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NILG WEBINAR

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>> My name is Rosemary Cox representing the Ohio ILG. I'm so excited to have everyone here for what I think is just going to be an outstanding session today. I do have a few housekeeping things for you. First of all, this session is being recorded. And a transcript of the recording will be on the NILG website in a few days so you can look out for that if you want to have something to relisten to. There's also a copy of this presentation embedded in where you see the chat and all of that information on your screen there's a copy of the presentation there that you can download. You also if you need closed caption, Tony send out an e-mail with the reminder of this session and within that is the link to the closed captioning, so if you need that, please make sure you click on that link so that you can participate. We will be doing Q & A today. We'll do it at the end of the session. So if you have questions throughout, if you want to put your questions in chat and if there's a question that goes to a specific person who is speaking, just put their name first so that we can make sure that we get that directed to the person. So before I introduce our speakers, I want to take just a moment to thank our sponsors. Their names come up there. So we could not do these without our sponsors, and we thank them so much. They really stepped up for when we went from the live conference to the virtual. We certainly could not do it without all of these groups. So thank you so much for all of your sponsorship here. So let's get started. So we have a really exciting session for you today, women splaining pay equity. One thing I want you to know is they will use poll anywhere during the session, if you have your cell phone ready, the computer, there will be some instructions on the screen for you but I wanted to give you a heads up there. And then you can find their complete bios within the presentation but let me just introduce my good friends and some very woman, I'm excited to hear, Elizabeth

Bradley, Joanna from DCI, Lisa Harpe also from DCI. And Michele Duncan from Jackson Lewis.

So without further ado, let me turn it over to Liz.

>> Liz, are you on mute?

>> I apologize, everybody. I was -- I was. Let's start this over again. I'm sorry.

Welcome to women splaining the pay gap. Thank you all for taking the time to join us today. We really appreciate the opportunity to be here and to present to the NILG community. We are a multidisciplinary panel, and we will meld the legal and IO considerations when looking at both the pay gap and pay equity studies.

But our real interest today is not how to properly conduct these analyses. Rather, we want to look at it a little differently. Our real interest is understanding how each one of these analyses, when reviewed individually, and then in connection with each other, can give you a more holistic approach which is going to shed light on what we're all really looking for. And what is the root cause for disparity in compensation and the root cause for that wage gap.

Using both of those tools, as well as a glass ceiling review really let's companies take a 360 view and truly understand where there are barriers for the advancement of women and minorities.

And so we can finally get a solution in place to these concerns.

So moving on to the first thing we're going to talk about is the considerations before you do any project, both legal and practical considerations, foundational concerns about are you wanting to do a pay gap or pay equity and what questions do you want answered which drives the decision of what type of study you want to be doing.

We're then going to move into the discussion area. We're going to talk about the attorney client privilege, both of the advice work, as well as that of your experts. We're then going to go into discussions with regards to the pay gap, what it answers, what it does not answer, considerations and the results, pay equity, the various frameworks, depending on the purpose of the study, the legal framework of what are you answering, who are you doing the analysis for?

And then finally we're going to go back to on what I touched before is the holistic review, what are we driving at, we're driving at finding the root causes. Why? Because we're driving to find a solution to inequities in pay for women and minorities and the barriers to the advancement up to the senior level positions in companies.

And now we're going to start, the first thing we're going to do is do some poll questions. So everybody take a moment to get on to and it is chat and I know Rosemary read it to you a moment ago about log in to [POLLEV.com/joannacolosi875](https://pollev.com/joannacolosi875). We're going to give you a minute to answer these questions. And we're seeing and the question has, has your organization conducted a pay gap analysis in the numbers are moving all over but I think we're going to end up with pretty much an even split, although it seems to be trending up towards yes.

So I think this now shows our audience has a pretty mixed experience with these types of analyses. We could move on to the next poll that we're working on. All right. Good.

44. There we go. If it a pay study was conducted, did your organization publicize the results? Right. Right. So here's a -- this is an interesting piece here. Because the question is what are you doing a pay gap for, often, as we're going to hear, it is being

done as shareholder pressure so it is interesting to see that while 55% of those who did it, 8% of those -- only 8% of those were publicized.

