



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

Office of the
General Counsel

MAY 27 2008

Mr. Stephen Llewellyn
Executive Officer
Executive Secretariat
U. S. Equal Employment Opportunity Commission
1801 L Street, NW
Washington, DC 20507

Dear Mr. Llewellyn:

Please accept this letter as the U.S. Office of Personnel Management's (OPM's) response to the Notice of Information Collection on the Uniform Guidelines on Employee Selection Procedures (UGESP), published by the Equal Employment Opportunity Commission (EEOC) on March 25, 2008 (73 FR 15754). OPM concurs with the EEOC's notice of its intent to submit the UGESP, without change, to the Office of Management and Budget for a three-year approval under the Paperwork Reduction Act. OPM also concurs with the EEOC's decision not to finalize the March 4, 2004 Paperwork Reduction Act Federal Register document relating to UGESP entitled "Agency Information Collection Activities: Adoption of Additional Questions and Answers To Clarify and Provide a Common Interpretation of the Uniform Guidelines on Employee Selection Procedures as They Relate to the Internet and Related Technologies" (69 FR 10152).¹

The EEOC, OPM, the Department of Justice (DOJ), and the Department of Labor (DOL), collectively referred to as the "UGESP Agencies," jointly promulgated the UGESP regulations. See 29 CFR part 1607, 41 CFR part 60-3, 28 CFR part 50, and 5 CFR part 300. The UGESP agencies also were joint signatories to the March 4, 2004 proposed Additional Questions and Answers. Consequently, OPM is submitting this formal concurrence with EEOC's proposed withdrawal of this joint proposal. OPM continues to have a significant interest in UGESP and any future proposals of change in light of its own "unique employment responsibilities and priorities," related to employment practices, including the merit principles. As such, OPM looks forward to working cooperatively with the EEOC and the other UGESP agencies in the future on UGESP and other matters related to our complimentary missions.

¹ OPM notes that it does question the purpose and appropriateness of the "Burden Statement" at the end of Notice. This statement appears to make generalized assertions related to employer obligations and burdens, but those assertions seem to be based on a form that is not used in the Federal sector. Moreover, to the extent this statement is premised on the assumption that employers are already required to collect and maintain applicant data, OPM reasserts its objection to this position as it applies to the Federal sector.

Sincerely,

A handwritten signature in black ink, appearing to read "Kerry McTigue", with a stylized flourish at the end.

Kerry McTigue
General Counsel

cc: Victoria Lipnic
Assistant Secretary for Employment Standards, DOL

Charles E. James, Sr.
Deputy Assistant Secretary for Federal Contract Compliance, DOL

Grace C. Becker
Acting Assistant Attorney General for Civil rights, DOJ