

INTERNET APPLICANT

The Internet Applicant final rule, (effective February 6, 2006) issued by the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP), addresses recordkeeping by Federal contractors and subcontractors about the Internet hiring process and the solicitation of race, gender, and ethnicity of "Internet Applicants." The Internet Applicant rule adds that a contractor is required to solicit and collect such data from **ALL** individuals who are "applicants" for employment; the traditionally known Applicant or Internet Applicant, whichever is applicable to the particular position. Voluntary self-reporting or self-identification is still generally the preferred method for collecting data on race, ethnicity, and gender, but in situations where self-reporting is not practicable or feasible, observer information may be used to identify race, ethnicity, and gender.

An "Internet Applicant" is a job seeker applying for work through the Internet or related electronic data technologies from which contractors must solicit demographic information. UND, as a federal contractor, is required to solicit race, ethnicity, and gender data.

Definition of an Internet Applicant: All four of the following criteria must be satisfied in order for a job seeker to be considered an "Internet Applicant."

1. **Individual submits expression of interest through Internet or related electronic data technologies**, e.g., email, resume databases, job banks, electronic scanning technology, applicant tracking systems/applicant service providers, applicant screeners, etc. An individual's posting of a resume on a commercial resume database is generally sufficient to satisfy the "expression of interest" requirement.

You do not have to consider for employment every job seeker regardless of the manner or nature of the expression of interest - even if the job seeker possesses the basic qualifications. If you have established standard procedures that job seekers must follow in order to express an interest in employment, you do not have to consider those individuals who do not follow those procedures. Similarly, you do not have to consider for employment individuals who do not specify a particular position, so long as that you use consistent practice. Additionally, if there are a large number of expressions of interest, you may limit the number of individuals considered by using random sampling, absolute numerical ceilings, or other data management techniques, provided the sampling procedure is appropriate.

2. **Contractor considers individual for employment in a particular position.** This means that you have assessed the substantive information provided in the expression of interest with respect to any qualifications involved with a particular position. "Under this definition, 'considers' involves the assessment of the job seeker's qualifications against any qualifications of a particular position, including a determination of whether a job seeker meets the basic qualifications for the position." Actual practice must consistently and uniformly follow the same protocols used for considering expressions of interest.

3. **Basic Qualifications.** The expression of interest must indicate that the individual **possesses the basic qualifications** for the position. Basic qualifications must also be:

- **Noncomparative.** Noncomparative qualification - e.g., three years experience. Comparative qualification - e.g., top five most experienced candidates.
- **Objective.** Objective – e.g., a Bachelor's degree in accounting. Subjective – e.g., a business degree from a "good school."
- **Relevant.** Relevant to performance of the particular position and enables you to accomplish business-related goals.

You may search a database for all "basic qualifications" by searching for the qualifications serially or in combination. You may search a database for some "basic qualifications" and screen for the remaining through other means, e.g., by emailing candidates. You may search a database for some, but not all of the basic qualifications and not screen further for the remainder of the qualifications. If so, **you must solicit demographic data for individuals meeting the "basic qualifications" actually used for screening job seekers, provided the applicant criteria are met.**

Example:

- A contractor initially searches an external job database with 50,000 job seekers for 3 basic qualifications for a bi-lingual emergency room nursing supervisor job.
 1. A 4-year degree,
 2. State certification as an RN, and
 3. Fluency in English and Spanish
 - The initial screen for the first three basic qualifications narrows the pool to 10,000.
 - Then add a fourth, pre-established, basic qualification, 3 years of emergency room nursing experience, and narrows the pool to 1,000.
 - Then add a fifth, pre-established, basic qualification, 2 years of supervisory experience, which results in a pool of 75 job seekers.
 - Under the rule, only the 75 job seekers meeting all five basic qualifications would be Internet Applicants, assuming the other three prongs of the "Internet Applicant" definition were met.
4. **Continued Interest.** The individual at no point in your selection process prior to receiving an offer of employment from you, removes him or herself from consideration or otherwise indicates that he or she is no longer interested in the position. Lack of continuing interest could be that they express a statement of disinterest, fail to respond to your inquiries, or statements are made in the expression of interest indicating incompatible salary requirements, incompatible preferences as to position or type of work, or incompatible preferences as to location of work.

If there are large numbers of job seekers meeting basic qualifications, data management techniques may be used to reduce the number of job seekers who must be contacted to discern interest in the position, e.g., random sampling or absolute numerical units.

Records Retention: Following UND's record retention policy, you must keep any and all expressions of interest through the Internet or related electronic data technologies where you considered the individual for a particular position, except for expressions of interest from external resume databases. You are not required to retain records regarding individuals **who were never considered for a particular position**. However, if you search an external database, you are required to maintain only copies of resumes of those job seekers who met the basic qualifications for the position and who you have considered. Further, you must retain records of all the basic qualifications used to develop a pool of Internet Applicants.

For external resume databases, you must retain all expressions of interest considered for individuals who meet the basic qualifications for a particular position, even those of individuals who are not Internet Applicants.

Internal Databases – must maintain a record of:

- Each resume added to database
- Date each resume was added
- Position for which each search was made
- The substantive search criteria used in the search
- Date of the search

External databases – must maintain a record of:

- Position for which each search was made
- Substantive search criteria used in each search
- Date of search
- Resumes of any job seekers who met the basic qualifications for the particular position who are considered by the contract (even if they do not qualify as Internet Applicants.)
- All tests and test results
- All interview notes
- Records identifying job seekers contacted regarding their interest in a particular position
- The race, gender, and ethnicity of each applicant or Internet Applicant, whichever is applicable.

For additional information, visit OFCCP's website:

<http://www.dol.gov/esa/regs/compliance/ofccp/faqs/iappfaqs.htm#Q1>