We have another poll next. The next question is, has your organization conducted a pay equity analysis? Give it a couple of seconds to get some results in. And I think we are, based on what the end, whether you've done a wage gap, I believe we are trending at a higher percentage of companies have conducted pay equity studies than have conducted pay wage gaps. Not a surprising result. A lot of people are doing though I -- more are doing traditionally done pay equity studies.

And then here's the final, the next question, did your organization make the results of your pay equity study -- I'm sorry, did they make results, I read the wrong question, apology. Did you need to make results -- adjustments as a result of the pay equity study? And again we're trending in the majority of people who did these did have to do adjustment. Again, that's not a surprising rum. These are wonderful tools to identify if there are slight inequities and the proper answer is when you determine there's answer inequity and after you've done an advise lied assessment to determine that an adjustment is necessary that those adjustments are made.

And so did your organization publicize, either internally or externally, that a pay equity study was being conduct ed? Again. Not shocking results. Here, often where we do find a wage gap is being more -- study is being publicized, it is very rare that the results of a pay equity study are publicized. So we're seeing 56% of it did not publicize, only 4% of it did internally and ex personally. And my question interest is even for the publication point, how much detail was actually provided in that publication, it's simply a statement that it was done and necessary adjustments were made.

Okay. So I'm going to move on and I'm going to transition to Michele to join us next. To get us started with before we get started.

>> Excellent. Thank you, Liz. It is so interesting to see these results. If we were all together, as we usually are at the NILG conference, we'd be asking you to raise your hands and so that we could do a more informal poll but I love that we're able to allow you to participate in our panel today. What we want to talk to you about next is really starting with your end goal in mind. Liz teed up some great questions about whether you've done a pay gap or wage gap analysis, whether you've done a pay equity analysis, what you did with those results in terms of publicizing those results. Or making adjustments to pay and that is that is really all a nice segue in to how you should be getting started with a project that relates to pay equity.

So many companies, companies who want to do the right thing, come to folks like me and Liz and Joanna and Lisa and say, okay, we're ready, we have our stakeholders lined up, we want to tackle pay equity. And when we begin to sort of peel back the layers on what exactly is the objective, what type of study do you want to do, what do you plan to do with the results and, you know, what's the why behind your study, we often don't get clear answers from folks. And so we're hoping that we can shed some light on these questions and the importance of asking these at the very beginning of your project. And then we also want to shed light on the fact that, and this is where I think, you know, we thought a lot about how we can make this panel different. We've been talking about pay and pay equity for years at NILG, at our local ILG conferences, and they're great, important discussion that is have been had. But this panel in particular wanted to figure out how to sort of change the dialogue, not make it be about

how you do a pay equity analysis but how you can really attack the root cause, as Li said. So we want that to be the overriding consideration as we move forward.

But here is some important questions. Before you ever get started, we have to all be on the same page in terms of what you want to achieve. What's your objective? Are you getting shareholder pressure to do, you know, conduct and publicize or publish a wage gap result? Those usually look like women are paid 99 cents on the dollar as compared to men. Or are we doing what I would call a critical self analysis of our pay system to determine whether there are statistically significant differences in pay between men and women or between minority groups that can't be explained. So basically ferreting out whether we have any indicators of systemic pay discrimination in our workforce.

And then what do we want to do so? Are we going to publish those results of the wage gap study? Are we going to publicize our pay equity efforts through a commitment to pay equity? Or perhaps through more details publications such as information about what we did to close some of the inequities that have may have been found through the study.

Are we going to make pay adjustments? You know, one of the first things we generally ask folks when we're retained to do a pay analysis is do you have a budget to make changes if changes are warranted? Is there an appetite for change? Because which certainly don't want to recommend doing a study, any of these studies, if we're not then going to take make changes and react to the results that are found. So there is budget considerations.

And there's also time and resource considerations that often go sort of unevaluated in the beginning. Many employers think they're just going to poll pull some data for us, you know, many exerts approximate are going to take it over from there, and we're going to unpack all of the best practices in terms of what you should be planning for with respect to your resources, because just analyzing the data is not going to get you where you need to be.

So what we hope to do today is give you the information and maybe a fresh perspective on what it is you want to do here, right, so be able to empower you to answer these questions.

And to do that, we really need to start with just level, sort of a level setting of what are the different types of studies and what are some of the other holistic issues that you really should be thinking about that aren't traditionally covered by either a wage gap study or an EEOC equity analysis.

