

### Assessment of Delaware Constituent Analysis

The Office of Federal Contract Compliance (OFCCP) dates back to 1965, when Executive Order (EO) 11246 was signed by President Lyndon B. Johnson. EO 11246 (Parts II and III) created OFCCP to enforce nondiscrimination in employment by government contractors and subcontractors.

OFCCP enforces three legal authorities: EO 11246 (Parts II and III), Section 503 of the Rehabilitation Act of 1973, and the Veterans' Readjustment Assistance Act of 1974. These authorities prohibit Federal contractors and subcontractors from discriminating on the bases of race, color, religion, sex, national origin, disability and protected veteran status. Broader workplace discrimination issues are beyond OFCCP purview and are addressed by the Equal Employment Opportunity Commission (EEOC), an independent Federal agency.

In fiscal year 2005, OFCCP collected a record \$45,156,462 for 14,761 Americans who had been subjected to unlawful employment discrimination. This monetary recovery reflects a 42% increase over recoveries in fiscal year 2000 and 56% over fiscal year 2001.<sup>3</sup>

OFCCP does not normally engage in peer review of studies because such use of resources falls outside the scope of its law enforcement mission. We do, however, offer several comments on an analysis provided by a Delaware constituent of Senator Tom Carper's, and provide some national statistics on the matter. At the outset, we observe that a meaningful conclusion in this matter cannot be drawn by merely analyzing statistics on the national level. As is outlined below, our review of the constituent analysis found several shortcomings that suggest the findings are not of sufficient informative value upon which to base a conclusion.

We compared the constituent analysis to a parallel study that uses data supplied from the Census Bureau's EEO Tool website. For each of seven race and ethnicity categories in combination with gender status (which we refer to as a "class"), the constituent compares the percentage of each class in EEOC employment category #1, Officials and Managers,<sup>4</sup> relative to the class pool employment.<sup>5</sup> This produces a value for the class' rate of opportunity to advance to a management position. Specifically, for Asian and Pacific Islanders, the constituent simply divides the estimate of the total number of Asian managers, 159,582 (column 2), by the total pool employment, 946,813 (column 6), to yield a rounded management rate of 0.17 or 17 percent. Second, the constituent compares this rate to the corresponding value for the total workforce, 30.9 percent, to yield a final fractional ratio of 0.55 (column 14 = .17/.309).

We note that the data in Attachment A does not correspond to the EEO-1 special tabulation data reported by the Census Bureau. This, we suspect, may be due in part to the constituent's sole focus on private industries. In any case, using the employers who report to EEOC, the Census

<sup>3</sup> More information can be found on OFCCP's fiscal year 2005 results by going to <http://www.dol.gov/esa/ofccp/enforc05.htm>.

<sup>4</sup> See <http://www.census.gov/hhes/www/eoindex/ohgrouns.pdf> for the EEO-1 categories.

<sup>5</sup> Including EEO-1 categories, professionals, technicians and sales workers. This produces column 6 in Attachment A of Woo's letter.