



# Monster's Response to the New OFCCP Rule Regarding the Definition of an Internet Applicant

Frequently Asked Questions  
January 10, 2006

## Disclaimer

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## General FAQs

### What is the OFCCP?

The Office of Federal Contract Compliance Programs (OFCCP), an agency of the U.S. Department of Labor's Employment Standards Administration, enforces Executive Order 11246 and other laws that prohibit employment discrimination by federal contractors. The agency monitors federal contractors to ensure that they take affirmative action to provide equal employment opportunities without regard to race, gender, color, religion, national origin, disability or veterans' status.

### What is the new OFCCP rule?

On October 7, 2005, the OFCCP issued a final rule clarifying who is an "Internet Applicant" in the context of the Internet and related technologies. The rule stipulates recordkeeping requirements relating to such job seekers ("Internet Applicants") and obligations to collect race, ethnicity and gender data. This rule goes into effect February 6, 2006.

### Why is this being done now?

With the increasing use of the Internet and other electronic/technological methods of applying for and/or inquiring about jobs, it has become increasingly difficult for employers to determine who qualifies as an "applicant." Through this recent rule, the OFCCP intends to remedy this confusion by providing a specific, four-criteria definition of an "Internet Applicant."

### Why is the definition of an "Internet Applicant" so important?

The OFCCP is tasked with the responsibility of making sure that federal contractors demonstrate fair hiring practices with respect to race, gender and ethnicity. To help ascertain and measure "fairness," the OFCCP has defined a set of strict data collection and reporting guidelines. The definition of an "Internet Applicant" was developed to help companies limit the amount of data that they need to collect and report on. Only those candidates who meet the strict definition of an "Internet Applicant" are required to be included in an Adverse Impact Analysis which is submitted to the government in the event of an audit.

### Which employers are affected by the new rule?

The new rule applies to all government contractors and subcontractors who are covered by Executive Order 11246.





**What is the definition of an "Internet Applicant" under the new OFCCP rule?**

According to the new rule, an individual is considered an "Internet Applicant" if each of the following four criteria are met:

1. The individual submits an expression of interest in employment through the Internet or related electronic data technologies.
2. The contractor considers the individual for employment in a particular position.
3. The individual's expression of interest indicates the individual possesses the basic qualifications for the position.
4. The individual at no point in the contractor's selection process prior to receiving an offer of employment from the contractor, removes himself or herself from further consideration or otherwise indicates that he or she is no longer interested in the position.

**What are the clarifications regarding recordkeeping made by the new OFCCP rule?**

The new OFCCP rule addresses the use of both internal and external resume databases.

Internal Resume Databases

For purposes of internal resume databases, the employer must maintain a record of each resume added to the database, a record of the date each resume was added to the database, the position for which each search of the database was made, and corresponding to each search, the substantive search criteria used and the date of the search ("Internal Resume Database Search Data").

External Resume Databases

Employer's utilizing external databases, like Monster, have a different set of obligations and must maintain a record of the position for which each search of the database was made and, corresponding to each search, the substantive search criteria used, the date of the search, and the resumes of job seekers who met the basic qualifications for the particular position who are considered by the contractor ("External Resume Database Search Data").

**What does the rule say about employment tests?**

With regards to employment tests, the OFCCP states in the supplementary information to the new regulations that it does not deem employment tests to be basic qualifications under the final rule. In other words, a contractor cannot use the results of an employment test to determine that a job seeker fails to meet the "basic qualifications" for a job and that therefore he or she does not meet the definition of an "Internet Applicant". Contractors must continue to collect and maintain records related to the impact of employment tests that they use as employee selection procedures, even if the test taker, for whatever reason, does not qualify as an Internet Applicant.

For purposes of evaluating the contractor's Internet hiring procedures, the new regulations state that if, however, the test is not used as a selection procedure, the OFCCP will only evaluate the records relating to the analysis of the test's impact on Internet Applicants.

**What does the rule say about collecting gender, race and ethnicity data?**

The regulations have always required contractors to identify and retain records concerning the gender, race and ethnicity of their employees. The new regulations require contractors to (1) where possible, identify the gender, race and ethnicity of traditional (paper) applicants and Internet Applicants; and (2) retain those records. In an April 2004 Directive, the OFCCP stated that self-identification is the preferred method to solicit this information, however contractors are permitted to make visual observations when the job seeker appears in person.

**Does the rule change what information needs to be collected from job seekers?**

No. Employers are still required to collect race, gender, and ethnicity. But for companies who recruit via the Internet or other electronic means, the rule clarifies that this information only needs to be collected from seekers who meet the definition of "Internet Applicants."





## Product FAQs

### **What measures has Monster taken to understand the new rule?**

As the leading global online career and recruitment resource, Monster has been closely monitoring these regulations since the proposed rule was published in March 2004. Monster has reviewed its product offerings for federal contractors with numerous OFCCP consultants, legal advisors, and the OFCCP itself, in order to design a system to make it easier for federal contractors to comply with the new regulations. As with any system, the mere use of the Monster system does not insure compliance with the new regulations.

### **Will Monster's products and services be compliant with the new OFCCP rule?**

Monster has made significant enhancements to its employer application to permit federal contractors to use its products and services in a manner that complies with the new regulations. However, it is ultimately the employer's obligation to seek legal advice and use Monster's products in such a way as to be compliant.

