distribution: chancellor human resources directors

Date: November 29, 2010

Code: TECHNICAL LETTER HR/EEO 2010-02

To: Equal Employment Opportunity Directors

Reference: TECHNICAL LETTER HR/Personnel Records 2010-01

From: Bruce Gibson
        Senior Director, Systemwide Equal Opportunity/Whistleblower Compliance & Chancellor's Office Human Resources

Ellen Bui
        Senior Manager
        Systemwide Equal Opportunity/Whistleblower Compliance

Subject: Reporting the New Race/Ethnicity Categories in the Affirmative Action Plan

Overview

Audience: Campus designees responsible for compiling and updating the affirmative action plan.

Action Items: Ensure your Affirmative Action Plan is prepared in accordance with federal guidance on race and ethnicity categories now applicable to the CSU.

Affected Employee Groups/Units: All

Summary

In recent months, all CSU campuses have begun using new race and ethnicity categories that were mandated by the U.S. Department of Education to collect information from employees and job applicants. This Technical Letter summarizes a guidance issued by the Office of Federal Contract Compliance Programs (OFCCP) on how to report the race and ethnicity data of employees and applicants in the various statistical analyses of the Affirmative Action Plan, given the use of several new race and ethnicity categories that do not appear in the current OFCCP regulations.

Introduction

In recent months, CSU has begun using new race and ethnicity categories that were mandated by the U.S. Department of Education for educational institutions participating in federal student financial aid programs. Pursuant to Technical Letter HR/Personnel Records 2010-01, the race and ethnicity categories CSU is using to collect data from employees and job applicants are:

- Hispanic or Latino
- American Indian or Alaska Native
- Asian
  - Chinese

Distribution:
        Chancellor
        Human Resources Directors
In comparison to the race and ethnicity categories listed above which are used to collect data from employees and job applicants, the categories used to report data on employees and job applicants, as specified in Technical Letter HR/Personnel Records 2010-01, are:

- Race and Ethnicity Unknown
- Hispanics of any race

For non-Hispanics only:
- American Indian or Alaska Native
- Asian
- Black or African American
- Native Hawaiian or Other Pacific Islander
- White
- Two or more races (derived value)

**Affirmative Action Plan Reporting**

The Office of Federal Contract Compliance Programs (“OFCCP”) has not revised its affirmative action regulations to adopt the new race categories such as the Native Hawaiian or Other Pacific Islander or the Two or more races. However, the OFCCP has issued written guidance to federal contractors, stating that the agency will accept affirmative action plans and employment records that reflect the new race and ethnicity categories. A copy of the OFCCP guidance is attached for your reference (Attachment A).

Below is an enumerated summary list of the points made in the OFCCP guidance. Following each summarized point is the Chancellor’s Office instructions to campuses on what to do for affirmative action reporting purposes, which are denoted by bullets.

1. In the Organizational Display/Workforce Analysis, employers may choose to develop the analysis using the new race and ethnicity categories.
   - Since CSU is using the new race and ethnicity categories, campuses should reflect this in the Organizational Display/Workforce Analysis, by showing, for each organizational unit, the total number of male and female employees in each of the following categories: American Indian or Alaska Native, Asian, Black or African American, Hispanics of any race, Native Hawaiian or Other Pacific Islander, White, Two or More Races.

2. When comparing the percentage of women and minorities in each job group to the available workforce:
   - Individuals who select both the Hispanic or Latino category and another category should be reported as Hispanics of any race.
Individuals reported as Hispanics of any race or Two or more races should be counted as Minorities.

- In the Availability Analysis and the Utilization Analysis, count as Minorities all employees reported as belonging to any race/ethnicity category other than White as well as all employees reported as Two or more races.

3. When establishing placement goals, contractors should, in most cases, continue to establish a single goal for all minorities. Contractors are not expected to set a separate placement goal for individuals reported as Two or more races.

- Since the Placement Goals section of the Affirmative Action Plan is built upon the Availability Analysis and the Utilization Analysis, the same reporting guidance applies: Count as Minorities all employees reported as belonging to any race/ethnicity category other than White as well as all employees reported as Two or more races.

- For each job group, conduct the Placement Goals analysis for Minorities as a group and for Females as a group.

4. When examining whether a contractor's employment practices result in disparities in the employment or advancement of minorities in the aggregate under 41 CFR 60-2.17, contractors are not required to separately analyze their employment practices with regard to individuals identified as Two or more races. Rather, these individuals should be considered as part of the aggregate group of Minorities.

