Affirmative Action Terms

Ability
A present competence to perform an observable behavior or a behavior that results in an observable product.

Accessibility
The ability of an individual with a disability to approach, enter, and use an employer's facilities such as reception areas, employment offices, and the actual job site. Referred to in Section 503 of the Handicapped Regulations.

Adverse Impact
The selection of protected-class members at a rate lower than that of other groups. A selection rate for any race, sex, or ethnic group which is less than four-fifths (4/5 or 80%) of the rate for the group with the highest rate will generally be regarded by the enforcement agencies as evidence of adverse impact.

Affected Class
Employees, former employees, or applicants who have been denied employment opportunities or benefits of discriminatory practices and/or policies of the employer. Evidence of the existence of an affected class require identification of the discriminatory practices, identification of the effects of the discrimination, and identification of those suffering from the effects of the discrimination.

Affirmative Action
Those result-oriented actions which a contractor, by virtue of its contracts, must take to ensure equal employment opportunity. It may include goals to correct underutilization, relief such as back pay, or correction of problem areas. In the area of employment law it refers to concrete steps in hiring or recruitment, transfer, and promotion, or training designed to eliminate the present effects of past discrimination.

Affirmative Action Clauses
Under the regulations for handicapped individuals, disabled veterans, and Vietnam era veterans, affirmative action clauses detail the affirmative action requirements for these protected class members. The clause is required on all contracts of $10,000 to $50,000. Employers with contracts of over $50,000 must also develop affirmative action plans.

Affirmative Action Plan (AAP)
The written plan incorporating a set of specific and results-oriented procedures to which the employer (government contractor) commits itself to apply every good-faith effort to achieve. It is intended to eliminate and remedy past discrimination against or underutilization of minorities and women.

Affirmative Recruitment
If the utilization analysis shows underutilization of women or minorities in certain job groups, then special recruitment efforts must be mounted to make certain that these protected-class members are well represented in applicant pools for positions which have been historically underutilized. It may include special overt or outreach recruitment efforts at job fairs, special advertising campaigns in minority and
women's media, special contacts to organizations which promote placement of minorities and women, etc.

**Age Discrimination in Employment Act (ADEA)**
A federal law prohibiting age discrimination by employers of 20 or more employees against people over age 40, except where age is a bona fide occupational qualification or where the person is in a certain key executive or policy-making position and his or her retirement pension will be in excess of $44,000 per year. Such employees may be required to retire at age 65.

**American Indian or Alaskan Native**
A person with origins in any of the original peoples of North America and who maintains cultural identification through tribal affiliation or community identification.

**Annual Goal**
Referred to in the goals and timetables section of the affirmative action plan, the annual goal is an annual target (annual in that it is the one-year life of the AAP) for placing underutilized groups of protected-class members in those job groups where underutilization exists.

**Applicant for Employment**
A person seeking work at a company or facility as specified in the employer's policy definition of an employment applicant. It is usually a person, as defined by the employer, who is seeking work at the company and who meets certain prescribed standards as defined by the employer. (For instance, you may limit the definition of "applicant" to those who apply for a specific job.)

**Applicant Flow**
The number of applicants for employment for a given job over a stated period of time, analyzed by sex and minority status.

**Applicant Log**
A chronological log or listing, according to race and sex, which records the flow of applicants seeking employment at the facility.

**Applicant Pool**
All people who have applied and met the employer's definition of applicants for particular jobs during the AAP plan year or other predetermined period of time. This is the collection of candidates from which the selection of available positions is normally made.

**Apprentice**
An employee or new hire who is selected to learn a certain skilled trade in a formal training program which consists of on-the-job training, usually monitored by an experienced craft worker, and related formal instruction at the facility or in public vocational institutions. This person may be listed or formally indentured with a state apprenticeship committee.

**Asian or Pacific Islander**
A person with origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. Also included are the countries of China, Japan, Korea, the
Philippine Islands, and Samoa. The Indian subcontinent includes: Bangladesh, Bhutan, India, Nepal, Pakistan, Sikkim, and Sri Lanka.

**Availability**
Availability figures are determined in a complex availability analysis and are used to determine whether an employer is adequately utilizing minorities and women in specific job groups. Availability means the percentage of available minorities and women with the skills required to perform in a specific job group, or individuals who are capable of acquiring those skills in a short period of time. Availability percentages are developed for each job group by factoring raw employment statistics with a weighted factor which is designed to consider the employer’s particular needs.

