

Gerstco to Implement New Race Codes & EEO Categories for 2008 AAP Reporting

Although current OFCCP regulations have not yet changed to conform to the Equal Employment Opportunity Commission's (EEOC) new EEO-1 race/ethnic categories, Gerstco, Inc. will have the capability to develop Affirmative Action Plans using the new designations for 2008 as well as the continuing use of the current race codes. When an employee selects the "Two or More" race category, it will be accepted. There will be no need to ask employees to identify a primary race or ethnic category for purposes of Affirmative Action Plan reporting. (Note: Demographics on "Two or More" and "Native Hawaiian and Other Pacific Islander" categories has been available since the 2000 Census Survey.) Gerstco updated its AAP software so that AAP reports and analysis reflect the new categories.

OFCCP's Position

OFCCP currently requires contractors to collect and maintain information about the gender, race, and ethnicity of employees in the five race and ethnic categories used on the previous EEO-1 Report: Whites, Blacks, Hispanics, Asians/Pacific Islanders, and American Indians/Alaskan Natives. In light of the changes to the EEO-1 Report for 2007, OFCCP states it is drafting proposed amendments to the recordkeeping and affirmative action program (AAP) regulations at 41 CFR parts 60-1 and 60-2 designed to require the use of consistent race and ethnic categories in the Executive Order 11246, as amended (Executive Order) program. The agency plans on publishing its proposed regulatory changes in the Federal Register for a sixty-day public comment period in the near future. The agency will then review and consider the public comments before finalizing race and ethnic categories contractors will be required to use under Executive Order 11246.

OFCCP understands that many contractors already have taken significant steps to develop and implement new data systems for collecting and reporting the race and ethnicity data required by the revisions to the EEO-1 Report, while other contractors have either delayed implementation, awaiting further instructions from the OFCCP, or faced difficulty in making the required system changes. OFCCP also recognizes that contractors will need to begin collecting data under these new standards before they are able to use such data in their AAPs and other records produced during compliance evaluations.

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Department of Labor Honors "Exemplary" Efforts of Contractors

On Thursday, November 8, 2007, The US Department of Labor, in a ceremony in Washington, D.C., celebrated efforts to ensure equal employment opportunity in the workplace by highlighting and honoring the results-oriented programs of five organizations, including two universities, two private-sector corporations, and one non-profit group.

The EPIC Award (Exemplary Public Interest Contribution)

This award honors public interest organizations that support equal employment opportunity and link their efforts with Federal contractors to enhance equal employment opportunity. Award winners are typically organizations that assist individuals who have the least opportunities to find and retain employment. The 2007 recipient of the EPIC award was Sensory Access Foundation (SAF), in Sunnyvale, California.

Sensory Access Foundation (SAF) acts as a conduit between employers and qualified individuals with disabilities. For over 30 years, SAF has assisted individuals who are blind or visually impaired to find and keep competitive employment throughout California, by providing the highest quality access to technology, computer training, job placement, and accommodation services, with a goal of 100% job retention. SAF offers clients job preparation and placement services through career counseling, resume writing, interview skills building, job clubs, and benefits counseling; access technology

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SAF EPIC Award Recipients Jessica Orozco and Marie King with OFCCP's William Smitherman and Sylvia Gerst, SAF Board Member

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Accordingly, until final guidance is provided by OFCCP, as a matter of enforcement discretion, the Agency will not cite contractors for non-compliance solely because they utilize the race and ethnic categories required for the revised EEO-1 Report. Contractors may also prepare their AAPs using racial and ethnic categories provided under OFCCP's current regulations.

Nothing in OFCCP's interim guidance is intended to prohibit more detailed data collection by a contractor. Contractors are free to collect and maintain more detailed demographic data than is required to complete the revised EEO-1 Report. OFCCP supports contractor efforts to collect and analyze workforce data in a manner that allows meaningful progress towards equal employment opportunity."

