



City of San Jose  
Request For Information (RFI)  
Gender-Based Analysis  
February 15, 2019



*Exceeding expectations since 1974*

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## San Jose: Request For Information (1901-001)—Gender-Based Analysis

### Section 6.2a-Section 1: Background information on Biddle Consulting Group (Biddle):



Biddle Consulting Group, Inc. (Biddle) is the longest-established consulting firm in the EEO industry, having been in business since 1974. Today we are nationally recognized for our expertise in audit and litigation-tested methodology that annually protects hundreds of clients against OFCCP audits actions. As authorities on compensation analysis, the Biddle executive team is regularly sought out by outside consultants and law firms for assistance on complex audits and litigation matters. This past year, Biddle Vice President of Audit and Legal Affairs, Dr. Dan Kuang, was selected to serve on the California Equal Pay Taskforce: Technical Advisory Committee member to California governor and senate on implementation and enforcement of SB-358 (CA Fair-Pay Act).

- EEO Industry Leading Compensation Experts** – Biddle’s compensation analysis team is led by compensation expert Dr. Dan Kuang and has conducted tens of thousands of compensation analyses for small to Fortune 10-sized companies. Dr. Kuang has developed and implemented cutting-edge data-modeling methods that have been tested and applied against the OFCCP, EEOC, and federal class action matters. Biddle has successfully defended hundreds of contractors involved in high-stakes compensation and regression audits. Importantly, Biddle is very active in educating the contractor community through presentations and expert panels at the National, local, and regional ILGs.
- Best OFCCP Audit Support** – each year, our EEO Division successfully closes *hundreds* of OFCCP audits and provides high-level statistical support for outside attorneys. As OFCCP audit experts, Biddle experts efficiently guide clients through the subtle, yet complex, challenges frequently presented by OFCCP auditors. Because of the history of OFCCP respect for Biddle methodology, and the strategic, meticulous response for which Biddle executive team is famous, Biddle internal AAP clients enjoy expeditious and efficient audits. When necessary, Biddle will engage the OFCCP directly and steer the audit to closure.

- 3. Long Term Relationship with the OFCCP** – over the past 40 years, Biddle’s strong insider relationship with the OFCCP in every region of the country has kept us current with the intricacies of Agency regulation. Biddle has key contacts at the OFCCP National offices, and regularly participates in informal conversation and sharing of ideas. On a regular basis, Biddle meets with OFCCP Regional Directors to discuss key regional issues, and our executive team is frequently invited to present at OFCCP events and participate in closed-door training sessions.

**Patrick M. Nooren, Ph.D. – 23 years industry experience**

Executive Vice President, Biddle Consulting Group, Inc.



Dr. Nooren’s expertise in the affirmative action and pay equity arena has brought Biddle Consulting Group to prominence as the nation’s premier EEO firm for EEO compliance, OFCCP audit support, and excellent client service and training. Under Patrick’s guidance, Biddle adheres to a rigorous education program to ensure that all team members are fluent in the most current OFCCP trends and regulations. With his direction, Biddle has the strongest OFCCP audit track record in the industry (for Biddle clients as well as clients of outside law firms), always with minimal financial and legal impact. As a nationally sought-after presenter, Patrick is recognized as a thought leader in OFCCP regulations, disparate impact, test validation, and compensation analysis.

*Dr. Nooren is the primary author of “Compensation Analysis: A Practitioner’s Guide to Identifying and Addressing Compensation Disparities.”*

**Dan Kuang, Ph.D. – 16 years industry experience**

Vice President, Legal and Audit Support Services, Biddle Consulting Group, Inc.



As one of the nation’s top compensation experts, each year Dr. Dan Kuang analyzes millions of job titles and oversees compensation projects for hundreds of organizations. Dan is known for his relaxed, friendly style and his ability to explain even the most complicated statistical outcomes. He has years of experience developing and validating tests for personnel selection and performance assessment, as well as evaluating and challenging employment practices, procedures, and tests for litigation support. His expertise in applied statistics is firmly grounded by years of high-stakes educational testing and medical health research. Dan’s primary responsibility at Biddle is to apply his expertise in Title VII class action litigation matters and proactive/reactive investigations, ensure compliance with Federal regulations, and respond to external legal challenges. Dan currently serves on the California Equal Pay Taskforce Technical advisory committee member to California governor and senate on implementation and enforcement of SB-358 (CA Fair Pay Act).

