

The Importance of Considering Interactions When Conducting OFCCP-Style Compensation Analyses

In June 2006 the Office of Federal Contract Compliance Programs (OFCCP) released its final interpretive standards for systemic compensation discrimination under Executive Order 11246. These guidelines explain the specific issues and changes in the OFCCP's approach toward evaluating contractor compensation practices. Perhaps the biggest change to the OFCCP's compensation analysis procedures is the reliance on the use of the statistical tool known as Multiple Regression (MR) to explore differences in compensation while controlling for legitimate job-related variables. In order to ensure that it has the resources to effectively implement its new guidelines, the OFCCP has hired a number of professionally trained statisticians to oversee its compliance efforts.

Per the OFCCP compensation analysis guidelines/standards, any variables used to explain-away differences in compensation cannot be discriminatory. Such variables are often referred to as being "tainted" or being an "interaction." In fact, during a presentation at the 2006 National Industry Liaison Group Conference, Dr. Sinclair revealed that while performing a compensation analysis using MR OFCCP may study potentially tainted factors.

"Standard MR models that include only 'main effects' are forced to assume that these [predictor] variables impact all the employees in the group in the same way (Biddle, 2006)." This, assumption, however, is not always valid because one or more of the main effect variables is "tainted". One such form

of contamination may occur when compensation is actually predicted by the interaction between a protected variable (e.g., gender) and one of the other variables, such as time-in-company. It is essential, therefore, to analyze compensation data in order to identify such interactions and to control for them in an appropriate manner.

As suggested earlier, an interaction occurs when a predictor variable, such as the amount of time an employee has worked for the company (time-in-company), predicts salary differently between two groups (e.g., males/females). For example, an interaction exists if females only receive an additional \$500 for every year of tenure while males receive an additional \$1,000. Even if a protected variable such as gender or race is not itself a significant contributor to salary differences, contractors must also be aware of significant interactions because they too can be considered indicators of potential discrimination.

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2007 Professional Seminar Series A Success

Biddle Consulting Group, Inc. would like to thank Jackson Lewis LLP and all of the great seminar attendees for making the first two "legs" of our 2007 professional traveling seminar series a huge success. BCG teamed up with Jackson Lewis and hosted six seminars on five hot EEO topics titles:

1. OFCCP Audits: The New Rules
2. Compensation Analysis
3. How the Definition of an Applicant Has Changed the Liability Landscape
4. Test Validation and Privilege
5. OFCCP Compliance and Self Audits.

We visited New York, NY, Arlington, VA, and Atlanta, GA in April,

as well as Los Angeles, CA, San Francisco, CA, and Seattle, WA in May 2007. Three more seminars are scheduled for October in Denver, CO, Dallas, TX, and Chicago, IL.

The seminars have been a tremendous success with a lot of positive feedback from the attendees. We received an overall rating of Excellent Presentation with 100% of the respondents choosing the highest ranking survey response possible.

If you would like further information, please download a PDF of the seminar brochure at:



<http://www.biddle.com/documents/2007Seminars-BCGJL.pdf>

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Heavy Hitters Present on Compliance and Testing Topics at 2007 NILG Conference in New York, New York

CONTRACTOR COMPLIANCE UNDER THE OFCCP's SYSTEMIC DISCRIMINATION INITIATIVE-PART I

Tuesday, August 21, 2007 - Pre Conference Day

9:00 AM - 12:00 PM

Presenters: Biddle Consulting Group and Jackson Lewis LLP

This session will include three topics:

OFCCP Audits: The New Rules

During the past few years, the OFCCP has transformed itself from an affirmative action compliance agency into a systemic discrimination enforcement agency. Today, the OFCCP focuses on trends in contractor hiring, promotions, terminations and compensation practices and uses statistical methods to allege discrimination. Even under the OFCCP's new rules, it often is within your control to determine whether the OFCCP closes a review or comes on site to "make its case." This session will describe in detail the OFCCP's changed enforcement approach and provide practical advice about how contractors should best prepare for and defend and avoid OFCCP audits.