And so I'm going to turn it over to Lisa now to begin to unpack the differences between some of these studies.

>> Thanks, Michelle. So I think that one of the things I have noticed and I think the audience here at the NILG and a lot of employers are getting more familiar with some of these differences but I always spend time talking to clients about the pay gap study and a pay equity study. They're not the same thing. They will not give you the same kind of information. You're not going to act on the results in the same way. So I think it is really critical, really important to understand the difference both from a theoretical perspective and then we'll talk, we'll get a more of the details, that will hopefully hammer home a little bit more about how they're different.

The first thing to know is the pay gap and a pay equity study answer two different kinds of questions. And understanding the difference is critical to interpreting the results of

each, and as well as considering any possible actions you might take based on the results. So a pay gap studies asks a very broad high level question. Overall, what do women, on average, make compared to men on average?

A pay equity study, however, is a much more kind of specific question. It asks a much more specific question among similarly situated employees after we account for job related factors that influence pay, do we still have pay differences between men and women?

So given that kind of framework and trying to understand the difference in that, let's talk a little bit about the analytical considerations.

So this is going to track a little bit similar to some of the conversation that Michele had around, you know, before you get started but again, I do think one of the things I find with my clients is the client who have really given a lot of thought before they get going on a study or before they even, you know, request to have a study done those who have really done the prep work around those kinds of topics are far better positioned to understand the process, understand the study and then act on those results. And so the most important consideration or the purpose is the objective of the study. Why are you doing this? Are there internal stakeholders that are expressing concerns about pay? Are their shareholders or external stakeholders that are asking about gender and pay issues? Is there a legal claim? Or do you have a large number of employees that are in a state with the state-based pay regulations and that have been passed in the last few years or maybe they're on the horizon?

So a study examining your legal risk either under a federal regulation or state or local regulation is going to differ from a study examining the pay gap in response to some internal or external pressure to conduct those studies.

The kind ever bucket has to do with who are you going to share the results with? So thinking about that before we ever get started.

Some companies are conducting these studies to report back to their employees.

Others are conducting studies to respond to a federal agency's investigation of their pay practices.

Yet others are obligated to provide results to shareholders or executive boards.

And then kind of once you've answered those questions, one of the third critical components is thinking about what are you going to do with the results? So the company is undertaking a pay gap or pay equity study you need to consider what may be required after that study is done.

For example, a pay study may suggest women hold lesser paying jobs that means, are you prepared to see that and how to address that. If you're doing a pay equity study and you identify pay disparities, you need to think about allocating resources to further investigate those disparities and you need to be prepared to address any unexplained pay differences by planning for possible pay adjustments which we're going to talk a little bit later on.

So at this time I'm going to turn it over it to Liz to kind of talk, discuss this a little further.

>> Thank you. So the first part of our discussion is going to be on the attorney-client privilege so there's three questions that we're going to kind of think through with regard to the attorney-client privilege in connection with in any type of pay analysis. So the first

is can the pay gap and pay equity studies be protected by the attorney-client privilege? Short answer is yes. But we'll get into that more in a moment.

This second question is, is the work of non-attorney experts covered by the attorney-client privilege? Again, we can say yes to that. But this section we're also going to talk about some key considerations and steps that need to be taken to ensure that the work of your non-attorney experts is covered and maintains coverage by the attorney-client privilege.

And the third thing that's going to be weaved into the conversation about the attorney-client privilege is what other things employers should be considering on a legal basis when doing these analyses. So the first thing is there is a sliding of privilege that applies when you have engaged counsel.

First of all, it is being done at the direction of HR or comp or any other division outside of your in-house counsel or external counsel, then it is not covered by attorney client privilege. If the studies are started by HR and legal finds out later and then gets involved, the door is already open and it is very difficult to go back, almost impossible, depending on the jurisdiction that you're in, to get the work covered by the attorney-client privilege.

So when you need to make sure, this kind of goes back to the foundation of a project before you get running, make sure you have the groundwork in place.

So the coverage, obviously, is no attorney if in place. The strongest privilege that you have is when you have outside counsel in the role. Often the issue comes in play when in-house counsel is running a project. You have to look carefully at the job duties of that in-house counsel.