Prior to joining Biddle, Dan taught at both Portland State University and Marymount University. Dan stays close to academia with continues contributions to advancing the science of adverse impact through research papers and presentations.

*Dr. Kuang is the creator of COMPARE® Compensation Pay Equity Analysis Software, the most powerful and accurate program available today.*

Section 6.2b-Section 2: Scope, Methodology, and Impact Questions:

*i) What would you prioritize if limited by resources (time, money, available data)?*

When limited by time, money, and available data (which is a very common occurrence, especially in the public sector) Biddle will apply its strategic and highly effective “Top Down” approach to measuring pay equity. In a nutshell, the goal is to identify the biggest pay equity problems first. This philosophy is executed in several important ways:

1) Time

When time is constrained, the most efficient approach to measuring pay equity is statistical—Multiple Linear Regression (Regression)<sup>1</sup>.

A) **Time concerns are largely misunderstood:**

- a. Most analysts assume that large data size and cuts of analyses are more work and therefore require more time and higher expense
- b. Large data size and large cuts of analysis are not an issue for the experience and technology of the Biddle pay equity team

B) 99% of actual analyses are automated with Biddle’s mature pay equity analytic practice:

- a. High volume analyses with massive workforce counts can be completed quickly and easily
- b. These efficiencies are reflected in the City of San Jose’s price quote
- c. Regardless of data size/number of analyses cuts, **actual data analyses can be completed in one afternoon** (even if data size is over 100K with over 100K cuts of analyses)

C) The bulk of the City of San Jose’s project time will be spent where it matters most: on the manual review and interpretation of results for impact and validity:

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<sup>1</sup> Regression methods are powerful but require decent sample size (employee counts) to properly analyze the data. Many jobs cannot be analyzed for the three (3) reasons: 1) sample size is small; 2) single incumbent position; 3) single group position (only one gender group). For that reason, Regression analyses generally only capture 30%-40% of the workforce.

- a. This last step is also highly automated with a lot of machine-learned algorithms to increase the efficiency of the manual review process
  - b. However Biddle believes that nothing can replace the value of manual review by a human expert for statistical parameters for identified hot-spots
  - c. The efficiencies of the Biddle pay equity process allow the majority of the project to consist of valuable consulting time with Dr. Kuang
- D) Will larger sample size increase project time?  
Yes, but not significantly - **most Biddle statistical pay equity studies can be completed in 1.5-2 weeks**
- E) When time is not constrained, non-statistical methods can be applied to analyze smaller sample size jobs for pay equity:
- a. Biddle is the industry leader in small situation pay equity
  - b. This is due to our huge investment in research and technology over the past 10 years
- 2) Money
- A) When budget is tight, statistical pay equity analysis is the best option:
- a. Most affordable option (\$12,000 - \$30,000)
  - b. Requires minimal time
  - c. Returns maximal information on areas of greatest legal risk exposure
- B) When there is room in the budget, non-statistical methods can be applied to analyze jobs with smaller sample size for pay equity.
- C) If there is money and time remaining after analyzing small sample size jobs, we recommend CA Fair Pay Act-oriented analyses:
- a. Traditional regression methods are simply insufficient to address the broad requirements of CA Fair Pay Act (SB-358)
  - b. Biddle pay equity expert, Dr. Dan Kuang, Vice President of Audit and Legal Affairs, serves on the CA Equal Pay Taskforce and has developed a class of models that can effectively address the challenges of these modern fair pay laws
- 3) Data
- A) From our extensive experience, the answer is to analyze currently available data. Biddle does not see a good reason to delay critical pay equity analyses to attain the allusive “perfect” and “complete” dataset (which simply does not exist)
- B) Applying a top-down approach, Biddle will first analyze the City of San Jose’s available data to identify statistical hot spots:
- a. This will be a significantly smaller sample of the workforce
  - b. With a focus on the identified hot spots, the sample size is much smaller
  - c. Manual pulls of more difficult data are both manageable and reasonable in scope

**ii) How would you collect information and what data would you expect to result?**

As discussed above, Biddle's recommendation is to analyze currently available data.