How the Definition of an Applicant has Changed the Liability Landscape

Contractors continue to grapple with the technical requirements of the new definition of internet applicant. While the OFCCP's new regulations purport to alleviate contractor recordkeeping burdens, the amount of information that must be maintained is extensive. These records reveal information about a contractor's decision-making process and practices.

sion will re-examine the definition itself in light of recent developments and explore the records you must keep, the liability that creates, what the OFCCP will seek and how you can best prepare for these challenges.

Test Validation

The OFCCP has recently increased its efforts on testing and hiring enforcement, including hiring Ph.D.-level experts to review tests used by federal contractors. This session will review basic elements that should be included in all testing programs and will cover the basics around test validity that will keep your employer safeguarded in litigation and audit situations.

CONTRACTOR COMPLIANCE UNDER THE OFCCP's SYSTEMIC DISCRIMINATION INITIATIVE-PART II

Tuesday, August 21, 2007 - Pre Conference Day

1:00PM - 4:00 PM

Presenters: Biddle Consulting Group and Jackson Lewis LLP

This session will include two topics:

Compensation Analysis

The recent release of the OFCCP's compensation analysis guidelines and standards have created quite a stir within the HR, compensation, and EEO compliance communities. This session will separate fact from myth and equip attendees with the knowledge and tools for conducting basic compensation analyses. Advanced topics will also be covered, as well as current government enforcement tactics.

Privilege: OFCCP Compliance and Self Audits

What you don't know can hurt you. With the OFCCP's increased focus on systemic discrimination, contractors need to investigate hiring, promotion, termination and compensation trends before being targeted for OFCCP audits. However, the information resulting from such "self-audits" may have to be disclosed during legal proceedings and could be used against a contractor by the OFCCP or plaintiffs' attorneys. Cloaking self-audits in legal privilege can help protect these results. This session will describe how to conduct self-audits and best practices for protecting self-audits under the various legal privileges.

Staff Contributions

Contributors Dan Biddle, Ph.D.
 Jim Higgins, Ed.D..
 Desiree Throckmorton
 Chris Lindholm
 Melissa Mazzoni
 Production C. Lori Lee
 Editing Fred Huppert
 Website www.biddle.com

The OFCCP also is employing new methods of analyzing the lawfulness of the definition of applicant itself. In addition, the volume of information that must be maintained can lead to larger and more significant adverse impact. This ses-

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Interactions

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Table 1 below depicts an interaction where males and females are compensated differently based on their Time-in-Company. Notice that during the early years of employment females are paid significantly less for the same tenure as males. More specifically females who have been with the company for approximately 2.5 years are paid around \$5,000 to \$10,000 less than males with roughly the same tenure. Meanwhile during the higher years of tenure males are paid significantly less than females. Over time the compensation of females surpasses that of males.

After an interaction is revealed, it is essential to first consider anecdotal evidence that might adequately explain these differences before making pay corrections. Consider the scenario in the

table below where females are paid substantially less than males in the early years of employment. There could be a number of reasons why females were paid less. Are there one or more “outliers” or extreme data points that result in a statistical finding of an interaction when there really is none? This does not appear to be the case with the data below.