Are they, an attorney who is in a compliance role or advisory role or are they an attorney actually attorney position? And that is a distinction that I know in-house counsel has to play with quite often. There are some local jurisdictions that essentially have taken the position that if you are in-house, you are compliant essentially and has a very difficult time getting the attorney-client privilege attached. So that should be thought about. Another real consideration when involving your in-house counsel before getting started is, again, we're going to go back to this holistic view, but it is going to help you answer what are you -- what are you answering for, are you going to publicize. What else is going on in the organization you that may not be privacy to? So there is there a current wage claim? If somebody filed an internal complaint, is there an action going on that legal may be handling? That HR, they are often aware of, but often the comp teams are not privy to those types of things and have you to be careful before you start one of these about what other -- what other activities have going on and that it could also drive what factors and what groupings and legal may have already started some of this work. So those are some of the broader considerations when getting attorney client privilege attached.

The really important piece is make sure your not attorney expert work is covered. There's a few key steps that we remember that you take to ensure that it is very clear that the work being done by the non-attorney experts is being done by the direction of counsel. So we -- it should always be that the attorney, whether you're relying on in-house counsel or external counsel, engages the expert. That is relationship engagement letters to attorney to expert, therefore they are being done -- the work is being done at the direction of counsel. Expert communications should be between

attorneys involved. The other members of the privilege team -- the team should be involved but they should be directed to and the expert is communicating with attorneys. And what we often do is at the beginning of the team, the project, we design the team. Who is necessary to this project? Who needs to be fully read in? And that is your privilege team. It is usually members of senior leadership, the deciders on what is going to be done, it needs to be read in.

Often who does not need to be read in are the individuals, for example, are the pulled the reports or the pulled the reports out of the pay system, while they are vital to the they are vital to the program and project because you have to get the right reports out, they don't need to know all the who, what, why, when, where, and why exactly the report is being done. So that is something to be thinking about who is on that team. You also direct them to be sure the communications are not shared outside of that team.

It's also important that the non-attorney expert, they're providing statistical results. They are providing the study back to you. The advice, the recommendations on what to do with those results may be coming from the attorneys, not the statisticians involved. They give you the results, what you do with that is advice from counsel.

There is a pop-up, is the privilege 100% proof. Oh, yes, the privilege can absolutely be lost and it is you approximate have to look closely at your jurisdiction and there are various jurisdictional rules about how solid your privilege can be and what can break privilege. I can tell you very, very easily, somebody from that privilege team forwards and e-mail off that without an attorney on, forwards the tentative results of analysis outside of that privilege, outside of the group that will destroy privilege and that could positives plea, depending on the breach and the specifics, that could open up all communications and completely destroy the [priv](#) lam. So you need to be very careful with the communications.

>> Yeah, and Liz, this is Michele. I'm just going to jump in for just a minute. You know, all of what Liz is describing relates to what we recommend be done at the outset of the project. Set up your privilege protocol, right, your -- the attorney that you're working with should send a letter braced on all of the protocols that need to be in place for you to have a strong assertion of privilege. But one thing I think we all need to be on the same page about is that there is a possibility that even if you did, you know, your best with respect to recommendation there is a possibility that a court could decide that privilege doesn't apply. So it is not 100% guaranteed and certainly courts are looking at whether work that was done was really intended to empower an attorney to give legal advice, right, not business advice or other types of advice.

So this isn't completely foolproof but what we recommend is that applicant of the project, doing what Liz said, doing what a privilege protocol letter to your outside expert if you have one and also to the team at the company to be age to do at least everything that we can do to ensure that we have a strong assertion of privilege.

>> And one last piece on this that I will chime in is another way that the privilege can be lost and you can choose to wave privilege is by publicizing the results. Often can comes in, if you publicize the results, I usually see if it is a claim, the website, if you did this study and there are some soft results, one of the first things you get is a discovery request from plaintiff's counsel for that result. So you need to be careful. And knowing that publicizing results could open up the underlying documents.

And we can go in through much more greater detail on this. That's why we often recommend separate teams in setting up some walls around if you're doing a wage gap versus a pay equity and thinking through if you choose to publicize the pay gap, how would that impact your pay equity report. So we could do, I think Michele and I could do a day on this. So I will pass it on to on the other members of the team. But there's a lot of considerations that go in to getting the attorney-client privilege attached.