(Reference: Interim Guidance Memo, OFCCP Web Site)

Background on EEO-1 Changes

EEO-1 reporting had remained unchanged since 1966. In 1997, the EEOC published "Revised Standards for Classification of Federal Data" with multiracial reporting offered. At this time, EEOC stated its preference for employees to self-identify. In 2003, EEOC finalized EEO-1 reporting requirements for 2007; and new race codes and job category reporting went into effect. Employee self-identification was also reaffirmed. These were the changes:

- Asians – report separately from "Pacific Islanders"
- Hawaiian/Pacific Islanders – added as a new category
- "Two or More Races" – added as a new category
- "Hispanic or Latino" employees – would report separately
- One "Officials & Managers" category – replaced by two

Voluntary Self-Identification

The EEOC "strongly endorses" employee self-identification of race, ethnicity, and gender. Employers may use employment records or visual observation to gather race and ethnic data for EEO-1 purposes only when employees decline to self-identify. In situations where it may be unduly burdensome, or not feasible to self-identify, employees must be offered self-identification and have declined, before employer information on race and/or ethnicity can be substituted. (Note: Self-identification does not legally alter any of the fundamental legal standards of Title VII or Executive Order 11246, as amended. Additionally, race and ethnic data cannot be the basis for any employment decision.)

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"Exemplary" Efforts (continued from page 1, Column 2)

with comprehensive evaluations of functional vision, job tasks, work environment, home environment, educational setting, lighting environment, and existing technology; and Occupational Skills Training (OST), which involves a series of focused computer application/adaptive technology training courses presented in small, classroom presentations and individualized sessions.

SAF outreach addresses the needs of individuals seeking to enhance their business interpersonal skills commensurate with job search or job retention. SAF's employment services assist clients in obtaining new employment or retaining their current employment if they are in jeopardy of losing positions due to changing functional vision, new job tasks, or change in work environment. In this way, client needs are assessed, access technology is identified and strategies developed to acquire the needed technology, including short-term equipment loans. SAF also works with employers to integrate access technology with existing systems, monitor client progress and train rehabilitation professionals on the use of access technology.

The Exemplary Voluntary Efforts (EVE) AWARD

This award honors outstanding Federal contractors who have demonstrated innovative, exemplary equal opportunity programs. This year's award recipients touched the lives of many in reaching out to create workplaces that offer equal opportunity by sharing best practices of what can be done to build a truly diverse workforce, motivating others to do the same. 2007 EVE Award were presented to: Cornell University, Ithaca, New York, Rush University Medical Center, Chicago, Illinois, and Public Service Enterprise Group (PSEG), Newark, New Jersey.

Cornell University's commitment to diversity and inclusiveness began at the university's inception, with the statement of co-founder Ezra Cornell: "I would found an institution where any person can find instruction in any study." The university innovatively addresses diversity by focusing on each and all aspects of the subject with aggressive programming, incorporating work/life/family balance. Initiatives include creation of an affirmative action plan that incorporates diversity and work/life considerations, establishment of a discrimination complaint procedure, addressing student diversity through completion of a diversity statement as part of the admissions process, employee diversity training opportunities with on-line diversity recruitment training, and implementing workplace accommodation programs for employees with disabilities.

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“Exemplary” Efforts (continued from page 2, Column 2)

Rush University Medical Center is a nonprofit academic medical center encompassing a hospital with more than 600 staffed beds. Rush serves the diverse and ever-changing communities of Chicago by empowering employees, students, faculty, and patients with disabilities. The Rush ADA Task Force, founded in 1991, implements policies for persons with disabilities and educates others on how to work with and hire persons with disabilities. The Task Force has 24 programs for improved access and services, as well as 19 disability training, outreach and education programs. One of the flagship programs is School to Work, launched with support from the US Department of Labor, to combat workforce shortages by educating entry-level workers for healthcare careers. This program offers courses in reading, math, and communication skills, to prepare participants for entry into local certificate or degree programs. Another education program, Linking Education and Performance (LEAP), provides over 200 free classes, such as English as a Second Language and management training programs. It offers employees tuition reimbursement for approved classes off-campus and free tuition at all colleges within Rush University, with the exception of the Medical College. Rush is also a pioneer in promoting a pro-parent work environment. In 1971, the university began one of the first onsite daycare centers in Chicago, the Laurance Armour Day School (LADS). Today, LADS provides a fun and educationally stimulating environment for infants, pre-school and school-age children of Rush employees on campus. Rush's employee and student populations reflect the diversity of its neighborhoods: 72% of all employees are women, 50% are minority, more than 130 employees are veterans, 46% of all residents and fellows are minority, 74% of all students are women and 28% are minority.