**Black/African American**
A person with origins in any of the black racial groups of Africa who is not of Hispanic origin.

**Bona Fide Occupational Qualification (BFOQ)**
Employment in particular jobs may not be limited to individuals of a particular sex, religion, or national origin unless the employer can show that one of these factors is an actual and necessary qualification for performing the job. This concept is interpreted very narrowly by the EEOC. While age may be considered a BFOQ under the Age Discrimination in Employment Act (for public safety workers, airline pilots, etc.) race is never a BFOQ.

**Burden of Proof**
For purposes of definition in this workbook, the term often refers to the burden placed on an employer to present a legitimate, nondiscriminatory reason for its employment action once a member of a protected class shows that he or she has been subject to an adverse employment decision, despite being qualified.

**Chilling Effect**
Any practice which has the effect of seriously discouraging the exercise of a right.

**Civil Rights Act of 1964**
The nation’s first comprehensive law making it illegal to discriminate on the basis of race, color, religion, sex, and national origin. Title VII of that law, which is enforced by the Equal Employment Opportunity Commission, is specifically aimed at discrimination in employment.

**Code of Federal Regulations (CFR)**
Federal statutes and executive orders are broad, general statements of law. Federal regulations, on the other hand, fill in the details. For example, Executive Order 11246 requires federal contractors to take affirmative action. The federal regulations issued under that executive order specify exactly how the contractor should do that.

**Compliance**
The degree to which federal contractors or subcontractors carry out the goals and commitments in their affirmative action plans or the nondiscrimination clauses in their contracts.

**Concentration**
More females or minorities in a job group than their relative proportion in the labor market workforce.
**Conciliation Agreement**
A written agreement between an employer and a state or federal antidiscrimination agency that details specific contractor commitments to resolve identified compliance deficiencies which are set forth in the agreement.

**Contractor**
A prime contractor or subcontractor to the federal government.

**Corrective Action**
Correction of deficiencies identified during a compliance review of an affirmative action plan. The term is used in deficiency letters, conciliation agreements, and show-cause orders.

**Deficiency**
Noncompliance with any government regulation.

**Department of Labor (DOL)**
The administrative agency of the federal government that enforces and administers laws and regulations affecting employees at work.

**Desk Audit**
A review and analysis at the desk of the Equal Opportunity Specialist in the Department of Labor offices which determines the acceptability of the employer's affirmative action plans under the regulations.

**Disabled Individual**
Any person who (1) has a physical or mental impairment that substantially limits one or more of his or her major life activities, (2) has a record of such impairment, or (3) is regarded as having such impairment. A disability is substantially limiting if it is likely to cause difficulty in securing, retaining, or advancing employment.

**Disabled Veteran**
A person entitled to compensation under laws administered by the Veterans Administration for disability rated at 30% or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.

**Discrimination**
Illegal treatment of a person or group based on race, sex, or other prohibited factor. There are two types of discrimination: disparate treatment and disparate impact. Disparate treatment means treating a person differently because of his or her race, sex, or other protected-class status. Disparate impact, a less blatant form of discrimination, means a practice that has a negative effect on members of protected classes.

**EEO-1 Category or Code**
The nine broad job categories used on the EEO-1 Report. These are Officials and Managers, Professionals, Technicians, Sales Workers, Office and Clericals, Craft Workers, Operatives, Laborers, and Service Workers.
EEO-1 Report
The annual Equal Opportunity Employer Information Report filed by "government contractors" with the federal government. Also known as the Standard Form 100, the report details the race, ethnic, and sex composition of the employer's workforce by sex category at the start of the calendar year or other time period from January 1-March 31 in a year.

"Eighty Percent" Rule
The "rule of thumb" for determining adverse impact. A selection rate for any group which is less than 80% (four-fifths) of the rate for other groups is evidence of violation of this rule.

Employment Practice
Any recruitment, hiring, or selection practice, or any transfer or promotion policy, or any benefit provision or other function of the employer's employment process that operates as an analysis or screening device.

Enforcement Action
A proceeding by a federal enforcement agency to make sure that the law is being followed. In the case of affirmative action, enforcement could range from a simple desk audit to the investigation of a discrimination complaint. Enforcement action could ultimately result in termination of federal government contracts.

