



December 16, 2005

Hazel M. Bell  
U.S. Department of Labor  
200 Constitution Ave., NW.  
Room S-3201  
Washington, DC 20210

**RE: Request for Three Year Extension of Equal Opportunity Survey  
(OMB Number: 1215-0196)**

Ms. Bell:

This letter responds to the invitation for written comments by the Office of Federal Contract Compliance Programs (OFCCP) regarding the request for a three year extension of the Equal Opportunity Survey (EO Survey).

#### **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, affirmative action compliance, and 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. Our firm has analyzed data for and developed thousands of Affirmative Action Programs (AAPs) over the 19 years that we have been in business. We have assisted many clients with compiling their data for OFCCP audits, EEO-1 reports, VETS-100 reports, and EO Surveys. We are keenly aware of the high costs and organizational burdens imposed on our clients by confusing and unnecessary reports.

#### **Focus of Our Comments**

The notice to extend the current collection of the EO Survey requested comments on the utility and burden of the report. We renew our view that the EO Survey is an unnecessary, confusing and overly burdensome report. Furthermore, changes to other OFCCP regulatory requirements and the EEO-1 Report will soon render the EO Survey obsolete.

**The EO Survey Request for Applicant Data Does Not Comport with the OFCCP's Final Rule Regarding Internet Applicants**

The OFCCP's recently published Obligation To Solicit Race and Gender Data for Agency Enforcement Purposes Final Rule creates the distinction between Applicants and Internet Applicants. The EO Survey currently requests data on Applicants only.

When the new regulations become effective February 6, 2006, many covered federal contractors will begin applying the Internet Applicant definition exclusively or for a majority of positions. Data collected by these contractors will reflect the soliciting and record-keeping requirements of Internet Applicants and not the requirements for Applicants. The requested information will simply not be available to report on the EO Survey.

(Note that this distinction between Applicants and Internet Applicants creates a similar problem with the currently approved OFCCP Scheduling Letter.)

**The EO Survey Request for Race/Ethnicity and EEO-1 Job Category Data Does Not Comport with the EEOC Approved EEO-1 Report**

The Equal Employment Opportunity Commission (EEOC) is currently seeking approval from the Office of Management and Budget (OMB) for changes to the EEO-1 Report. These changes include new race/ethnicity and job categories that do not translate to the categories used in the EO Survey. For example, the EEO-1 Report would include a "Two or more races not Hispanic or Latino" category that does not have a place on the EO Survey.

**Summary and Conclusion**

Whatever little utility the EO Survey had is quickly being eroded by changes to the OFCCP's regulations and the EEO-1 Report. Considering that the OFCCP has already received tens of thousands of EO Survey responses and has yet to demonstrate any meaningful or practical purpose for the data collected, we recommend that the OFCCP revise its regulations to remove the EO Survey requirement.

Sincerely,



Edward Corro, Esq.  
Senior Consultant

AMM/GS