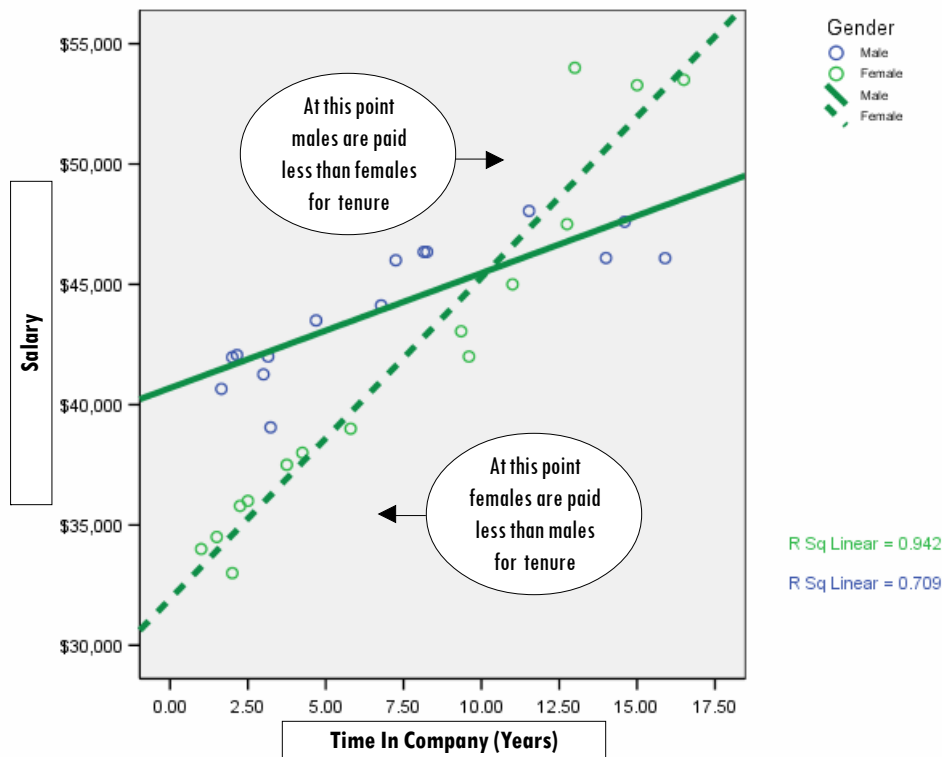
Are there females who have dramatically less Time-with-Company than their male counterparts? It does appear that there are more females who have less than 2.5 years with the company than males. Could this be affecting the statistics? Has the nature of the workforce changed? Do females have less experience than males do at entry to the position? Did males negotiate more aggressively for a higher

starting pay? Many factors, such as these, can have an impact on statistical analyses.

As a protection against interpreting statistics out of context, the OFCCP typically gives serious consideration to anecdotal evidence. This means that they are likely to conduct a cohort analysis that will seek to balance or account for statistical anomalies. Contractors can proactively protect themselves by conducting these internal analyses themselves in order to determine the reasons why these interactions may be occurring.

How to statistically handle interactions when calculating amounts needed to eliminate statistical significance is beyond the scope of this article but will be addressed in a later edition of this newsletter. ❏

TABLE 1: Interaction where males and females are compensated differently based on their Time-In-Company (TIC)



Goodbye America's Job Bank; Hello JobCentral National Labor Exchange

On March 17, 2007 the U.S. Department of Labor announced that America's Job Bank (AJB), the only federally-funded job board on the internet, will be phased out by June 30, 2007. Taking its place will be the JobCentral National Labor Exchange. JobCentral will provide job seekers, employers and states a "corporate-sponsored, cost-effective" transition from the federally-funded America's Job Bank (AJB).

After two years of review and an impending labor shortage caused by baby-boomer retirements and a dwindling workforce, the Employment and Training Administration (ETA) came to a conclusion. The benefits of AJB no longer outweighed the costs involved in operating and maintaining the AJB system. With that said, the ETA also determined that the market has come to a point where a federally-sponsored, electronic labor exchange is no longer necessary.

Since it's beginning in 1995, AJB has played an important role in helping employers meet job posting requirements for Affirmative Actions Plans, Office of Federal Contract Compliance Programs (OFCCP) obligations, and Jobs for Veterans Act compliance. AJB also had the first internet presence for the labor exchange in each of the states. And, despite its upcoming demise, AJB recently listed over two million jobs from

employers in all industries and nearly seven hundred thousand resumes free of charge to both parties.

JobCentral National Labor Exchange (www.jobcentral.com), a service of DirectEmployers Association, will allow job seekers to search across all fifty states, including the District of Columbia with just one search. This service will be free for all job seekers.