- 1) Basic pay equity analyses require a surprisingly small number of data fields:
  - A) Job
  - B) Gender
  - C) Pay
- 2) Classic explanatory factors are generally readily available, for example:
  - A) Time in Company
  - B) Time in Job
  - C) Performance
- 3) Data specifications are detailed in *Supplemental: Data Specifications*.

**ii) How would you recommend data be organized and stored that is collected?**

The most efficient method of receiving data is electronic spreadsheet file (e.g., Excel). The data experts on the Biddle team can easily work electronic files of any format (e.g., comma separated text files, Lotus, SQL).

**iii) How do you recommend government take steps to implement findings and make continuous improvement?**

- 1) Public sector entities face unique challenges when acting on pay equity findings because of the many rules and regulations in place. However, when there are clear and grievous pay imbalances, the employer can reach for a "business necessity" defense/justification for pay adjustments.
- 2) In general, closing pay gaps safely requires time and proper leveraging of natural personnel events (hires, promotions, and terminations). All three mechanisms can be strategically leveraged in a multi-year plan to close the pay gap at the group level (women vs. men).
- 3) To remedy pay gaps at the individual level, a three-year pay adjustment schedule can be developed to gently close the gap and stay within rules and regulations:
  - A) Biddle recommends a three-year window because it is very likely that within that timeframe the individual(s) will be promoted
  - B) Employers can take advantage of that event to properly level-set the individual(s) pay.
- 4) Closing the pay gap requires constant monitoring (pay equity analyses) but there are also strategic policies and rules that can significantly reduce pay differences.

Starting salary is the largest cause for pay disparity, and the best practice is to:

- A) Not ask for salary history
- B) Ask hiring managers to document the reasons for high/low starting salaries

Employers who have implemented these simple practices have significantly reduced pay disparity in 2-3 years.

***iv) Are there previous government gender analyses you would model?***

Probably not - it is our experience that valid pay equity analysis differs by employer and we advise against referencing models from others. This is especially true where pay practices vary between governmental agencies.

***v) Are you familiar with government RFPs for gender analysis that clearly explain expectations and could you share them with us?***

Yes, Biddle is familiar with government RFPs for gender analysis that clearly explain expectations. While we cannot share specifics, in general, public sector RFPs ask for two outcomes (which for Biddle are standard deliverables):

- 1) Identify which jobs exhibit significant pay disparity
- 2) An estimate of the pay adjustment necessary to eliminate pay disparity

***vi) What budget would you find prudent for this work (please substantiate with examples from past work, yours or others).***

Pricing for pay equity analyses is difficult to predict because the investigation can require multiple rounds of analyses and some may be very manual/labor intensive:

- 1) As a start, however, it is our experience that \$13,000 is a fair price for the first round of analyses. If the results are generally good and the client can explain the identified pay differences, the project will conclude.
- 2) In some instances, there are too many hot spots for the client to manually investigate, and/or the client chooses to pull additional data fields for follow-up analyses.
  - A) Each additional round of analyses is \$6,000; in most instances, only one additional round of analysis is required. If one additional round is required, the total fee would be \$19,000.
  - B) If a second round of analysis is required, the total fee would be \$25,000.
  - C) If in the rare instance, a third round is required, the total fee would be \$31,000.

## Supplemental: Data Specifications

Fields	Required (Y/N)	Notes
Employee Identifier	Y	Anonymous is ok
Last Name	N	Optional
First Name	N	
Hire Date	Y	To compute Time In Company (TIC)
Date in Job	Y	To compute Time In Job (TIJ)
Gender	Y	
Race	Y	
AAP	Y/N	Y=If OFCCP-oriented analysis
Job Group	Y/N	Y=If OFCCP-oriented analysis
Job Code	N	
Job Title	Y	
Salary (Annualized)	Y	
Hourly Rate	Y	
Wage Type	N	
Pay Grade	N	
Full/Part Time Status	N	
Commission	N	
Incentives	N	
Bonus	N	
Merit Increases	N	
Overtime Pay	N	
Exempt/Non-Exempt Status	N	
Education	N	
Experience	N	
Performance Rating (1)	N	
Performance Rating (2)	N	
Performance Rating (3)	N	