

# **VA's EEO Compliance Program's EEO Assessment Tool**

## **Executive Summary**

In 1998, the incoming administration of Virginia Governor James S. Gilmore, III, developed and deployed an 82-question employee survey, which resulted in over 42,000 responses. While the overall results showed a state workforce largely happy with pay, benefits and training opportunities, concerns were expressed in answers to questions about fairness and equity in the workplace. Nearly six in 10 employees, for example, disagreed with the survey statement that “policies and procedures were applied equally.”

At the same time, the Commonwealth was re-engineering its compensation plan for the first time in 40 years, providing agencies with the tools for greater flexibility in pay and promotion practices while managing employee expectations of being treated fairly and equitably. A key component was the development of the EEO Assessment Tool by the Virginia Department of Human Resource Management.

Essentially, the “Tool” analyzes recruitment and hiring data and grades Executive Branch agencies on their meeting EEO guidelines. Using a traffic light grading system, agencies that are “green” meet expectations; are “yellow” if agencies are making progress toward expectations; and “red” if below expectations and requiring remediation.

The statewide system was developed in-house using Base SAS and Internet SAS tools, with a startup cost of \$80,000.

**Provide a brief description of this program.**

The Commonwealth's EEO Compliance Program consists of the EEO Assessment Tool, the EEO Compliance Calculator, and the Applicant Flow Data Entry Tool. These web-based tools include all of the statistical applications sanctioned by the U.S. Supreme Court and the federal Equal Employment Opportunity Commission (EEOC) for determining whether agencies employment practices result in adverse impact against protected groups.

The purpose of the EEO Assessment Tool is to ensure fairness and equity in all tangible employment practices, ensure compliance with all relevant federal and state laws and regulations, and provide agencies with the ability to review their employment practices. The EEO Calculator provides agencies with the means to assess potential disparate impact against minorities, women, older employees (at or above age 40) and veterans concerning the prospective implementation of certain employment practices, including layoffs, in order to ensure fairness and equity. The Applicant Flow Tool tracks recruitment for positions and applicants associated with the hiring process.

**How long has this program been operational (month and year)?**

November 2001.

**Why was this program created?**

Comp Reform resulted in a drastic change in how the Commonwealth manages its human capital. The plan brought with it new pay practices, greater opportunities for career growth within state government, greater management flexibility and accountability, and new ways to recognize and reward employee performance and acquired skills. Comp Reform afforded managers with the discretion and flexibility of providing raises of up to 15 percent, depending on the employment pay practice. For

example, under the plan management may compensate an employee up to \$10,000 in a lump sum or in payments during a fiscal year.

Moreover, while 78 percent of State employees who responded to a workforce survey indicated that the State should be more flexible in personnel matters, 70 percent of the respondents indicated that they felt that rewards are unfairly applied. Thus, the Commonwealth was vulnerable to liability if faced with prospective complaints of discrimination based on disparate impact. Under the Uniform Guidelines on Employee Selection Procedures, a progeny of Title VII of the Civil Rights Act of 1964, an employment practice that has adverse impact on members of a protected group (i.e., race, gender, and age) is unlawfully discriminatory unless the employer otherwise can justify the adverse impact with a legitimate business reason.

**Why is this program a new and creative method?**

Prior to Comp Reform, to ensure that agencies were not in violation of relevant federal and state employment laws, the Office of Equal Employment Services in the Department of Human Resource Management (DHRM) required agencies to analyze their employment activities and submit a report regarding those activities on an annual basis. Reporting areas typically consisted of, but were not limited to, the filling of positions and agency progress towards established hiring objectives. A statistical analysis of the data consisted of conducting analyses for adverse impact, which was partially automated and involved considerable manual labor.

Data used in the calculations were not captured in the State's Personnel Management Information System; rather, the data had to be entered manually, which was a time-consuming process subject to human errors. Then, as now, all agencies in the Executive Branch of State government were required to monitor all of its employment

practices to avoid discrimination by race, gender, age and veteran status and to determine if they are in compliance with state and federal laws and regulations. Given the importance of information technology in meeting the State's business objectives, the process for central approval and oversight needed to be strengthened.

It became imperative that consideration be given to the most efficient and effective approach to automate data collection. The new compensation plan had approximately 20 pay practices that had to be monitored, in part, due to policy stipulations and associated compensation. As the State's central HR agency, it became virtually impossible for DHRM to continue to conduct State business by monitoring employment activities manually and relying on line agencies to report data accurately. Driven by the need for reports that accurately reflect employee and compensation data, a technological solution to enable data extraction from multiple systems, including PMIS and Applicant Flow, and an integrated cost efficient process across State government was vital.

**What was the program's start up costs? (Provide detailed information about specific purchases for this program, staffing needs and other expenditures, as well as existing materials, technology and staff already in place.)**

Specifications for the EEO Assessment Tool were developed and presented to several vendors for development. Due to budget constraints, vendor proposals for project completion were cost prohibitive. Off-the shelf solutions did not meet system specification requirements. Internal resources, human capital and hardware/software, became the only viable option to develop the fully integrated web based system. Total funding to initiate this project was approximately \$80,000 for system development and staffing. Existing staff involved in the initial development of the system consisted of two full-time wage programmers devoting 75 percent of their work time to this task, one

systems analyst 50 percent of the time and one Senior EEO program specialist 50 percent of the time. Current staff designated to the continued development of the system consists of one full-time programmer, one systems analyst, one Senior EEO program specialist, two EEO program specialists and one full-time wage administrative assistant, all devoting 50 percent of their time to this task. The system was developed in phases using SAS products.

**What are the program's operational costs?** The annual operational costs total \$103,037 for staffing and software licensing.

**How is this program funded?**

The system is funded through the Commonwealth's General Fund budget.

**Did this program originate in your state?**

The EEO Assessment Tool originated in Virginia.

**Are you aware of similar programs in other states?**

Not aware of any similar systems.

**How do you measure the success of this program?**

The EEO Assessment Tool identifies agencies with indicators of disparate impact and possibly subsequent on-site compliance reviews. After statistical analyses have been conducted of the employment practices based on race, gender, age and/or veteran's status, the system displays one of three colors - red, yellow or green. Red represents an indicator of statistically significant disparate impact based on one of the prohibited factors. Yellow serves as a warning to agencies that the statistical results are close to being statistically significant. Green reflects that there are no problems. The measure of success would be reflected in the percentage of greens at each of the agencies at the conclusion of the annual compliance review.

**How has the program grown and/or changed since its inception?**

The magnitude of the project required segmenting it into four phases, with rollout to the agencies at the completion of each phase. After 1<sup>1</sup>/<sub>2</sub> years of design and development, phase one of the EEO Assessment Tool was presented to HR personnel throughout State government in November 2001. Phase One of the project consisted of a statistical analyses of the positive employment pay practices which included new hires/rehires' starting pay, promotions, in-band adjustments, upward role changes, and lateral and competitive transfers. Phase Two of the project included performance management and applicant flow (recruitment, interview and selection of applicants). Phase Three comprised the negative employment pay practices, which included demotions, downward role changes, and standard of conducts (written disciplinary notices and involuntary terminations). Phase Four will include, among other capabilities, report writing. Since the initial rollout of the system, an EEO Compliance Calculator has been developed and made accessible to agencies to assess potential disparate impact based on race, gender, age and veteran's status as it relates to prospective implementation of certain employment practices, including layoffs, in order to ensure fairness and equity.