Public Service Enterprise Group (PSEG) is an energy, and energy services, company with four major subsidiaries: PSEG Energy Holdings; Public Service Electric & Gas; PSEG Power; and PSEG Services Corporation. It is one of the nation's largest combined electric and gas utilities and New Jersey's oldest publicly-owned utility company. PSEG, along with the entire energy industry, faces a shortage of skilled workers as baby boomers begin to retire. To meet this challenge, PSEG launched the Energy Utility Technology Degree Program in 2003 to develop a continuous pipeline of diverse talent for employment in entry-level technical trade positions and reinforce a commitment to education that would generate renewed interest in technical trade careers. In partnership with Mercer County Community College, the program combines classroom

instruction with technical apprentice-level training at PSEG's Edison Training and Development Center. PSEG employees also mentor students on the job and in the classroom. Students enroll in five utility courses and complete two paid internships at the company's field locations. The program provides training in safety, resume writing, interviewing and employability skills and helps raise the competency level of new employees by providing a way for qualified students to combine classroom work with hands-on apprentice-level training prior to being hired. First-line supervisors and managers enhance their coaching and mentoring skills as they work with and coach a more diverse workforce. The program provides diverse talent for PSEG, with 54% of students hired through the technical trade program from the minority community. Overall, PSEG hires 80% of the program's graduates.

Secretary of Labor's Opportunity Award

This award honors one Federal contractor each year that institutes a comprehensive workforce strategy to ensure equal employment opportunity. The 2007 Award was presented to Raytheon Company, Waltham, Massachusetts, a defense contractor and industrial corporation specializing in defense, homeland security, and other government markets throughout the world. Raytheon has six major business divisions, and with a history spanning more than 80 years, provides state-of-the-art electronics, mission systems integration, and other capabilities in the areas of sensing, effects, command, control, communications, intelligence systems, as well as a broad range of mission support services. Raytheon, headquartered in Waltham, Massachusetts, employs 73,000 people, worldwide. The Award was accepted by the firm's Chairman and Chief Executive Officer, William H. Swanson.

Diversity at Raytheon

Raytheon fosters inclusiveness by providing an atmosphere where everyone is valued and empowered to perform at a peak level, regardless of the many ways people are different, including, but not limited to, age, race, gender, sexual orientation, family history, or physical ability.

Talent Retention and Acquisition: Diversity is a key component of Raytheon's talent retention and acquisition strategy. A variety of education programs inform employees regarding why diversity matters to Raytheon's culture and business and how to achieve it in the workplace. The company supports partnerships with the Tuskegee Pipeline Initiative and National Defense University Partnering Strategy.

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“Exemplary” Efforts (continued from page 3, Column 2)

Rdiversity Initiative: Another major Raytheon outreach is the Rdiversity Initiative, which builds relationships and enhances employee understanding about cross-cultural differences. The initiative began with the Rdiversity Summit, which replaced the company's Women's Forum and Diversity Forum. The Summit theme was “Creating Full Diversity Partnerships – It Takes All of Us.” Participants explored topics such as organizational culture, power and privilege, and participated in discussion groups to reinforce learning. This program has demonstrated the power of an inclusive culture, enhances support for diversity, and helps participants become change agents.