>> All right. Thank you, Liz. So this is Joanna, and I'm excited to talk about the pay gap and if you do choose publicize the results because I know that Michele and Liz mentioned earlier there are going to be times in which we do a pay gap study year or your organization needs to publish those results due to external pressures or internal pressures or just simply your company's goodwill. We have been involved in a variety of situations, to Liz's point, which we've been dark side, light side of this particular stream of work and that pay gap reporting. So some questions to consider as we talk about this section is what does the pay gap study really tell the company about its pay practices? And Lisa alluded to this earlier in the presentation, but essentially the pay graph, as you'll see in a moment, is really just an overarching statistic comparing average or median salaries between males and females and minorities and nonminorities, so it is not getting at root cause issues, right? It's not a pay equity study. We'll talk about that in a moment as well. It is really a holistic, overall number that doesn't necessarily get to the nitty-gritty of your pay practices. But it is still useful information. A lot of people externally to the organization and the public like to see that number because they draw a lot of inferences from it, it is an easy statistic to understand

So these are reminders as we walk through this conversation, your pay equity study is doing the roll to roll compares similar or similarly situated level employees and really starting to look at how people are similarly situated and whether or not they're paid equitably or not paid to this number.

And some things I want you to think about as we walk through this section are other considerations that your organization should make while you're considering publishing the pay gap results. Let's talk a little bit more because this is sort of the crux of our discussion. You may have seen the last five, ten, you know, or so years a lot of organizations are going public in publishing their pay gap. You'll see it in the news. A lot of technology firms have come out in the last five years. There's a lot of tremendous societal pressure in organizations disclosing this information. Again, this number is kind of easy to use. It is a holistic quick hit number. A lot of folks in society kind of really kind of latched on to.

The examples I have on the screen are citing organization that is if you read through the articles, these are very well published articles in the Wall Street Journal or other sources, you start to read that a lot of publications recently have before what we'll call the adjusted pay gap meaning that the overall statistic has been adjusted to account for differences in the role or the level or the job title of employees in the company.

And then that ratio of male to female earnings has been published. So this gets to our question from earlier, what is your organization trying to answer? What question are we answering? Are we trying to say what is the overall pay gap or the unadjusted wage gap or you know, some other question? So when I talk a little bit, let me kind of frame the conversation here, when we talk with the unadjusted pay gap or wage gap, that really is just a crude metric where we're looking at median earnings comparisons and

looking at that earnings ratio. In this case we're going to talk about in the context of men versus women. You can also have this conversation looking at racial or ethnic groups, comparing the wage gap for those people in your organization as well. For the purposes of our demonstration, we're going to kind of continue with the male versus at the approximate male theme here since that's often cited in our world.

And just to further put a bullet point, kind of fine point on this conversation about the unadjusted pay gap, it is really high level, overall average pay for men versus women. This is often where you see that often cited, you know, \$0.80 to the dollar metric, sometimes it is \$0.79, it really depends what source you're talking about, you know, if you're talking about burrow of labor statistics or some other source, from a macro level. From a micro level more talking about your own organization you may see some for that unadjusted pay gap.

Again, you can do this for men versus women or a minority subgroup verses us, you know, another kind of group in your organization. And so a lot ever organizations, it is important to keep in mind that external shareholder groups are really interested in this unadjusted pay gap number. So if your company has been getting some external pressure to publish your male to female pay gap, wage gap, however you want it approach the term, note that a lot of organizations are getting really savvy in what that means. And they're often looking fortune adjusted pay gap because they want the raw numbers. When with talk a little bit more about the adjustments to pay gaps, there's ways you can partially adjust the wage gap earnings in your data in organization by controlling for or standardizing full time to full time employees sometimes the unadjusted wage gap numbers might not do this. This is one source in which we can look at that.

