



March 27, 2006

Mr. James C. Pierce  
Acting Director  
Division of Policy, Planning, and Program Development  
Office of Federal Contract Compliance Programs  
Room N3422  
200 Constitution Avenue, NW  
Washington, DC 20210

**Proposal to Eliminate the Equal Opportunity Survey (EO Survey)  
RIN Number: 1215—AB53**

Dear Mr. Pierce:

This letter responds to the Office of Federal Contract Compliance Programs' (OFCCP) proposal (published in the *Federal Register* on January 20, 2006) to eliminate the requirement for its EO Survey. On behalf of our many clients who have been forced to comply with this burdensome and costly government request for data, the consultants in our firm unequivocally support this proposal.

**Background - Maly Consulting LLC**

Maly Consulting (originally founded as Maly & Associates in 1986) is a management consulting firm located in San Rafael, California. We specialize in the analysis and reporting of human resource data for equal employment and affirmative action compliance and for OFCCP audits. The majority of our clients are federal government contractors and range in scope from large, multi-national corporations to smaller organizations of 100+ employees nationwide. We assist clients in understanding and complying with the federal regulations for affirmative action, including Executive Order 11246, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, and Section 503 of the Rehabilitation Act of 1973. We have compiled EO Survey data on behalf of many clients and have both trained and advised others on the survey's requirements since its 1999 inception. We are keenly aware of the high costs and organizational burdens imposed on our clients by the survey's 12-page request for employment and compensation data.

**Focus of Our Comments**

Almost six years ago (on March 3, 2000) our firm wrote a seven-page letter to the Office of Management and Budget (OMB) providing a number of reasons why the EO Survey

should not get OMB approval. Among those arguments, we wrote:

Regardless of the burden or cost associated with this OFCCP request, if the underlying data produce poor and useless results — which it will — the agency should not be given the permission to request them.<sup>1</sup>

And then just a few months later (on June 30, 2000), we wrote the following directly to the OFCCP regarding the agency's rushed time frame in attempting to put the new EO Survey in place:

The OFCCP has not yet even developed the analytical model it will use to process EO Survey data, so it is absurd for the agency to impose such a massive data collection effort upon contractors. Competent statisticians understand that studies proceed in three steps: define the problem, select the appropriate analytical model, and then decide how the data should be formatted and collected. The agency has put the cart before the horse. Its backwards approach guarantees an eventual mismatch between the data and the analytical model and will produce a worthless result.<sup>2</sup>

Over the years that the EO Survey was proposed, implemented, and evaluated for its worthiness, Maly Consulting was just one of the many, many organizations and businesses that provided commentaries like the two samples cited above. Now after almost seven years, the OFCCP itself publishes the formal outside research completed by Abt Associates Inc. that substantiates what others had said all along — the EO Survey does *not* effectively predict systemic discrimination (which was its original intent).

It is more than unfortunate and certainly shameful that this flawed 12-page instrument was allowed to be forced upon thousands of U.S. companies *before* the agency did a complete job to determine its viability. Maybe it is time we begin questioning the OMB's role in the rule making process. If the OMB is just a rubberstamp for an administration's pet projects, perhaps the public would be better served if the authority and oversight entrusted to OMB were moved to an entity outside the Executive branch.

### **Summary and Conclusion**

While we whole heartedly agree with OFCCP's proposed rule to eliminate the EO Survey, we question why it took so long. Throughout its existence, the survey wasted valuable resources of both government and industry. We strongly suggest that future pet projects of this nature be required to have far more unbiased and serious oversight and

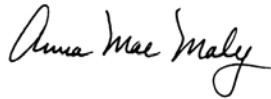
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<sup>1</sup> See Maly Consulting's comment letter of March 3, 2000 for our response to OMB regarding the OFCCP's originally proposed EO-Survey ([www.malyconsulting.com/PressRoom/Public Comment Letter - EO Survey.pdf](http://www.malyconsulting.com/PressRoom/Public%20Comment%20Letter%20-%20EO%20Survey.pdf)).

<sup>2</sup> See Maly Consulting's comment letter of June 30, 2000 to OFCCP ([www.malyconsulting.com/PressRoom/Public Comment Letter - OFCCP AAP Regulation Changes.pdf](http://www.malyconsulting.com/PressRoom/Public%20Comment%20Letter%20-%20OFCCP%20AAP%20Regulation%20Changes.pdf)).

beta-testing before total implementation on the public. Thank you for the opportunity to make these comments.

Sincerely,

A handwritten signature in black ink that reads "Anna Mae Maly". The signature is written in a cursive style with a large initial 'A'.

Anna Mae Maly, SPHR  
Managing Principal

AMM/ETC/GS