Employee Resource Groups/Diversity Council: Raytheon supports numerous Employee Resource Groups (ERGs). ERGs offer a forum where people can build networks and share dialogue. In addition to helping individuals meet their personal goals, the groups work to help the company achieve its business objectives. The Diversity Council is a strategic initiative overseen by a twenty-member group consisting of a partnership between senior leaders and representatives of the ERGs. The group meets monthly to guide the activities of the following groups: Raytheon Asian Pacific Association, Raytheon American Indian Network, Raytheon Black Employee Network, Raytheon Hispanic Employees Association and Raytheon's Women's Network.

Communications: Raytheon believes the key to inclusiveness is open communication. The company launched an extensive advertising campaign in 2004 to inform business partners, employees, potential job candidates, and the media, about Raytheon's commitment to diversity. A new campaign was launched again in 2007.

MathMovesU is an innovative initiative designed to engage middle school students in math by illustrating the connection between math, their passions and interests and “cool” careers. Focal point of the program is the MathMovesU.com website, targeted toward students. The goal of the website is to stimulate interest in everyday math through compelling and relevant content and prize winning contests and events. MathMovesU grants \$1 million annually to teachers, students, and schools.

Community Outreach: Raytheon makes extensive outreach efforts, especially in the recruitment of persons with disabilities through efforts with Gallaudet University, the National Resource Center (for the Disabled), Clark University, and the Rochester School for the Deaf. The company also sponsored and participated in 28 local and 22 national diversity conferences and job fairs and developed alliances/partnerships with several community-based organizations.

Supplier Diversity: Raytheon strongly values and encourages diversity in its suppliers. The firm's supplier diversity program focuses on establishing and growing strategic business relationships with small-, minority-, women-, and veteran-owned businesses, as well as businesses located in a Historically Underutilized Business (HUB) zone. 2006 Raytheon Diversity Purchase Order Procurements include: \$99M for HUB Zone Businesses, \$199M for Veteran-owned Businesses, \$199M for Women-owned Businesses, \$241M for Minority-owned Businesses, and \$1.6B for Small Businesses.

In congratulating each of the Award winners for 2007, Secretary of Labor, Elaine Chao reaffirmed the goal of the Department of Labor to ensure equal employment opportunity by stating: *“I congratulate today's award winners for going that extra mile to ensure that the doors of opportunity remain wide open for all.”*



Save The Date

26th Annual

National Industry Liaison Group Conference

July 29 – August 1, 2008, Anaheim, California

The ILG is a partnership of employer representatives from companies that are federal government contractors, the U.S. Department of Labor, Office of Federal Contract Compliance Programs (OFCCP), and the Equal Employment Opportunity Commission (EEOC). The annual ILG national conference provides an opportunity for representatives from industry and the federal government enforcement agencies to come together to discuss issues of common interest in the equal employment opportunity arena. (Updated conference information provided in future newsletter.)

Sharing Results-Oriented Programs

Gerstco, Inc is interested in Communicating good faith efforts by contractors. So, if your organization has best practices and results-oriented programs and would like to share them with others so they can know and learn about them, please contact Katie Lockyer at (katie@gerstco.com).

New I-9 Form

A new I-9 form has been issued by the United States Citizenship and Immigration Services (U.S.C.I.S.) department and must be used as of **12/26/2007**. The major changes to the form are the revised lists of acceptable documents proving identity and eligibility. Employers who fail to use this new form for new hires and employees requiring re-verifications after this date will be subject to applicable penalties. The new form is available with instructions at www.uscis.gov/files/form/i-9

The Immigration Reform and Control Act of 1986 requires all employees, citizens and non-citizens, hired after November 6, 1986 and working in the United States to complete a Form I-9. The purpose of this form is to document that each new employee (citizen and non-citizen) hired after November 6, 1986, is authorized to work in the United States.

The I-9 and OFCCP Compliance

During an OFCCP on-site compliance audit, Compliance Officers could interview the person(s) who sign the I-9 forms for the company to verify the process followed by the company. It is recommended that companies review the process annually to ensure that the procedures being used are in compliance with the law.

