

## **New “Internet Job Applicant” Regulations From OFCCP**

**February 6, 2006**

Employers who are also federal contractors with 50 or more employees are now required to comply with the new definition of an Internet job applicant. All federal contractors are also now required to identify the race, gender and ethnicity of each job applicant, including those who apply through the Internet.

The OFCCP states that an Internet Applicant is one who meets **all** four criteria:

1. Individual submits an expression of interest in employment through the Internet
2. Employer considers the individual for employment in a particular position
3. Applicant possesses the basic qualifications for the position
4. Applicant does not remove themselves from consideration

To complicate matters, the office of Uniform Guidelines on Employee Selection Procedures (UGESP) also released a definition of an Internet applicant and although similar, they are not exact. Employers should consider applicant tracking that meets both definitions.

The UGESP states that an Internet applicant meets the following elements:

1. Employer acted to fill a particular position
2. Individual has followed the employer’s standard procedures for submitting an application
3. Individual has expressed an interest in the particular position

### **Definitions**

***Expression of interest*** can simply be defined as an applicant submitting a resume. It also applies to applicants who apply via the Internet or a company web site, and one who submitted an unsolicited resume by mail for a position posted on an employer’s web site.

***To consider*** is the act of the employer assessing the substantive information provided by the applicant. Employers may establish a procedure for expressions of interest i.e., apply only through Monster.com and those expressions of interest that do not meet this procedure, i.e., a resume that is faxed, need not be considered for purposes of this definition.

***Basic qualifications*** for a position are all those qualifications that at a minimum need to be met by the applicant, i.e, college degree in accounting. The regulations state that basic

qualifications must be 1) non-competitive, 2) objective and 3) relevant. Selection tests are not considered basic qualifications under the regulations.

***Lack of interest*** may be expressed by an applicant 1) expressly stating that they are not interested 2) declining an interview 3) declining a job offer or 4) failing to respond to employer's contact. Employers may infer lack of interest based on applicant provided salary requirements, type of position and preferred geographic location.

The new regulations reinforce the need to ensure that all job descriptions are up to date and reflect the basic minimum qualifications for the position, ensure that employment ads are specific to qualifications, geographic location and request salary requirements, and that processes are established to track applicants and collect necessary demographic information.

*Information obtained from the OFCCP and  
SHRM, Legal Report, January/February 2006.*

*This update is provided for informational purposes only and should not be considered as legal advice. Companies who need to comply with the new regulations are encouraged to seek their own legal advice and work with human resource professionals to ensure compliance.*

*For recruiting assistance, contact PRISM Human Resource Consulting Services,  
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