- In the adverse impact analyses (aka, the hire, promotion and termination analyses) as well as in the compensation analysis, count as Minorities all employees and applicants reported as belonging to any race/ethnicity category other than White as well as all employees and applicants reported as Two or more races.

Guidance for Campuses that Conduct Analyses for each Race/Ethnicity Category Comprised Under Minorities

For each job group, the OFCCP only requires contractors to separately determine the availability and utilization of women and of minorities in the aggregate. It is not required to analyze the availability and utilization of each race/ethnicity category comprised under Minorities. 41 CFR 60-2.14(b) and 41 CFR 60-2.15(a). Campuses who currently analyze the availability and utilization of each race/ethnicity category should know their approach is an option, not a requirement. If your campus exercises this option, then, based on the OFCCP guidance, you should do the following:

- In the Availability Analysis and Utilization Analysis, display a column for each of the following race/ethnicity categories and conduct the analyses for each race/ethnicity category: American Indian or Alaska Native, Asian, Black or African American, Hispanics of any race, Native Hawaiian or Other Pacific Islander, White, and Two or More Races. (In a footnote in the OFCCP guidance, the agency stated the 2000 census shows a small number for the Two or more races population so it is unlikely that many Utilization Analyses will reveal a substantial disparity in the utilization of individuals belonging to the Two or more races category.)

- In the Placement Goals analysis, display a column for each of the following race/ethnicity categories and conduct the analysis for each race/ethnicity category: American Indian or Alaska Native, Asian, Black or African American, Hispanics of any race, Native Hawaiian or Other Pacific Islander, White, and Two or More Races.

- In the adverse impact analyses (aka, the hire, promotion and termination analyses) as well as in the compensation analysis, follow the rules established by the federal Office of Management and Budget.

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1 The OFCCP may require a contractor to establish a separate placement goal for a particular race/ethnicity comprised under Minorities or to establish a separate placement goal for the men or women of a particular race/ethnicity comprised under Minorities. This may occur where a substantial disparity exists in the utilization of that particular group.
(“OMB”) to allocate individuals reported as Two or more races to one of the single race/ethnicity categories before running your adverse impact analyses. A copy of the OMB guidance is attached for your reference (Attachment B). To summarize, the OMB rules dictate the following:

— Individuals who self-identify as belonging to both White and another race/ethnicity category are allocated to the other race/ethnicity category. In other words, such individuals will be counted in the minority race/ethnicity for purposes of running the adverse impact analyses and the compensation analysis.

— Individuals who self-identify as belonging to two or more race/ethnicity categories, neither of which is White (in other words, individuals who self-identify as belonging to more than one minority groups) are alternatively allocated to each of the minority groups. For example, an individual self-identified as Black or African American and American Indian or Alaska Native would first be allocated to Black or African American and an adverse impact analysis or compensation analysis would be conducted based on this allocation. A second adverse impact analysis or compensation analysis must also be conducted, this time counting the individual as American Indian or Alaska Native.

Questions may be directed to Ellen Bui at (562) 951-4427. This HR memorandum is also available on the Human Resources Management’s Web site at: http://www.calstate.edu/HRAdm/memos.shtml.

BG/eb

Attachments
1. **SUBJECT:** Federal contractors’ obligation to maintain and analyze the race and ethnicity data of applicants and employees in Affirmative Action Programs prepared in accordance with Executive Order 11246, as amended.

2. **PURPOSE:** To establish field enforcement guidance for evaluating the use of race and ethnicity categories in the Affirmative Action Programs prepared by federal contractors in accordance with Executive Order 11246, as amended.

3. **FILING INSTRUCTIONS:**

   **Holders of ADM and LEG Binders only:** File this Notice with the attachment behind the “Other” tab in your Administrative Practices Binder.

   **District and Area Offices:**
   File this Notice with the attachment behind the tab for ADM Directives in your FCCM Binder.

4. **OBSCURE DATA:** None.

5. **DISTRIBUTION:** A, B (both hard copy and electronically); C (hard copy only).

6. **EXPIRATION DATE:** This Directive remains in effect until superseded.