Employer services, which includes job posting, resume searching and job distribution to various internet sites, will be available to all employers, regardless of size, for a nominal fee. The all-inclusive Corporate Membership (\$12,500 per year) allows employers to receive all of the JobCentral and DirectEmployers Association services. Companies that elect not to purchase the corporate membership can post jobs for \$25 per job for thirty days to all U.S. cities. Companies can also have access to the resume database for \$25 per month per account requested.

Job seekers and any states electing to use JobCentral as their in-state employment system can use this service free of charge.

While AJB is phasing out, there will still be a place for employers and job seekers to go to find jobs in all U.S. cities and the District of Columbia that meet job-posting requirements: JobCentral National Labor Exchange. Here, all parties will still be able to get and receive

the same services they did with AJB only with one change: employers will now have to pay a fee.

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2007 Events
Conferences
<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>: April 23-25 : <i>Navigator (NAED) Conference</i> Las Vegas, NV</p>
<p>: April 30-May 2 : <i>Associaion of Legal Administrators (ALA) Annual Conference</i> Las Vegas, NV</p>
<p>: June 11-12 : <i>National Emergency Numbers Association (NENA) Annual Conference</i> Charlotte, NC</p>
<p>: August 6-8 : <i>APCO International Conference & Expo</i> Baltimore, MD</p>
<p>: August 21-24 : <i>National Industry Liaison Group (NILG) Conference</i> New York, NY</p>
<p>: September 30-October 2 : <i>IPMA-HR Annual Conference</i> Chicago, IL</p>

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Session 3: TESTING THE TEST - MAKING SURE YOUR EMPLOYMENT TESTS ARE USEFUL AND DEFENSIBLE

Wednesday, August 22, 2007
11:20 AM - 12:30 PM

Presenters: Biddle Consulting Group and Peopleclick

Session 19: TESTING THE TEST - MAKING SURE YOUR EMPLOYMENT TESTS ARE USEFUL AND DEFENSIBLE


Thursday, August 23, 2007
2:15 PM - 3:30 PM

Presenters: Biddle Consulting Group and Peopleclick 

EEO Certifications: The New Standard

Biddle Consulting Group, Inc. is joining forces with DCI Consulting and the Center for Corporate Equality (CCE) this summer to develop industry certifications for the EEO field. Five certifications will be offered to professionals:

- Adverse Impact
- Compensation Analysis
- Basic EEO Compliance
- AAP Development
- Validation

Professionals who work in the EEO, AA, or HR fields will have the opportunity to take on-line exams in each of these areas and gain certifications based on test score at three levels: Specialist, Professional, and Expert. 