Equal Employment Opportunity (EEO)
A system of employment practices under which no individuals are excluded from consideration, participation, promotion, or benefits because of their race, color, religion, sex, national origin, age, handicap, or veteran status. The purpose of affirmative action is to achieve equal employment opportunity.

Equal Employment Opportunity Commission (EEOC)
The federal government agency designated to enforce Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, and the Age Discrimination in Employment Act of 1967. The Commission has five members, all appointed to a five-year term by the president with the advice and approval of Congress.

Equal Pay Act of 1963
A federal law that requires equal pay for males and females in jobs requiring equal skills, efforts, and responsibility.

Ethnic Group
A group identified on the basis of religion, color, or national origin.

Executive Order
A regulation promulgated by the president that has the effect of law on those governmental matters with which it deals.

Executive Orders 11246, 11375, and 12086
These orders require federal contractors with contracts of $10,000 or more to agree to grant equal
employment opportunity on the basis of race, color, religion, sex, and national origin. Additionally, the orders require those who employ 50 or more employees and who hold contracts of $50,000 or more to develop written affirmative action plans.

**Fair Employment Practices Agency (FEPA)**
A state or local government agency which administers state or local laws, regulations, or ordinances prohibiting employment discrimination on the basis of sex, minority status, and other prohibited factors. Sometimes called the fair housing and employment agency or the state human relations commission where jurisdictions go beyond the employment scene.

**Goal Achievement**
An employer's meeting of its employment or promotion targets set to correct the underutilization of protected-class members.

**Goals and Timetables (G and T)**
An employer who underutilizes women or minorities is required to make numerical projections of good-faith efforts to hire or promote these protected classes. These are called goals. The current timetable framework for affirmative action plans is a one-year period. Goals and timetables are not quotas.

**Good-Faith Efforts**
Those actions that the contractor may voluntarily develop to achieve compliance with the contract's equal opportunity and affirmative action clauses. The results of these efforts are measured by the contractor's degree of adherence to goals and timetables. Good-faith efforts may excuse a contractor from failing to meet a goal or save the employer from sanctions.

**Griggs v. Duke Power Co.**
The landmark U.S. Supreme Court decision of 1971 which determined that employment tests or qualifications which screen out minorities or women at a higher rate than other candidates cannot be used unless the employer proves that such a selection method is related to the job for which it is used. Such proof must be in the form of a validation study.

**Hispanic**
A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

**Impact Ratio**
For employment decisions which offer people employment opportunities (e.g., hiring, promotion, training), the impact ratio for a group is the selection rate for the group of people in question divided by the selection rate for the group with the highest selection rate. For any adverse employment decision (e.g., termination, disciplinary action, layoff) the impact ratio is the (termination) rate of the group with the lowest rate divided by the (termination) rate for the group in question. Impact ratios are compared to the 80% “rule of thumb” to determine if adverse impact exists.

**Job Description**
A written statement detailing the responsibilities and duties of incumbents in a particular job title.
**Job Group**
One or more positions having similar content, wage rates, and opportunities.

**Job Qualifications**
The education, work experience, and other abilities required for a job.

**Labor Force**
All persons in the civilian labor force, plus members of the armed forces.

**Labor Force Participation**
The rate at which a given group (usually referring to protected class groups) is represented in the civilian labor force.

**Minorities**
All persons classified as Black (not of Hispanic origin), Hispanic, Asian or Pacific Islander, or American Indian or Alaskan Native.

**National Origin**
This term refers not only to one's place of birth, but to an ancestor's place of birth as well. New Hire An employee added to the employer's payroll for the first time.

**Noncompliance**
This is the failure to follow the conditions specified in a contract's equal opportunity or affirmative action clauses and the regulations applicable to those clauses.

**Nondiscrimination Clause**
A clause required in federal contracts with suppliers in which the supplier commits to take affirmative action in employment, upgrading, transfer, promotion, demotion, layoff, termination, and training.

**Office of Federal Contract Compliance Programs (OFCCP)**
An office within the U.S. Department of Labor which has the responsibility of administering Executive Order 11246 and its implementing regulations.

**Parity**
The employment of women and minorities in various job groups at levels which approximate the external availability of qualified members of those groups for those particular job categories.

**Pregnancy Disability**
The period during which a female employee is unable to do the duties of the job because of pregnancy, childbirth, or related medical conditions. Employees in this situation must be treated the same as those with disabilities caused by other medical conditions.

