

workforce analyses required by §§ 30.5(b) and 30.7(d)(2).

(ii) Apprenticeship programs registered after January 18, 2017. The initial written affirmative action plan for such programs must be completed within two years of registration. The written affirmative action plan for such programs must be updated every time the sponsor completes workforce analyses required by §§ 30.5(b) and 30.7(d)(2).

§ 30.5 Utilization analysis for race, sex, and ethnicity.

(a) *Purpose.* The purpose of the utilization analysis is to provide sponsors with a method for assessing whether possible barriers to apprenticeship exist for particular groups of individuals by determining whether the race, sex, and ethnicity of apprentices in a sponsor's apprenticeship program is reflective of persons available for apprenticeship by race, sex, and ethnicity in the relevant recruitment area. Where significant disparity exists between availability and representation, the sponsor will be required to establish a utilization goal pursuant to § 30.6.

(b) *Analysis of apprenticeship program workforce—(1) Process.* Sponsors must analyze the race, sex, and ethnic composition of their apprentice workforce. This is a two-step process. First, each sponsor must group all apprentices in its registered apprenticeship program by occupational title. Next, for each occupation represented, the sponsor must identify the race, sex, and ethnicity of its apprentices within that occupation.

(2) *Schedule of analyses.* Each sponsor is required to conduct an apprenticeship program workforce analysis at each compliance review, and again if and when three years have passed without a compliance review. This updated workforce analysis should be compared to the utilization goal established at the sponsor's most recent compliance review to determine if the sponsor is underutilized, according to the process in paragraph (d) of this section.

(3) *Compliance date.* (i) Sponsors registered with a Registration Agency as of January 18, 2017: A sponsor must conduct its first workforce analysis,

pursuant to this section, no later than two years after January 18, 2017.

(ii) New sponsors: A sponsor registering with a Registration Agency after the effective date of the Final Rule must conduct its initial workforce analysis pursuant to this section no later than two years after the date of registration.

(c) *Availability analysis—(1)* The purpose of the availability analysis is to establish a benchmark against which the demographic composition of the sponsor's apprenticeship program can be compared in order to determine whether barriers to equal opportunity may exist with regard to the sponsor's apprenticeship program.

(2) Availability is an estimate of the number of qualified individuals available for apprenticeship by race, sex, and ethnicity expressed as a percentage of all qualified persons available for apprenticeship in the sponsor's relevant recruitment area.

(3) In determining availability, the following factors must be considered for each major occupation group represented in the sponsor's registered apprenticeship program standards:

(i) The percentage of individuals who are eligible for enrollment in the apprenticeship program, within the sponsor's relevant recruitment area broken down by race, sex, and ethnicity; and

(ii) The percentage of the sponsor's employees who are eligible for enrollment in the apprenticeship program broken down by race, sex, and ethnicity.

(4) In determining availability, the relevant recruitment area is defined as the geographical area from which the sponsor usually seeks or reasonably could seek apprentices. The sponsor must identify the relevant recruitment area in its written affirmative action plan. The sponsor may not draw its relevant recruitment area in such a way as to have the effect of excluding individuals based on race, sex, or ethnicity from consideration, and must develop a brief rationale for selection of that recruitment area.

(5) Availability will be derived from the most current and discrete statistical information available. Examples of such information include census

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data, data from local job service offices, and data from colleges or other training institutions.

(6) Sponsors, working with the Registration Agency, will conduct availability analyses at each compliance review.

(d) *Rate of utilization.* To determine the rate of utilization, the sponsor, working with the Registration Agency, must group each occupational title in its apprenticeship workforce by major occupation group and compare the racial, sex, and ethnic representation within each major occupation group to the racial, sex, and ethnic representation available in the relevant recruitment area, as determined in paragraph (c) of this section. When the sponsor's utilization of women, Hispanics or Latinos, or a particular racial minority group is significantly less than would be reasonably expected given the availability of such individuals for apprenticeship, the sponsor must establish a utilization goal for the affected group in accordance with the procedures set forth in §30.6. Sponsors are not required or expected to establish goals where no significant disparity in utilization rates has been found.

§ 30.6 Establishment of utilization goals for race, sex, and ethnicity.

(a) Where, pursuant to §30.5, a sponsor is required to establish a utilization goal for a particular racial, sex, or ethnic group in a major occupation group in its apprenticeship program, the sponsor, working with the Registration Agency, must establish a percentage goal at least equal to the availability figure derived under §30.5(c) for that major occupation group.

(b) A sponsor's determination under §30.5 that a utilization goal is required constitutes neither a finding nor an admission of discrimination.

(c) Utilization goals serve as objectives or targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire affirmative action program work. Utilization goals are used to measure the effectiveness of the sponsor's outreach, recruitment, and retention efforts.

(d) In establishing utilization goals, the following principles apply:

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(1) Utilization goals may not be rigid and inflexible quotas, which must be met, nor are they to be considered either a ceiling or a floor for the selection of particular groups as apprentices. Quotas are expressly forbidden.

(2) Utilization goals may not provide a sponsor with a justification to extend a preference to any individual, select an individual, or adversely affect an individual's status as an apprentice, on the basis of that person's race, sex, or ethnicity.

(3) Utilization goals do not create set-asides for specific groups, nor are they intended to achieve proportional representation or equal results.

(4) Utilization goals may not be used to supersede eligibility requirements for apprenticeship. Affirmative action programs prescribed by the regulations of this part do not require sponsors to select a person who lacks qualifications to participate in the apprenticeship program successfully, or select a less-qualified person in preference to a more qualified one.

§ 30.7 Utilization goals for individuals with disabilities.

(a) *Utilization goal.* The Administrator of OA has established a utilization goal of 7 percent for employment of qualified individuals with disabilities as apprentices for each major occupation group within which the sponsor has an apprenticeship program.

(b) *Purpose.* The purpose of the utilization goal established in paragraph (a) of this section is to establish a benchmark against which the sponsor must measure the representation of individuals with disabilities in the sponsor's apprentice workforce by major occupation group. The goal serves as an equal opportunity objective that should be attainable by complying with all of the affirmative action requirements of this part.

(c) *Periodic review of goal.* The Administrator of OA will periodically review and update, as appropriate, the utilization goal established in paragraph (a) of this section.

(d) *Utilization analysis—(1) Purpose.* The utilization analysis is designed to evaluate the representation of individuals with disabilities in the sponsor's apprentice workforce grouped by major