2007 Training Calendar		
<i>Presentations</i>	<i>Webinars</i>	<i>Seminars</i>
<p>Biddle Consulting Group, Inc. will be speaking at the following conferences listed below.</p> <p style="text-align: center;">: May 16 : <i>South Carolina ILG</i> <i>Speaker: Dan Biddle, Ph.D., President</i> <i>Biddle Consulting Group, Inc. Columbia, SC</i></p> <p style="text-align: center;">: May 30 : <i>Oregon ILG</i> <i>Speaker: Patrick Nooren, Ph.D., Executive Vice President</i> Topic: Part I <i>Biddle Consulting Group, Inc. Oregon</i></p> <p style="text-align: center;">: August 21-24: <i>NILG Conference</i> <i>Speaker: Dan Biddle, Ph.D., President</i> Topics: see article on page 2 <i>Biddle Consulting Group, Inc. New York, NY</i></p> <p style="text-align: center;">: September 12 : <i>Oregon ILG</i> <i>Speaker: Patrick Nooren, Ph.D., Executive Vice President</i> Topic: Part II <i>Biddle Consulting Group, Inc. Oregon</i></p>	<hr/> <p style="text-align: center;"><i>AutoAAP 11.0 Training</i></p> <hr/> <p style="text-align: center;">: June 1, 15, & 29 : : July 13 & 27 : <i>AAP Development Using AutoAAP 11.0</i> Cost: Free</p> <hr/> <p style="text-align: center;"><i>Compensation Guidelines</i></p> <hr/> <p style="text-align: center;">: July 31 : <i>Update on OFCCP Compensation Guidelines</i> Cost: Free</p> <hr/> <p style="text-align: center;"><i>Compensation Analysis: How To</i></p> <hr/> <p style="text-align: center;">: June 13 : : September 12 : : December 3 : <i>Completing OFCCP-Compliant Compensation Analyses Using COMPARE</i> Cost: Free</p> <p style="text-align: center;">: June 27 : : September 26 : : December 10 : <i>Conducting Internal Compensation Analyses</i> Cost: \$99</p>	<hr/> <p style="text-align: center;"><i>AAP Training Workshops</i></p> <hr/> <p style="text-align: center;"><i>Two (2) Day Seminars</i> <i>AAP Methodology & Software Training</i> Folsom, CA Cost: \$990</p> <p style="text-align: center;">: September 25-26 : : December 4-5 :</p> <hr/> <p style="text-align: center;"><i>Regional Seminars</i></p> <hr/> <p style="text-align: center;">One (1) Day Seminars Systemic Discrimination and the Transformed OFCCP: Navigating the Changing Landscape of Affirmative Action Compliance</p> <p style="text-align: center;"><i>presented by:</i> Biddle Consulting Group, Inc. Jackson Lewis LLP</p> <p style="text-align: center;">Cost: \$595 (Early Bird \$495)</p> <p style="text-align: center;">: October 10 - Denver, CO : : October 11 - Dallas, TX : : October 12 - Chicago, IL :</p> <p style="text-align: center;">Register Today: www.biddle.com/registration</p>
<p>For more information on any of the seminars or webinars listed, please call Biddle Consulting Group, Inc. toll-free at (800) 999-0438 or e-mail us at staff@biddle.com</p>		

JobCentral

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Below are a few of the benefits of JobCentral (information provided by www.jobcentral.com).

JOB SEEKER BENEFITS

The National Labor Exchange will:

- provide a single place on the Internet for job seekers to search across hundreds of corporate employment web sites and over five million (5,000,000) jobs from newspapers, trade associations, and other Internet sources in all 50 states plus the District of Columbia, 230 major metropolitan areas, and every U.S. city and postal zip code area.
- provide a single place on the Internet where minorities and veterans can search all jobs from participating companies.
- provide a place on the Internet where job seekers can respond directly to employers without going through third-party web sites.
- provide a resume database available free of charge to all job seekers.
- provide job search agents to notify them when new opportunities are entered into the system.
- provide news and career-related opportunities and information directly from employers.
- provide job seekers with up-to-date career tools to manage their careers online.

EMPLOYER BENEFITS

The National Labor Exchange will:

- provide a web clearinghouse, a single point for employers to post all of their jobs.
- automatically identify appropriate delivery points for jobs and distribute them accordingly.
- automatically O*Net auto-code all jobs to meet State and Federal government requirements.
- centralize employers' job entry regardless of geographic distribution.
- eliminate administrative burden for Federal Contractors.
- facilitate giving veterans priority in referral to employment opportunities.
- provide a national resume database which is economically priced and available to all employers.
- provide outplacement services for displaced employees.
- help employers meet Affirmative Action, OFCCP and Veterans

Employment Act requirements.

- be made available free-of-charge to states which elect to use the system as their in-state employment site.
- be made available free-of-charge for economic development purposes to states which elect to use the system.
- provide a place on the Internet where all employers regardless of size can place their employment opportunities.
- serve as a recruiting resource for employers to alleviate the effects of the impending national labor shortage.
- provide employers with a low-cost online system for posting jobs to college career centers, students and alumni nationwide.
- help reduce unemployment and unemployment compensation payments by making employment opportunities easily accessible and more readily available to unemployed, under-employed, and displaced workers.



Biddle Consulting Group, Inc.

193 Blue Ravine Road, Suite 270, Folsom, CA 95630
 E-mail: QReview@biddle.com | Toll-Free: (800) 999-0438