**Privacy Act**
Protects against unauthorized use of personally identified data by any agency of the federal government. The employee must consent to the release of the data.
Promotion
A personnel action that results in a person moving to a job requiring higher skill or talents and usually involving greater pay or title.

Protected Class
A group of people protected from employment discrimination under government regulations and laws, specifically identified as women, Blacks, Hispanics, Asians or Pacific Islanders, American Indians or Alaskan Natives, people over age 40, the disabled as defined under Section 503, and disabled veterans and Vietnam era veterans as defined under the Vietnam Era Veterans Readjustment Assistance Act.

Qualified Disabled Individual/Veteran
A disabled individual/veteran who is capable of performing a particular job with reasonable accommodation to his or her disability.

Reasonable Accommodation
Changes in the job or workplace that enable a disabled individual/veteran to perform the duties as identified in his/her job description. Also refers to adjustments made by an employer to accommodate an employee whose religious beliefs forbid working certain days and hours.

Reasonable Cause
A determination made by the Equal Employment Opportunity Commission that there is a basis to believe that a charge or complaint is true.

Recruiting Area
The area from which an employer can and does expect to recruit employees.

Rehabilitation Act of 1973
A federal law that required contractors and subcontractors with contracts in excess of $2,500 to take affirmative action to employ and advance in employment disabled individuals.

Relevant Labor Area
The labor market area from which candidates are usually drawn for certain jobs. This may be a local area or a national market.

Religion
Includes all aspects of religious observance and practice as well as belief.

Remedies
The means used to correct problem areas; a term used in conciliation agreements and letters of commitment. The purpose of the remedial provisions of the Civil Rights Act is to make whole the victims of discrimination.

Requisite Skills
The skills needed to do a job; those skills that make a person eligible for consideration for employment in a job.
Segregated Facilities
Facilities belonging to an employer that provide different accommodations for members of one race than those for another. Although the language of Title VII provides that segregation on the basis of sex is prohibited, separate lavatory, locker, shower, and other personal facilities have not been declared unlawful.

Selection Procedures
Any measures or procedures used to make an employment decision. Selection procedures range from traditional paper-and-pencil tests, performance tests, training programs, probationary periods, and physical, educational, and work experience requirements. They also may include informal or casual interviews and answers on application forms.

Selection Rate
The proportion of applicants or candidates who are hired, promoted, or otherwise selected.

Sex Discrimination
Discriminatory or disparate treatment of an individual because of his or her sex.

Terms and Conditions of Employment
These words encompass all aspects of an employee's relationship with an employer.

Title VII
A federal law that prohibits discrimination in employment on the basis of race, color, religion, sex, or national origin. It applies to all employers of 15 or more employees, regardless of whether or not they are federal contractors.

Underrepresentation
Fewer women or minorities in a job group than their proportion in the contractor's workforce.

Underutilization
Having fewer women or minorities in the employer's workforce than could reasonably be expected based on their availability in the labor area.

Undue Hardship
In order for an employer to be able to refuse an employee's request for accommodation because of disability or religious beliefs, the employer must be able to prove that the accommodation would cause undue hardship. Undue hardship is measured in terms of business necessity and financial cost and expenses.

Utilization Analysis
The comparison of the number of minorities and women in the employer's workforce and the jobs that they occupy, to the availability of minorities and women in the contractor's labor area, and, in the case of promotional jobs, those promotable employees in the contractor's own workforce.

Vietnam Era Veteran
A person who served on active duty for a period of more than 180 days, and was discharged or released
with other than a dishonorable discharge, if any part of the person's active duty occurred in the Republic of Vietnam between February 28, 1961 and May 7, 1975 or between August 5, 1964 and May 7, 1975, in all other cases; or was discharged or released from active duty for a service-connected disability if any part of the person's active duty was performed in the Republic of Vietnam between February 28, 1961 and May 7, 1975 or between August 5, 1965 and May 7, 1975, in all other cases.

**Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA)**

A federal law that requires firms holding federal contracts or subcontracts of $25,000 or more to take affirmative action to hire and advance covered veterans in employment. VEVRAA covers all veterans who served on active duty during a war (World War II, Korea, the Persian Gulf War, Somalia and Bosnia) or in a campaign or expedition for which a campaign badge has been authorized.

**White**

A person of European (except Spanish), North African, Middle Eastern (i.e.- Turkey through Afghanistan) descent who is not of Hispanic origin.