

**Second Declaration Of Denise M. Hulett In
Support Of Plaintiffs' Motion For Enforcement**

EXHIBIT 7



U.S. Department of Justice

Civil Division
Federal Programs Branch
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Via Electronic Mail Only

Marci Seville
Monitor, Hispanic Settlement Agreement
Golden Gate University School of Law
536 Mission Street
San Francisco, CA 94105-2968

Re: Brionez v. USDA, USDC N.D. Cal.,
Civil Action No. C 01 3969 CW

Dear Ms. Seville:

This letter is to confirm that at our meeting on Friday, December 15, 2006, we responded to your letter of December 8, 2006. Your letter presented six questions about the data that our expert, Dr. Chris Erath, utilized and which I provided to you on December 6, 2006. For the benefit of Plaintiffs, we are affirming our responses in writing:

1. The Non-AVUE (*i.e.*, AFS) applicant flow spreadsheets cover selections made during the entire period of Fiscal Years 2004, 2005, and 2006, *i.e.*, from October 1, 2003, through September 30, 2006. While the applicant file does not contain a selection date, the announcement file does contain such a date, and the selection date can therefore be identified through a cross-reference to the announcement file.

2. An applicant number (such as number 832 in your example) refers to one individual. In counting the number of applicants, the data will count as an application all of the instances in which an individual applies for a position. Note that it is possible that an individual can apply more than one time on any single announcement number (by, for example, applying at different grade levels), and all such transactions will be counted as separate applications. This method of counting applies to all applicants, regardless of whether they are Hispanic.

3. As noted, the data count as an application each time any individual applies for a position. If that individual uses different race and national origin (RNO) identifiers on each application, the application data will reflect whatever RNO designation the individual makes on each application. The Forest Service relies on individuals' self-identification. The Region has no independent method to determine the race and national origin of applicants.

4. As with respect to applicants discussed above, each selection is also a separate action. No alteration of the data is made. Dr. Erath has confirmed that this method of counting selections has no effect upon his conclusions.

5. An individual can be assessed by the AVUE system as "qualified" or "highly qualified," based on the applicant's self-assessment. However, when a Human Resources Specialist manually reviews the application, s/he will make the determination whether the individual is qualified to be on the referral list.

In answer to the second part of your question, AVUE assesses "basic qualifications" separately from "qualified" or "highly qualified," based on responses to different questions. Accordingly, there are situations in which an applicant is rated "qualified" or "highly qualified." based on the applicant's self-assessment when applying through the AVUE system. However, a manual review of an applicant's education and experience by a Human Resources Specialist may result in a determination that the applicant does not actually meet the "basic" OPM qualifications.

6. Applicants coded "U" were eliminated from the data because "U" means that the race and national origin of the applicant are unknown. The code "UY" means that while race is not identified, ethnicity is reflected as non-Hispanic. Applicants coded "UY" were retained in the database by Dr. Erath because, while their race is still unknown, their national origin (*i.e.*, Hispanic or non-Hispanic) is identified and hence the record has information relevant to the inquiry of the percentage of Hispanics in Region 5's selections and applicant pool.

Sincerely,

/s/

Susan K. Ullman

cc: Denise Hulett