   ![Signature]

   **August 14, 2008**

   **DATE**

   **CHARLES E. JAMES, SR.**
   Deputy Assistant Secretary for
   Federal Contract Compliance
EMPLOYMENT STANDARDS ADMINISTRATION
U.S. DEPARTMENT OF LABOR
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS
WASHINGTON, DC 20210

ADM NOTICE/OTHER

1. SUBJECT: Federal contractors' obligation to maintain and analyze the race and ethnicity data of applicants and employees in Affirmative Action Programs prepared in accordance with Executive Order 11246, as amended.

2. PURPOSE: To establish field enforcement guidance for evaluating the use of race and ethnicity categories in the Affirmative Action Programs prepared by federal contractors in accordance with Executive Order 11246, as amended.

3. BACKGROUND: Several provisions in the regulations implementing Executive Order 11246, as amended (the "Executive Order"), require federal contractors to maintain and analyze data on the sex, race, and ethnicity of employees and applicants.¹ The Executive Order Affirmative Action Program (AAP) regulations generally require that contractors perform these analyses for minorities in the aggregate, rather than for particular minority groups. Only one provision of the AAP regulations – 41 CFR § 60-2.11 – requires contractors to use specific race and ethnic categories. This section requires contractors to develop an organizational profile reflecting the sex, race, and ethnicity of its incumbents, and indicating the total number of male and female incumbents in each of the following groups: Blacks, Hispanics, Asians/Pacific Islanders, and American Indians/Alaskan Natives. See 41 CFR §§ 60-2.11(b)(3)(iv), 60-2.11(c)(4).²

Under 41 CFR § 60-1.7(a), federal contractors with 50 or more employees, and that meet the following thresholds, must complete and file annually an accurate Standard Form 100 (EEO-1) Report:

   a) have a Government contract, subcontract, or purchase order of $50,000 or more,
   b) serve as a depository of Government funds in any amount, or
   c) are a financial institution that acts as an issuing and paying agent for U.S. savings bonds and savings notes.

The EEO-1 Report is used by both OFCCP and the United States Equal Employment Opportunity Commission (EEOC) to collect data from private employers and government

¹ All references to federal contractors also include covered federal subcontractors. The term "applicant" is intended to refer to both applicants and Internet Applicants as those terms are used in section 60-1.12(c).

² See also, 41 CFR § 60-3.4, in which contractors are required to maintain records by "sex, and the following races and ethnic groups: Blacks (Negroes), American Indians (including Alaskan Natives), Asians (including Pacific Islanders), Hispanic (including persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish origin or culture regardless of race), white (Caucasians) other than Hispanic...."
contractors about their minority and female workforce. The agencies also use the EEO-1 Report data to analyze patterns of employment of women and minorities and to support civil rights enforcement.

Since 1977, employers have been required to report data on the EEO-1 Report using five race and ethnic categories, and nine job categories. The race and ethnic categories are:

- Hispanic
- White (not of Hispanic origin)
- Black (not of Hispanic origin)
- Asian or Pacific Islander
- American Indian or Alaskan Native

The job categories are:

- Officials and Managers
- Professionals
- Technicians
- Sales Workers
- Office and Clerical
- Craft Workers (Skilled)
- Operatives (Semi-skilled)
- Laborers (Unskilled)
- Service Workers

In November 2005, the EEOC, after consultation with OFCCP and consideration of extensive public comments, finalized several modifications to the system used by employers to classify, the race, ethnicity, and job categories of their workforce on the EEO-1 Report. The revised EEO-1 Report requires reporting in seven racial and ethnic categories, and subdivides the “Officials and Managers” job category. The chart below outlines these changes:

<table>
<thead>
<tr>
<th>OLD EEO-1 REPORT</th>
<th>NEW EEO-1 REPORT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hispanic</td>
<td>Hispanic or Latino</td>
</tr>
<tr>
<td>White (not of Hispanic origin)</td>
<td>White, not Hispanic or Latino</td>
</tr>
<tr>
<td>Black (not of Hispanic origin)</td>
<td>Black or African-American, not Hispanic or Latino</td>
</tr>
<tr>
<td>Asian or Pacific Islander</td>
<td>Asian, not Hispanic or Latino</td>
</tr>
<tr>
<td>Native Hawaiian or Other Pacific Islander, not Hispanic or Latino</td>
<td>Native Hawaiian or Other Pacific Islander, not Hispanic or Latino</td>
</tr>
<tr>
<td>American Indian or Alaskan Native</td>
<td>American Indian or Alaskan Native, not Hispanic or Latino</td>
</tr>
<tr>
<td>Two or More Races, not Hispanic or Latino.</td>
<td></td>
</tr>
</tbody>
</table>