Internal Audit Questions

1. Are the correct forms being used?
2. Are the forms completed in a timely manner at the time of hire?
3. Are the correct documents being accepted for identification and eligibility?
4. Has the process been checked to ensure that the company does not specify which documents they will accept, or refuse to accept documents with a future expiration date (document discrimination)?
5. Are recordkeeping requirements being met? (*3 years after the date of hire, or 1 year after the date employment ends, whichever is later*).
6. Is there a 'tickler file' for verification documents with an expiration date?
7. Are verification documents updated and re-verified?

The U.S.C.I.S. has a Customer Assistance Office (CAO) to inform employers about employment related immigration matters. If you have questions or need additional information, please visit their website at www.uscis.gov or call them at 1-800-357-2099.

New 2008 AAP Workshop Schedule

If you are new to Affirmative Action or would like to learn about new EEO AAP requirements, you are invited to attend Gerstco's "Practical Approaches to Strategic Implementation of Your Company's Affirmative Action Program" workshop. This intensive two-day program begins by covering the legal basis for the affirmative action requirements, and then proceeds to an analysis of the AAP components, a review of OFCCP enforcement policy and is concluded by formulating new initiatives for AAP program development and implementation.

Registration is limited to 10 participants per workshop to allow ample time for Q&A and small group work. Past participants consistently find this program an excellent opportunity for learning and sharing.

Workshop Registration

Registration is now open for workshops on:
February 7 & 8, 2008
April 17 & 18, 2008
September 11 & 12, 2008
December 4 & 5, 2008

To register for a workshop visit our website, www.gerstco.com, or call us at 1-800-700-0937 ext. 201.

Other training needs?

If you have other EEO AAP training needs such as recruiter or manager training, we offer short courses in person or via web conference. Contact Katie Lockyer (katie@gerstco.com) or 1-800-700-0937 ext. 210) to discuss your training needs.

Best Practices & Results-Oriented Programs Still the Standard for Affirmative Action Compliance

Current affirmative action regulations deal with the concept of "action-oriented programs" as *Additional Required Elements of Affirmative Action Programs*, with the following definition:

"The contractor must develop and execute action-oriented programs designed to correct any problem areas identified and to attain established goals. 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 demonstrate that it has made good faith efforts to remove identified barriers, expand employment opportunities, and produce measurable results."
(41 CFR 60-2.17)

OFCCP's Position on Good Faith Efforts, Action-Oriented Programs

Effective affirmative action is not a 'follow-the-numbers' exercise where a contractor simply goes through the motions, not really working to achieve affirmative action. Meaningful affirmative action also requires the development and carrying out of action-oriented programs that have the potential to eliminate identified problems in the AAP and the establishment of procedures for monitoring these problems to determine whether the AAP is effective. Affirmative action is intensely situation-specific, in that a contractor must assess its own circumstances and determine the types of equal employment opportunity problems that exist, understand how the problems developed, what were previous efforts to address the issues and resources available at the time, to really devise mechanisms that can effectively address their particular circumstances.

An affirmative action program is more than a paperwork exercise. It includes policies, practices, and procedures that the organization needs to ensure that all qualified applicants and employees are receiving an equal opportunity for recruitment, selection, advancement, and every other term and privilege associated with employment. Ideally, affirmative action is part of the way a contractor regularly conducts its business. The Agency has found that when an affirmative action program is approached from this perspective, as a powerful management tool, there is a positive correlation between the presence of affirmative action and the absence of discrimination.

No contractor's compliance status will be judged alone by whether it reaches its goals. Each contractor's compliance with its affirmative action obligations will be determined by reviewing the nature and extent of its good faith affirmative action activities and the appropriateness of those activities to identified problems in the AAP. Each contractor's compliance with nondiscrimination obligations will be determined by analysis of statistical data and other non-statistical information which would indicate whether employees and applicants are being treated without regard to their race, color, religion, sex, or national origin.

