

letter to the DOL

January 18, 2005

Joseph DuBray, Jr., Director
Division of Policy, Planning and Program Development
OFCCP, Room C-3325
200 Constitution Avenue, NW
Washington, DC 20210



WorldatWork sends this comment to the Office of Federal Contract Compliance Programs (OFCCP) pursuant to the notice of proposed standards for systemic compensation discrimination under Executive Order 11246, as published in the Nov. 16, 2004, *Federal Register*.

During the past five decades, the role of compensation has truly evolved from a hybrid position blended from human resources and finance into its own distinct profession. Exactly 50 years ago, in 1955, a group of compensation professionals in Ohio began meeting to discuss their profession. That group eventually grew into the American Compensation Association, and is today known as WorldatWork, the recognized global knowledge leader and professional association for compensation professionals.

One of WorldatWork's roles is to provide knowledge and education to practitioners in the field of compensation. Through its certifying organization, WorldatWork provides a certification, Certified Compensation Professional (CCP), which provides individuals with the opportunity to demonstrate their mastery of the body of knowledge associated with this profession.


In the WorldatWork courses and seminars, participants learn the importance of job valuation by analyzing critical factors, documenting job tasks and evaluating the job based upon internal or external (or both) criteria. From this evaluation stage, professionals learn how to take that information and develop pay grades and ranges, and how to determine, monetarily, what a given job is worth. In addition, professionals gain competence in complying with various regulations affecting the compensation profession.

With a unique compensation background as perspective, WorldatWork staff and member-volunteers reviewed the proposed regulations regarding the new auditing procedure. The following are some of the comments we want to address:

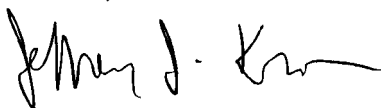
- A. Under section D of the introduction, you reference the Title VII definition of "similarly situated employees." WorldatWork believes that the definition of "similarly situated employees" should not use pay grades or job families if the main goal is to determine discrimination practices among similarly situated employees. It is also important to note that job titles alone are not sufficient, as both titles and descriptions could be out of date. Although WorldatWork stresses through its educational materials the importance of current job titles and descriptions, this is not always reality or industry practice due to changes in organizational structures, as well as reorganization, downsizing, rightsizing, etc. Employee/supervisor interviews and employee observations can help with defining groupings of similarly situated employees.

B. When taking into account the legitimate factors that influence pay, it is important to note that within the past decade the employee-employer relationship regarding pay has changed. Today, employee pay has greater opportunity for flexibility based upon the increasingly popular concept among employers of “total rewards.” Total rewards can be defined as all of the tools available to the employer that may be used to attract, retain and motivate employees. Total rewards includes everything the employee perceives to be of value resulting from the employment relationship. Typically, total rewards consists of three main areas: compensation (i.e. base pay, incentives and bonuses), benefits (i.e. paid time off, health and welfare) and work-life effectiveness tools (i.e. development opportunities, flexible work schedules and job sharing). Because total rewards has taken a more prominent role in the workplace today, WorldatWork believes base compensation can vary significantly based upon how the employee values the work relationship and what reward alternatives might be available to the employee. Without research and survey data it would be difficult to specifically say whether variations due to employee-selected total rewards options would fall within the two-standard deviation benchmark, but it could be a possibility.

C. It is understood that a statistical analysis known as “multiple regression” can be used to account for the influence of legitimate factors on compensation. With regard to pooled regression that considers employee groupings in today’s business world, auditors will find many organizations that will have fewer employees than the 30/5 recommendation requires. Pooling similar groups of employees to achieve the statistically significant 30 might be difficult. Because of changes in the economy, work processes and staffing issues experienced in recent times, employers have witnessed increased production with fewer employees. As a result, several organizations have individual contributors that might be difficult to group together. In addition, the flexible approach afforded by the total rewards model might make this endeavor difficult to analyze.

WorldatWork supports the OFCCP in issuing interpretive guidance on systemic compensation discrimination. We understand the many challenges OFCCP staff members encounter in their reviews and we offer our ongoing assistance in explaining the compensation element. As the representative and voice of the compensation profession, WorldatWork is able to provide you with knowledge of compensation design and practices and access to experts who work with organizational compensation on a daily basis. We welcome the opportunity to further assist you in developing effective and practical guidance that ensures appropriate methodologies for conducting compensation analyses and compliance with Executive Order 11246. Please feel free to contact me at our Washington D.C. office to arrange a meeting or if you have any further questions. 

Sincerely,



Jeffrey J. Kros
Government Relations