But one thing, you know, I think that's really that's important to hit on, I'm going to go back a little wards, with the wage gap, if you fully adjust the wage gap, a lot of the organizations we saw earlier in the presentation were commissioning a study controlling across the organization for have by a regression differences in job titles and job levels and saying, ah-ha, look, we're \$0.99 on the dollar comparing men and women because after we've adjusted for the type of job which from a pay equity study perspective, makes a lot of sense, right, there are market differences in jobs, whatnot, ah-ha, we don't have a gap or we're really close to closing our gap. But a lot of these really savvy external organizations that may be putting pressure on your organization to disclose aren't often interested in hearing about that adjusted wage gap. This he still want to go back to that adjusted because as this quote will tell us, this is from a Washington post article that got kind of passed around to various other PR publications in the technology industry from Lisa Matts who formally represented AAUW, one of the main takeaways about the gender pay gap is that you know, people like the unadjusted version because they think it tells that raw story. When you compare people doing the same work, the role to role comparisons that we do in pay equity studies, it doesn't tell always that full story it. Doesn't get at the fact that maybe women are underrepresented in certain fields or if leadership positions in your organization. And I think this is a really important point. From a pay equity standpoint, we're very used to controlling for things like job title and the market differences inherent in different levels than roles. And that makes sense from a pay equity comparison, right? It is logical if we're talking about working with

OFCCP, it is, of course, plop rat to account for differences in the type of job somebody does.

However. When organizations are putting external pressure on your company want to see that unadjusted or raw number, for some sectors that unadjusted or raw number might not look good because that overall wage gap is often a driver of who is in what position. What is the distribution of females in higher level positions or higher paying positions in your organization and that's a really important question to answer in which the pay gap study, nor potentially the pay equity study, will answer. That's really a more holistic view of the world in which we need to start asking ourselves questions of where is our talent distributed and where are women and minorities situated in our organization and is there a reason why they may or may not be in the higher paying positions. St. Due to availability? Is it due to a pipeline concern? Is there a glass ceiling concern there. This is are the crux issue that as a practitioner I see happen over and over again where folks don't like to look at the holistic picture and really talking about pay equity, if we don't have representation in the conversation know, we're not going to make movement on the pay gap going forward as a society. So these are really holistic terms, and I know that was a blanket statement but that's what makes this so hard. That's what makes overcoming the pay gap a hard endeavor because we do need to look at this in a really holistic manner.

>> I just want to jump in. I think this is a really important point and I think there are a couple of things here. You know, one is there was a time when we started publishing these pay gap studies, it came kind of, it hit the different tech sectors, was doing action it, financial sector, I would advise everyone, not just job, when you're seeing adjusted pay gaps being published, really look to see if they're telling what you they're controlling for. Because it may not just be jobs, you know. There may be a client who says we adjusted for job but it may not be where they want it and it may be legitimate factors, it could be geographer, tenure, I've seen clients for tenure in a pay gap which isn't always a normal adjustment in those. So I think it is really important to pay attention to what they're adjusting for. And I am starting to see more, you know, comparisons. So there tends to be, you know, unadjusted pay gap numbers that are common in the tech field or the banking field. They may not be acceptable, you know, in the big picture in you're -- will in of in the banking industry, there aren't that many females at the top. But I think it is important to understand the unadjusted but when they do the adjusted to dig in and say what exactly did you control for?

>> Definitely.

>> I want to --

>> I want to chime in on something here also, another way to think about this, is the -- when you -- when you do a gap study, unadjusted wage gap study is not giving you a picture truly about whether or not there's discrimination that this your compensation system. It is showing a disparity in the level of jobs they are in. Because when there is an unadjusted wage gap that favors men's or whites and that shows that they are the ones who are earning those higher wage rates. By creating an adjusted wage gap, you're sort of kind of doing a umbrella pay equity by including those things so you're explaining why the wage began with will he legitimate factors that impact pay. Okay. So then the adjusted will say is there disparity in our pay potentially a indicator of is there discrimination in our pay gap, but what we really -- what the real toll of the age

gap, the unadjusted wage gap, is it clearly shows you that are women are likely in jobs, women and minorities are likely in jobs that are not paying as much. They are not making it up to those higher levels. And so that is that these third party entities are being looking for those numbers. They want then unadjusted. They want to know where the bare remembers are in the advancement. Because the next thing action and I think probably many of you on this call, in this company, on these callings, are getting requests for the publication of your EEO1 data. That same thing, they want to see the representation of women in pi had not in the various EEO1 levels. That's going to show them where the barriers are to the advancement. That's where the focus really needs to be. And looking at that closing that wage gap is the unadjusted number and where your population fits on the scale.