3 See 42 U.S.C 2000e-8(c). For more information on who must file the EEO-1 Report, see [http://www.eeoc.gov/eeo1survey/whomustfile.html](http://www.eeoc.gov/eeo1survey/whomustfile.html).
<table>
<thead>
<tr>
<th>Job Categories</th>
<th>Officials and Managers</th>
<th>Executive/Senior Level Officials and Managers</th>
<th>First/Mid Level Officials and Managers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professionals</td>
<td>Professionals</td>
<td>Professionals</td>
<td></td>
</tr>
<tr>
<td>Technicians</td>
<td>Technicians</td>
<td>Technicians</td>
<td></td>
</tr>
<tr>
<td>Sales Workers</td>
<td>Sales Workers</td>
<td>Sales Workers</td>
<td></td>
</tr>
<tr>
<td>Office and Clerical</td>
<td>Office and Clerical</td>
<td>Office and Clerical</td>
<td></td>
</tr>
<tr>
<td>Craft Workers (Skilled)</td>
<td>Craft Workers (Skilled)</td>
<td>Craft Workers (Skilled)</td>
<td></td>
</tr>
<tr>
<td>Operative (Semi-Skilled)</td>
<td>Operative (Semi-Skilled)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Laborers</td>
<td>Laborers</td>
<td>Laborers</td>
<td></td>
</tr>
<tr>
<td>Service Workers</td>
<td>Service Workers</td>
<td>Service Workers</td>
<td></td>
</tr>
</tbody>
</table>

OFCCP’s regulations regarding the race, ethnicity, and job categories used by contractors have not changed to reflect the new EEO-1 categories, thus resulting in contractors either maintaining dual data collection systems or delaying implementation awaiting further instructions from OFCCP.

4. **POLICY:** As a matter of enforcement discretion, OFCCP will not cite any contractor for non-compliance with the Executive Order solely because it utilizes the race, ethnicity, or job categories required by the new EEO-1 Report. Further, OFCCP will accept AAPs and supporting records that reflect the race, ethnicity, and job categories outlined in either 41 CFR Part 60-2 or the new EEO-1 Report.

5. **FIELD ENFORCEMENT GUIDANCE:** Compliance Officers should adhere to the following principles when evaluating the use of race and ethnicity categories in the AAPs prepared by federal contractors in accordance with the Executive Order, as amended:

   A. Contractor data tracking responsibilities remain the same. Accordingly, self-identification will remain the preferred method for compiling information about the sex, race or ethnicity of applicants and employees. A contractor’s invitation to self-identify race or ethnicity should state that the submission of such information is voluntary. However, contractors may use post-employment records or visual observation when an individual declines to self-identify his or her race or ethnicity.

   B. Until further rules and guidance are provided by OFCCP, contractors should not be cited for noncompliance with the Executive Order if they prepare their AAPs using the revised EEO-1 categories, rather than the race and ethnicity categories listed in §60-2.11 (the original EEO-1 categories). Contractors also should not be cited for continuing to use the racial and ethnic categories provided under OFCCP’s current regulations. Regardless of which categories are used, and consistent with the

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5 Contractors are encouraged to use tear-off sheets, post cards, or short forms to request demographic data.
guidance of the EEOC, 6 Compliance Officers should evaluate whether contractors are: (1) permitting individuals to choose to self-identify as belonging to more than one race; and (2) obtaining this data either by allowing individuals to select more than one of the single race categories or by allowing individuals to select a two or more races category.

C. It is important that contractors be permitted to collect and analyze workforce data in a manner that allows them to meaningfully examine their progress towards equal employment opportunity. Accordingly, nothing in this Directive is intended to prohibit more detailed data collection efforts by contractors. Contractors may, but are not required to, obtain more detailed demographic data from applicants and employees. Some contractors may find such data useful for research or statistical purposes, or for self-monitoring of their equal employment opportunity efforts. For example, some contractors may wish to obtain more detailed demographic data from individuals self-identifying as a single race, such as Asian, while other contractors may wish to obtain more detailed demographic data, including racial data, from those individuals who self-identify as Hispanic or Latino. Still other contractors may wish to collect and analyze more detailed demographic data regarding those individuals who self-identify as belonging to more than one race.

