. Can use demographics by zip code (i.e., census data)
 - e. Use education or other records of the applicant to determine race/gender
6. Collect and record specific race groups of applicants/employees. Total minority analysis is just the starting point; individual race groups will be analyzed, if necessary
7. If contractor has no AAP upon receipt of an audit letter, it is better to let the OFCCP know as early as possible so that the compliance office can help in the AAP development process. Don't wait until the end of the 30 period. ❄



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General Session

continued from page 2

- d. Audit reviews have also begun placing emphasis on recordkeeping.
- e. If contractors have concerns/questions with regards to record keeping, they can always call the OFCCP for guidance. This will not trigger a review.
6. Functional Affirmative Action Plans (AAPs)
 - a. Mr. James encourages contractors to consider FAAPs.
 - b. Less costly to develop FAAPs (less plans).
 - c. In 2007, OFCCP will begin to review more FAAPs.
 - d. In 2 years, OFCCP will have a team of experienced people who can do FAAP reviews.
 - e. Contractors are still required to obtain permission of the OFCCP before creating FAAPs.
7. Audits:
 - a. "Contracts First" initiative will create a comprehensive database of federal contractors (ECD: 2008-2009).
 - b. Federal Procurement Data Systems (FPDS) – will capture the status of federal contracts and will be used as a cross-reference to the EEO-1 form.
 - c. Reviews will still be limited to new 25 reviews per contractor.
 - d. Audit selection system will not change in the near future.
8. Compensation Analysis:
 - a. Regression analysis is universally accepted as the appropriate way to analyze compensation.
- b. Regression analysis is a very iterative process and sometimes tends to be a battle of the experts.
- c. It is more difficult but also is more plausible/defensible.
- d. Contractors able to choose the variables to include in the regression model, but must be able to defend the concept used in putting together the data.
- e. Contractors should be able to demonstrate to the OFCCP that the analysis of compensation adhered to professional standards.
- f. OFCCP will stick very closely to the compensation guidelines.
9. EO Survey: under review by the OMB but will be eliminated. ❄

NILG Session: OFCCP Statistical Analysis - The Compensation Challenge

Speakers:

Michael Sinclair, Ph.D., Director of Statistical Analysis, OFCCP National Office
 Marika Litras, Ph.D., Regional Statistician, OFCCP Pacific Region

Basic Steps of effective compensation analyses:

1. Prepare for the analysis
 - a. Determine what factors affect compensation (rank by importance – start with readily available variables)
 - i. Content and complexity of job duties
 - ii. Skills
 - iii. Education
 - iv. Responsibility
 - v. Degree of oversight
 - vi. Supply and demand
 - vii. Business focus
 - viii. Hourly v. salaried status
 - ix. Tenure at company or within industry
 - x. Tenure in job
 - xi. Performance
 - xii. Market value
 - xiii. Special circumstances
 - xiv. Additional duties
 - b. Classify jobs into groups so they are similarly situated (SSEGs)
 - c. Use base pay (do not include bonus and/or commissions)
2. Collect data
3. Conduct analyses
 - a. Statistically (e.g. regression): for groups with at least 30 employees and 5 protected and 5 non-protected group members. Benefits of regression include:
 - i. Accounts for joint effects of multiple variables.
 - ii. Determines how and to what degree factors are associated with pay.
 - iii. Convenient and relatively easy to summarize the measurable compensation system.
 - iv. Provides expected compensation levels for each employee – enables review of large individual differences.
 - b. Non-statistically (e.g. cohort): for groups with less than 30 employees and 5 protected and 5 non-protected group members.
4. If disparities exist, determine actions to correct them
 - a. Interview decision makers – you may discover pay factors that were not included in the analyses

- b. Confirm SSEGs for individuals with disparities
- c. Make pay adjustments

Guidelines for the Formation of SSEGs

The goal is to group employees together into “positions” with similar duties, skills and responsibilities; also to identify those with differences. The focus is on what the person does, what they need to do the job and the level which they do it.

EEOC Definition: The investigator should determine the similarity of the jobs by asking whether the jobs generally involve similar tasks, require similar skill, effort, and responsibility, working conditions, and are similarly complex or difficult.

Sample SSEG Checklist

Job Checklist	Yes Or No?
Question 1: How are jobs currently classified? • Title? • Combination of Title and Grade? • Department / Function? • Other?	
Question 2: Do jobs have common duties and functions?	
Questions 3: Do jobs have similar levels of responsibility?	
Question 4: Would employees have common pay if individual factors were not identified?	
Question 5: Are there other jobs to include that will also results in a YES to the above questions?	

If the answers to these questions are all yes, then proceed with the current classification system; otherwise reorganize positions into more suitable SSEGs.