### **What product changes has Monster made to make it easier for federal contractors to comply with the new rule?**

To make it easier for federal contractors to comply with the new rule, Monster has made the following product changes available to federal contractors:

#### New OFCCP Record Keeping Fields

Monster has added new fields to its Job Posting Wizard and Resume Search Tool (figure 1) which allow recruiters to specify their data management techniques and basic qualifications. Companies can enter this information manually, or reference existing information that may reside in an external system.

OFCCP Information [Learn More](#)

**OFCCP Reference ID**  
Enter the internal reference ID used to identify OFCCP-related information for this job.

**OFCCP Detail**  
Enter OFCCP-related information (e.g., basic qualifications and data management techniques).

▶ FIGURE 1

#### Selecting a Folder Prior to Resume Search

To facilitate tracking of resume searches, contractors will be required to select a folder prior to conducting a resume search. These folders can be existing job folders (created automatically for jobs posted on Monster), or folders manually created by the recruiter. In either case, the exact search criteria, including keywords and structured data, will be automatically retained for each resume search.



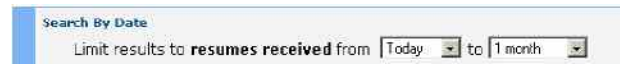


### Limiting the Number of Search Results

Monster has added a new field to its Resume Search tool which allows a recruiter to limit the total number of resumes returned via a resume search (figure 2). If used in conjunction with an OFCCP-approved data management technique, this setting can help reduce a contractor's record keeping requirements. In addition, existing functionality allows a contractor to search on the date that resumes have been added to the resume database (figure 3).



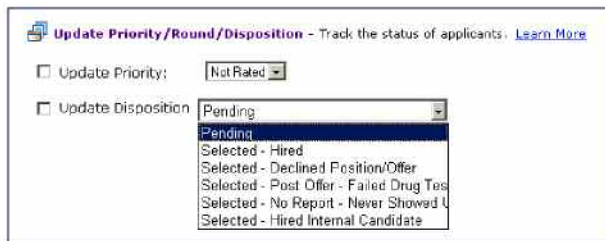
▶ FIGURE 2



▶ FIGURE 3

### Applying a Disposition Status

To help customers account for the final determination of each job seeker, a new Disposition Status field has been added to each job seeker's record (figure 4). Contractors can elect to use Monster's standard list of dispositions, or build a customized list. Contractors can update the disposition status of one or more resumes at a time, and can view a list of the disposition statuses of all job seekers in a given folder.



▶ FIGURE 4

### Exporting Data

Upon request, Monster can export a comprehensive set of data to assist customers with their OFCCP reporting needs. Comprised of hundreds of data elements, this exported data includes:

- All data entered in Monster's job posting wizard
- Resume and cover letter snapshots of all individuals who applied to jobs on Monster
- For all resume searches: a record of the search string, user name, date searched, position
- Resume snapshots of all individuals copied to folders
- An audit trail of each folder a resume has been copied to and from
- Race and gender information if collected by employer and provided by job seeker
- Screening questions, responses, and scores
- A history of notes and actions performed on resumes residing in folders

In addition, within their Monster account, customers can view a snapshot of each resume as it existed at the time it was submitted to a job posting by a seeker, or copied to a folder by a recruiter performing a resume search.

All data will be exported in XML format.





**Can I view an exact list of all the data that Monster retains?**

Yes. A list of all the data we retain can be found in the Resource Center for customers who are logged into their Monster account.

**How long will Monster retain OFCCP records?**

In accordance with the new rule, Monster will retain the data listed above for a period of two years from creation or last action, whichever is later. Note: some exceptions may be made for contractors who are required to maintain data for shorter or longer periods.

**Do employers need to keep a record of the disposition status of every job seeker?**

The new rule does not specify whether or not an employer needs to keep a record of the disposition status of every job seeker. Monster has added this field in order to make it easier for employers to track the final outcome of each job seeker.

**Can I use my own disposition statuses?**

Yes. You can setup a custom list of Disposition Statuses. Please contact Monster Customer Service to arrange this.

**Sign Up FAQs**

**Will I automatically receive the new OFCCP product functionality?**

No. You will need to opt in to the new functionality. You can sign up for the new functionality by completing a form at [www.monster.com/ofccp](http://www.monster.com/ofccp).

**If I do not opt in, will there be any changes to the version of Monster I am currently using?**

No. If you do not opt in, your version of Monster will stay the same.

**What happens if the new rule applies to my company, but we choose not to opt in?**

Your company must decide for itself if it should opt in to this new functionality. If you choose not to opt in, you are still responsible for being compliant with the new rule.

**Can my sales rep activate the new functionality for me?**

No. Monster requires a "digital signature" from you in order to activate the new functionality. This signature is provided when the primary contact for your company opts in to the Federal Contractor version of Monster and/or race, ethnicity gender capture in Monster's OFCCP Microsite.

**Who was provided with information on the opt in and the Microsite at my company?**

Every account at Monster has a primary contact person. The email about the opt in program and links to Monster's OFCCP Microsite were sent to the primary contact person at your company.

**Are there any costs for this new functionality?**

Monster will activate the new OFCCP product functionality upon request at no charge. Monster will also activate EEO data collection from job seekers at no charge. However, due to the extensive infrastructure requirements to store the data prescribed by the new rule, Monster will charge a fee for data exports as well as for premium and custom reports.

**What if I opt in after February 6? Can I still access historical information?**

You can opt in after February 6. However, data will only start being collected as of the day that Monster's OFCCP product functionality is enabled for your account.





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**Where can I get more information?**

Monster created the following website with additional information for federal contractors:

<http://info.monster.com/ofccp>

The final rule is located at <http://www.dol.gov/esa/regs/fedreg/final/2005020176.htm>.