D. Regardless of how detailed the demographic data the contractor collects, it must be maintained in accordance with OFCCP’s recordkeeping requirements.

E. Compliance with specific AAP requirements:

1) Workforce Analysis (Organizational Profile 60-2.11): Until further rules and guidance are provided by OFCCP, when developing an organizational profile, as required by § 60-2.11, contractors should not be cited for noncompliance with the Executive Order if they choose to develop such analyses using the revised EEO-1 categories, rather than the race and ethnicity categories listed in §60-2.11 (the original EEO-1 categories). Contractors also are permitted to prepare their AAP using the racial and ethnic categories provided under OFCCP’s current regulations.

2) Job Group Analysis (60-2.12): When conducting a job group analysis for affirmative action purposes, small contractors with fewer than 150 employees may prepare the required analysis utilizing the revised EEO-1 Report job categories as job groups. Accordingly, these contractors will generally subdivide the officials and managers AAP job group into two AAP job groups: (1) Executive/Senior Level Officials and Managers and (2) First/Mid Level Officials and Managers. In some circumstances, subdividing the officials and

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6 "Employers may ask employees to specify particular races rather than to check "Two or More Races," but they are not required to do so." [http://www.eeoc.gov/eeoc/ganda-implementation.html](http://www.eeoc.gov/eeoc/ganda-implementation.html). The Commission does not require employers to collect and maintain more detailed data than needed to complete the EEO-1 report, although the Commission notes that some employers may find it necessary to do so for research or statistical purposes or for self-monitoring. See 70 Fed. Reg. 71294, 71298 (11/28/05).
managers category may result in job groups with too few incumbents to permit meaningful analyses and goal setting. In these cases, contractors with fewer than 150 employees should combine the Executive/Senior Level Officials and Managers and the First/Mid Level Officials and Managers subcategories when examining potential underutilization.

3) Utilization Analysis (60-2.13 through 60-2.15): Consistent with OFCCP’s longstanding policy, all individuals identified as being Hispanic or Latino should continue to be counted as minorities when comparing the percentage of women and minorities in each of a contractor’s job groups to the available workforce, as required by §§ 60-2.13, 60-2.14, and 60-2.15, or when examining whether a contractor’s employment practices result in disparities in the employment or advancement of minorities, as required by § 60-2.17. If an individual self-identifies as Hispanic or Latino and also selects a race, contractors should continue to identify the individual as being “Hispanic or Latino” when preparing the required AAP analyses. This approach is consistent with the approach adopted by the EEOC for purposes of the revised EEO-1 Report.

Similarly, contractors should consider all individuals identified as belonging to two or more races as minorities when comparing the percentage of women and minorities in each of their job groups to the available workforce, as required by §§ 60-2.13, 60-2.14 and 2.15, or when examining whether their employment practices result in disparities in the employment or advancement of minorities, as required by § 60-2.17.

4) Placement of Goals (60-2.16): When establishing placement goals pursuant to § 60-2.16, contractors should, in most cases, continue to establish a single goal for all minorities. Where a substantial disparity exists in the utilization of a particular minority group, or in the utilization of men or women of a particular minority group, the contractor may be required to establish separate goals for those groups. Contractors are not expected to set a separate placement goal for individuals identified as belonging to more than one race. If a contractor has established placement goals for particular minority groups and has maintained data regarding the specific races of those individuals identified as belonging to two or more races, the contractor may present such data to OFCCP to demonstrate its good faith efforts in addressing its utilization of particular minority groups.

7 The small number of individuals identified as belonging to more than one race makes it unlikely that many quantitative analyses of a contractor’s workforce will reveal a substantial disparity in the utilization of individuals belonging to Two or More Races. In the 2000 Census, 2.4 percent of the total population (or 6.8 million people) identified themselves as belonging to more than one race. See United States Census Bureau, The Two or More Races Population: 2000, Census 2000 Brief, at p. 9 (November 2001), available at http://www.census.gov/prod/2001pubs/c2kbr01-6.pdf. The U.S. Census 2005 American Community Survey Report reported that only 1.9% of the total U.S. population identified as belonging to the Two or More Races category. See United States Census Bureau, American Community Survey, General Demographic Characteristics: 2005, available at http://factfinder.census.gov/servlet/DTTable?_bm=y&-geo_id=01000US&-ds_name=ACS_2005_EST_G00_&-
5) **Additional AAP Requirements (60-2.17):** OFCCP’s regulations require that a contractor perform in-depth analyses of its total employment process to determine whether and where impediments to equal employment opportunity exist. Section 60-2.17 requires that contractors examine whether their employment practices result in disparities in the employment of minorities in the aggregate.\(^8\) When conducting this analysis, contractors are not required to separately evaluate their employment practices with regard to individuals identified solely as belonging to two or more races. Rather, these individuals should be considered as part of the aggregate group of minorities.