Important note: Attorney Mickey Silberman from Jackson-Lewis suggests that employers should consider submitting, if at all possible, data by job title in response to question #11 on the audit scheduling letter. In short, it’s better to defend job titles as SSEG’s (if they don’t encompass 70% of the workforce in groups with at least 30 employees and five from protected/non-protected group members) than it is to submit problem areas by larger groupings and then have to explain to the OFCCP that the SSEG’s are not appropriate. ❌

BCG Professional Webinar Series: Using Multiple Regression in Compensation Analysis

Biddle Consulting Group, Inc. (BCG) is a premiere provider of technical and regulatory information for busy professionals. We offer a variety of seminars and webinars (web-based seminars) that are specifically designed to provide the latest content and information. Review our listings below. As of the release of this newsletter, BCG is in the process of becoming an "Approved Provider" of the Human Resource Certification Institute (HRCI) and each of our webinars and seminars will be approved toward continuing education credit for the Society of Human Resource Management HRCI Certification.

August / September 2006 Schedule

Cost: \$149 per webinar

Duration: 2 hours per session

COMP 1 :: Introduction to Compensation Analysis Using Multiple Regression

August 16, Wednesday, 12:30 p.m. PST / 2:30 p.m. CST / 3:30 p.m. EST
August 24, Thursday, 9:00 a.m. PST / 11:00 a.m. CST / 12:00 p.m. EST
September 6, Wednesday, 12:00 p.m. PST / 2:00 p.m. CST / 3:00 p.m. EST
September 15, Friday, 10:00 a.m. PST / 12:00 p.m. CST / 1:00 p.m. EST
September 21, Thursday, 12:00 p.m. PST / 2:00 p.m. CST / 3:00 p.m. EST

COMP 2 :: How to Use Microsoft Excel to Conduct OFCCP-Style Compensation Analyses With Multiple Regression

August 18, Friday, 9:00 a.m. PST / 11:00 a.m. CST / 12:00 p.m. EST
August 24, Thursday, 12:00 p.m. PST / 2:00 p.m. CST / 3:00 p.m. EST
August 25, Friday, 8:00 a.m. PST / 10:00 a.m. CST / 11:00 a.m. EST
August 31, Thursday, 11:00 a.m. PST / 1:00 p.m. CST / 2:00 p.m. EST
September 8, Friday, 10:00 a.m. PST / 12:00 p.m. CST / 1:00 p.m. EST
September 21, Thursday, 9:00 a.m. PST / 11:00 a.m. CST / 12:00 p.m. EST

COMP 3a :: How to Use the COMPARE™ Compensation Analysis Software Package to Conduct Multiple Regression-Based Compensation Analyses

August 30, Wednesday, 2:00 p.m. PST / 4:00 p.m. CST / 5:00 p.m. EST
September 22, Friday, 9:00 a.m. PST / 11:00 a.m. CST / 12:00 p.m. EST

COMP 3b :: How to Use SPSS to Conduct OFCCP-Style Compensation Analyses With Multiple Regression

August 25, Friday, 1:00 p.m. PST / 3:00 p.m. CST / 4:00 p.m. EST
September 15, Friday, 1:00 p.m. PST / 3:00 p.m. CST / 4:00 p.m. EST

COMP 4a :: Advanced Multiple Regression in Compensation Analysis: Are Your Data Appropriate For Multiple Regression Analysis

COMP 4b :: Advanced Multiple Regression in Compensation Analysis: Dealing With Similarly Situated Employee Groups (SSEG) Issues

Webinars have been scheduled through the end of the 2006 calendar year. Please check www.biddle.com/webinars.stm for a more detailed description about each webinar and the dates and times that the webinars are available.

For more information, please visit BCG's website at www.biddle.com, call Biddle Consulting Group, Inc. toll-free at (800) 999-0438 or e-mail us at staff@biddle.com

2006 Events Calendar

<i>Conferences</i>	<i>Webinars</i>	<i>Training Workshops</i>
<p>Biddle Consulting Group, Inc. will be a corporate sponsor at the following conferences and will have a vendor booth at each show listed below.</p> <p style="text-align: center;">: October 25-27 : <i>International Public Management Association (IPMA-HR) Conference</i> Las Vegas, NV</p>	<p>Webinars are affordable and easily accessible seminars conducted by BCG experts via internet and conference call</p> <p style="text-align: center;">: August 31 : <i>NILG Conference Wrap-Up: Overview of Sessions</i> Cost: \$99</p> <p style="text-align: center;">: September 28 : <i>Compensation Analysis: Collecting Data to Interpreting Results</i> Cost: \$99</p> <p style="text-align: center;">: October 26 : <i>OFCCP Audits: Proactive Analyses to Address Problem Areas</i> Cost: \$99</p>	<p style="text-align: center;">: November 14-15 : <i>AAP Methodology & Software Training</i> Folsom, CA Cost: \$990</p> <p>see our website for a complete schedule of upcoming seminars and webinars in AAP and Compensation Analysis</p> <p style="text-align: center;">www.biddle.com/training.stm</p> <p style="text-align: center;"><i>Presentations</i></p> <hr style="width: 20%; margin: auto;"/> <p style="text-align: center;">: October 15-17 : <i>Speaker: Dan Biddle, Ph.D., President of Biddle Consulting Group, Inc.</i> 2006 SWARM Conference Little Rock, AR</p>
<p>For more information on any of the conferences or other events listed, or to have BCG speak at your event, please call Biddle Consulting Group, Inc. toll-free at (800) 999-0438 or e-mail us at staff@biddle.com</p>		



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