>> Absolutely Liz, and thank you for bringing that up. This is Michele. I know we talked about this a couple of days ago but we have several clients who had been targeted by the New York City comptrollers office for those of you who don't know the New York City comptroller is a very big player in terms of investing in companies on behalf of the retirement accounts that cover New York City employees. And using their weight, their importance as an investors in companies, they have reached out to a long list of large companies across many different sectors and have said, you know, we want your -- we want your EEO1 reports and also go ahead and throw in the component 2 pay data that you were required to submit along with you know, your EE o O1 report just for the two years that we were required to submit that to the joint reporting committee.

So you know, the why behind this issue, the importance of this issue is playing out right now today for many companies.

One of the things that I also wanted to just bring this back to since this is an ILG and OFCCP looms large in the room here is that we know OFCCP has planned to begin provide motion -- focus reviews dealing with row motion practice and that fits in beautifully here. Because you've heard Joanna say, if you're looking to find out whether there's discrimination or unfairness or inequity in your own company's practices, doing a pay gap analysis especially in a un -- a adjusted pay gap analysis probably isn't going to be a great way to answer that question, right? You know, pay gap analyses are important, pay equity analyses are important but more than that, we need to do the hard work of going beyond just the analyses. Those are important and they're diagnostic but our work does not stop there and for many companies, that is where the work stops.

What we're encouraging you to do, and this is the perspective that this panel wants to bring to this discussion, is you really need to think about glass ceiling issues. And that means looking at promotion policies and also promotion data. You want to look at availability, like Joanna said, but also look at your leave policies and your performance review system which is a metric that place into promotion decisions. There's a lot of other things between analyzing data and looking at results that needs to be done that needs to be able to address the issues that so many people are kefrpd about is are women, our minorities really being treated equity equitably when it comes to pay at their organization.

>> Absolutely. And then we also got a comments about succession plans and that's really the take home message here, Michele is the pay gap analysis is now pay equity analysis. We're not talking about equity or role to role comparisons but we are talking about making sure that if your organization is put into a situation of having to put

together publishing pay gap or wage gap results that we're thinking critically about the question of audience, what message we're conveying and we're thinking about it holistically, because remember that one number adjusted or unadjusted is what the external world will judge your organization on. One number. They don't get to see all of the other things you're seeing, glass ceiling analysis and reviewing policies and procedures so it is really important to have the holistic story in your back pocket, you know, if you are going forward and talking about publishing results, right, when it comes to pay equity. And do the work. Do the holistic evaluation and understand.

One thing that we've been doing any time we do any sort of wage gap studies, either both adjusted and unadjusted typically in and it 'em, typically under privilege as you'll see on this slide, I start pulling out the distribution of men and women, minorities, certain minority groups to others by work title so it is a really obvious view for the organization leaders and we're talking about C suite folks so it is very clear to them, wow, look at this, we might even have 25% of our highest quarter paid jobs is men, wow, that's very clear that that this is the driver of my pay gap. So kind of thinking hoe particularly, again, about this conversation is so, so, so important. And again, we're not talking about pay equity right now. Just based on the questions we're getting in, we're not talking about discrimination enforcement or pay equity, we're talking about the big picture number and the organizational pressure that we may be getting to publish this number which doesn't tell the whole story and doesn't answer the question if there's evidence, you know, of systemic pay bias. It is usually a result of public pressure to publish it.

So one kind of final takeaway, we alluded to this in our discussion but I did want to hone in that different industries are struggling a bit. Different industries definitely have different availability of females for the types of jobs that they may support you can do some research on your own from the equitable growth group. You know, occupational gender segregation has decreased over the past 40 years but there's still work to do depending on what industry we're talking about or what job we're doing. So one thing we know will help the over all macro level pay gap is increasing women in, you know, higher paid fields, you know, to be transparent. So what is your organization doing to holistically look at that, even within your own organization, are you helping with STEM programs or internships, these are the holistic questions we should be asking ourselves, even outside the realm of pay equity because there are really some overarching concerns that are important. But the final takeaway is it is important to look at yourself and compare yourself to availability. Different industries are going to have different wage gaps. We know that. With he see that play out every day as a practitioner doing this work and doing some comparison. So keep all of that in mind as we kind of transition a little bit more full to pay equity. So we talked about pay gap and publishing results and all of the considerations we should be thinking about as we embark on that journey but let's drill down and talk about those role to role comparisons and equity in more granular level.