Some contractors find it useful to conduct the analyses required by § 60-2.17 for particular minority groups, as well as for minorities in the aggregate. Contractors that maintain more detailed information regarding the race and ethnicity of their workforces may choose to reallocate those identified as belonging to two or more races into single race categories for purposes of affirmative action analyses. Contractors electing to do this reallocation may use the allocation rules developed by OMB in its Guidance on Aggregation and Allocation of Data on Race for Use in Civil Rights Monitoring and Enforcement.\(^9\)

6) **Support Data (60-2.17(b)(2) and Part 60-3):** When evaluating whether a contractor has maintained information on the impact of its selection procedures and conducted an adverse impact analysis under part 60-3, contractors will only be expected to produce analyses relating to the impact on those identified as belonging to one of the single race and ethnic categories. Contractors will not be expected to produce analyses of the impact of employee selection procedures on groups comprised of individuals identified as belonging to more than one race; but contractors may be asked for other employment records they may have relating to such individuals. Such records may include any information regarding the reallocation of individuals identified as belonging to more than one race into single race categories, or records maintained by the contractor that utilize the race and ethnic categories of the new EEO-1 form.

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\(8\) Pursuant to section 60-2.17, the contractor must evaluate the following minimum areas: (1) The workforce by organizational unit and job group to determine whether there are problems of minority or female utilization (i.e., employment in the unit or group), or of minority or female distribution (i.e., placement in the different jobs within the unit or group); (2) personnel activity (applicant flow, hires, terminations, promotions, and other personnel actions) to determine whether there are selection disparities; (3) compensation system(s) to determine whether there are sex-, race-, or ethnicity-based disparities; (4) selection, recruitment, referral, and other personnel procedures to determine whether they result in disparities in the employment or advancement of minorities or women; and (5) any other areas that might impact the success of the affirmative action program.

\(9\) OMB, Bulletin 00-02, Guidance on Aggregation and Allocation of Data on Race for Use in Civil Rights Monitoring and Enforcement (March 9, 2000), available at [http://www.whitehouse.gov/omb/bulletins/b00-02.html](http://www.whitehouse.gov/omb/bulletins/b00-02.html).
F. Where a contractor has not maintained more detailed demographic information about those individuals identified as belonging to more than one race, Census data, labor market data, and other labor market data may be used to assess a contractor's employment practices. In conducting this analysis, the proportion of individuals identified as belonging to more than one race in the contractor's workforce may be compared with labor force statistics or other data on the percentages of multiple race individuals in the relevant qualified labor force. This data could then be used to estimate single race allocation for those individuals identified as belonging to more than one race when a contractor has not retained such information.

5. OBSOLETE DATA: None.

6. DISTRIBUTION: A, B (both hard copy and electronically); C (hard copy only).

7. EXPIRATION DATE: This Directive remains in effect until superseded.

[Signature]

CHARLES E. JAMES, SR.
Deputy Assistant Secretary for
Federal Contract Compliance

Aug 14, 2008

DATE
OMB BULLETIN NO. 00-02 - Guidance on Aggregation and Allocation of Data on Race for Use in Civil Rights Monitoring and Enforcement

March 9, 2000

OMB BULLETIN NO. 00-02

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Guidance on Aggregation and Allocation of Data on Race for Use in Civil Rights Monitoring and Enforcement

1. Purpose: This Bulletin establishes guidance for agencies that collect or use aggregate data on race. It also establishes guidance for the allocation of multiple race responses for use in civil rights monitoring and enforcement.

2. Background: The Office of Management and Budget (OMB) announced revisions to the standards for classification of Federal data on race and ethnicity in a Federal Register Notice of October 30, 1997 (62 FR 58782-58790). Revisions to these standards followed a lengthy process that included considerable public involvement and active participation from more than 30 Federal agencies. The revised standards require, among other things, that agencies offer individuals the opportunity to select one or more races when reporting information on race in Federal data collections. The five minimum race categories are American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White.