Examples of Good Faith Efforts

- The commitment and communication of management, including senior management, to equal employment opportunity and affirmative action principles;
- Development and implementation of a system to identify high potential minority and women employees and track their progress for future opportunities;
- Management development programs, including early identification of management potential, developmental assignments, and training opportunities;
- Mentoring programs that include minorities and women;
- Active recruitment at colleges and universities and the establishment of relationships with on-campus minority, women, veteran, and disabled student organizations;
- Development and implementation of a monitoring system that reports to the Chief Executive Officer on a regular basis regarding the effectiveness of the affirmative action program;
- Documentation processes of 'good faith efforts' made to correct deficiencies in the utilization of minorities and women;
- Assigning responsibility and accountability to a qualified company official for implementation of the affirmative action program. This individual should be given the all resources needed to execute the affirmative action plan.
- Diversity in vendors and sub-contractors;
- Outreach to community-based organizations that can assist in meeting identified affirmative action goals;

For a list of local and national outreach organizations, please contact, Katie Lockyer, at katie@gerstco.com.

New Release: Gerstco's AAPBase & CENSBase Software

Gerstco will release its newest versions of AAPBase and CENSBase software for affirmative action planning at the end of January 2008. With literally thousands of report and logic changes, this release is the most significant release of AAPBase software since the introduction of "reporting relationships" in 2001. Major changes to the software include:

- a. Revised EEOC Category and Race Designations:** 2007 EEO-1 reporting required the following changes to EEO Categories and race codes which had been in effect since 1966: The *Officials and Managers* EEO Category has been divided into two separate Categories – *Executives/Sr. Level Officials and Managers (1.1)*, and *First/Mid-Level Officials and Managers (1.2)*. In addition, the *Office and Clerical* Category has been renamed to *Administrative Support Workers (5)*. Two new minority race designations were added for EEO-1 reporting: *Native Hawaiian/Other Pacific Islander* and *Two or More Races*.
- b. New Veterans' Narratives:** Final published Jobs for Veterans Act regulations have required that contractors update their AAP narratives for covered veterans after September 7, 2007. This update includes revising veteran categories and other narratives.
- c. New eAAP Templates** have been included to provide "compliance-ready" documents for software users.

Many other changes have been added to the software to enhance user flexibility in performing more discrete workforce analysis. Current users with valid Software Maintenance Agreements will receive automatic update information at no additional cost. Both AAPBase and CENSBase will need to be updated with this version release.

Editorial Information

AAP/NEWS Newsletter for EEO & HR Professionals
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The purpose of this newsletter is to review the latest developments in EEO/Affirmative Action Matters. The information contained herein has been abridged from numerous sources and should not be construed as legal advice or opinion, and is not a substitute for the advice of counsel.

New VETS Website Address

Recently, the Veterans' Employment and Training Service (VETS) changed the URL for their website to vets100.vets.dol.gov. This a public website that provides information and resources as well as a portal for filing the annual VETS-100 Report online.

The VETS is an Agency in the U.S. Department of Labor (DOL) that collects and compiles data on the Federal Contractor Program Veterans' Employment Report (VETS-100 Report). Companies that are federal government contractors or subcontractors holding contracts in the amount of \$25,000 or more prior to December 1, 2003 or \$100,000 on or after December 1, 2003, are required to file the VETS-100 Report by **September 30** each year and companies are encouraged to submit reports online.

Please note that this URL is browser specific. Before you access the new URL for the VETS website, follow the browser set up instructions:

1. Open your web browser (Icon or link you use to access the internet, i.e., Internet Explorer).
2. Select Tools in the browser menu.
3. Select Internet Options.
4. Click on the Advanced tab.
5. Scroll down to the Security section.
6. Click the box that reads 'Use TLS 1.0'.
7. Click Apply then OK.
8. Go to vets100.vets.dol.gov.

If you need further assistance, contact the VETS-100 helpdesk at (301) 306-6752 or by email at helpdesk@vets100.com.

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