Census 2000 will be the first nationwide implementation of the revised standards. Data from Census 2000 will capture more accurately the increasing diversity of the Nation's population. Results from Census 2000 will display the full range of single and multiple race reporting by the American people.

As the revised standards for collecting and presenting data are implemented, we must ensure that we maintain our ability to monitor compliance with laws that offer protections for those who historically have experienced discrimination. In addition, we must minimize reporting burden for institutions such as schools and businesses that report aggregate data on race to Federal agencies.

In response to requests from agencies responsible for monitoring and enforcing civil
OMB BULLETIN NO. 00-02 - Guidance on Aggregation and

rights laws. OMB has led an interagency group to develop guidance. This guidance addresses the collection of aggregate data when agencies request information from businesses, schools, and other entities. The guidance also addresses the allocation by agencies of responses, whether individual or aggregate, for use in civil rights monitoring and enforcement.

3. Guidance for aggregation and allocation of multiple race responses for use in civil rights monitoring and enforcement: The attached guidance is designed to be straightforward and easy to implement. It provides consistency across agencies responsible for enforcing civil rights laws, and does not preclude the use of more detailed data if an agency chooses to do so. The guidance does not involve methods that require either fractional or double counting of individuals, or arbitrary allocation of responses to one minority group versus another.

4. Implementation process: OMB will continue to work closely with the enforcement agencies and the civil rights community to assess these methods as they are implemented over the next few years and to consider the need for future modifications. The guidance provided in this Bulletin will be reflected in the Provisional Guidance on the Implementation of the 1997 Standards for Federal Data on Race and Ethnicity that will be available from OMB later this year.

5. Inquiries: Inquiries concerning the information in this Bulletin should be directed to Katherine K. Wallman, Chief Statistician (202-395-3093).

Jacob J. Lew
Director

Attachment

Guidance on Aggregation and Allocation of Multiple Race Responses for Use in Civil Rights Monitoring and Enforcement

I. Aggregation Guidance: Census 2000 will provide 83 categories of data on the population by race; these data will be available by April 1, 2001, at the national, state, local, and census tract levels. Data collected by Federal enforcement agencies often are provided by businesses and institutions in aggregate form. To facilitate agency efforts to work with data on race, an aggregation method is presented below. This method keeps intact the five single race categories, and includes the four double race combinations most frequently reported in recent studies. The method also provides for the collection of information on any multiple race combinations that comprise more than one percent of the population of interest. Based on data from Census 2000, responsible agencies will determine which additional combinations meet the one percent threshold for the relevant jurisdictions. A balance category is provided to report those individual responses that are not included in (1) one of the five single race categories or four double race combinations or (2) other combinations that represent more than one percent of the population in a jurisdiction. The following example illustrates this guidance.

| 1 | American Indian or Alaska Native |
| 2 | Asian                           |
| 3 | Black or African American       |
| 4 | Native Hawaiian or Other Pacific Islander |
| 5 | White                          |
| 6 | American Indian or Alaska Native and White |
| 7 | Asian and White                 |

http://www.whitehouse.gov/omb/bulletins_b00-02

11/29/2010
II. Allocation Guidance: Federal agencies will use the following rules to allocate multiple race responses for use in civil rights monitoring and enforcement.

- Responses in the five single race categories are not allocated.
- Responses that combine one minority race and white are allocated to the minority race.
- Responses that include two or more minority races are allocated as follows:
  - If the enforcement action is in response to a complaint, allocate to the race that the complainant alleges the discrimination was based on.
  - If the enforcement action requires assessing disparate impact or discriminatory patterns, analyze the patterns based on alternative allocations to each of the minority groups.

Allocation for enforcement purposes should not be confused with various allocation methods under consideration for "bridging" to past data collections as described in OMB's Provisional Guidance on the Implementation of the 1997 Standards for Federal Data on Race and Ethnicity. These bridging methods would take advantage of information being gleaned from Census 2000 and other experimental work being carried out by the statistical agencies. The principal purpose of allocation for bridging is to conduct trend or time series analysis.

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1 Based on Census 2000 data, agencies will determine the race combinations that meet the one percent threshold. For example, in Hawaii there may well be combinations of race groups that meet this threshold such as Native Hawaiian or Other Pacific Islander and Asian, or Native Hawaiian or Other Pacific Islander and White, or Native Hawaiian or Other Pacific Islander and Asian and White.