>> Wonderful, thanks, Joanna. So this is Michele again and I'm going to give you a little bit of a fair warning here. So the next few slides are slides that you are likely to have heard about the content from other presenters, in other sessions throughout the years. We're going to go very quickly through this because we really want this panel to be about a discussion about how to close the pay gap and not necessarily how to conduct

a pay equity analysis. But again, important to level set here. And then we're hoping once you have a good understanding of pay gap analyses, pay equity analyses, together we can think through how we can use the results of those analyses in a fresh way to be able to solve this societal problem. So let's just talk about pay equity for a moment. These are incredibly important analyses. They're called pay equity analyses. They're called EEO pay analyses. But what the question that is posed is whether there are statistically significant disparities with unexplained differences in pay, based on race or sex. That is the big overriding question. Now, there's lots of different ways to do pay equity analyses. So we think about those as being one big bucket but when we drill down we all have to understand that you can do a title 7 style analysis. You could do an equal pay act analysis. You could do an OFCCP style analyses to see how you would look through the lenses of OFCCP. You might do this in anticipation of an OFCCP complaint evaluation. There's also many state-based analyses that have cropped up lately because as Lisa alluded to earlier, states have begun to be on the forefront of trying to put, close the pay gap, and their intention here is, you know, perhaps we can do better than what the federal government has done so we see laws coming out throughout the country that relate to state-based laws that prohibit discrimination in pay and really set out the rules for how those analyses should be done. One of the most important decisions, I think, you know, what will type of pay analysis will be done is to determine what pay groupings will be used and you would think that there would be some consistency among all of the different types of analyses, but, in fact, there isn't. So let's look at some of the considerations that come in to play when we do a pay analysis under these smaller different categories.

So first of all, with respect to who to compare to who, we really do have different definitions under the different laws. It ranges from similarly situated employee groupings which is a common often sighted type of grouping. It has been around for decades and grew up under Title 7 of the civil rights act through the case law that was developed there. But we also have a different standard enforced by EEOC when it brings equal pay act cases.

Then we have states who have forged, you know, their own standards, ranging from comparable work, similarly employed substantial like similar work. So we have a patchwork. And this has been discussed a lot by experts at, you know, prior NIGL conferences.

One of the things that I think is just incredibly important, you know, is both understanding your legal standards that are applying, so that is step one, but the other piece is to understand how analytical considerations could also influence your pay grouping. And to be that I want to turn it over to Lisa. Lisa, you know, your psychology background lends itself so beautifully to be able to talk about job content and job analysis so I'm going to turn this over to you to get your thoughts on this.

>> Yay, so Michele is absolutely right. When we're doing groupings for a pay equity study, there are multiple ways to look at it. So the first way I look at it as a psychologist is when I see definitions under the legal framework of similarly situated, similar job content, you know, one really good approach to that is to do some job analysis work, and if you're going to go that route, gear work, and then through that information that you gathered, you can actually start to look about how similar different jobs are. And

that would be a very, you know, substantial, very well founded way to go about identifying who is um similarly situated for purposes of a pay study.

In reality, clients quite often, you know, don't want to do a full-scale job analysis in order to do a pay equity study. So at that point then you come down to the basic conversation of trying to identify which employees are similar enough in terms of their job content to be grouped for the purposes of pay study. And that often butts up against statistical desires to include as many employees as you can in a study. So that is a little bit about the pay groupings which is a huge component and a huge step of doing the pay study.

So let's kind of build off of that and talk a little bit about the key components of the study. And so the first, as I just mentioned, is really identifying the appropriate grouping, and as Michele mentioned, the specific definition may vary a little bit based on what you're talking about the even, Title 7, some of the state-based regulations. But in essence, they all come back to this idea of similar job content in terms of duty, levels of responsibility, skills required and level of effort. So that's going to be one of the first big things you want to do to make sure you have a grip on in terms of doing these pay equity studies.

And then the major component is identifying the job related factors that influence pay. You can start to dig into this through an examination of the pay policies and procedures, interviews with subject matter experts and one thing, you know, we've been talking a lot about kind of taking a little different look at pay equity studies in terms of other things that may tell you, and I think it ties in to something we're seeing more often which is really looking at the job related factors that you want to include in your pay studies. So there are some that are well accepted and easily justifiable in terms of job tenure, company tenure, but there are other factors you might want to look at in terms of whether or not they themselves could be challenged or whether or not there may be gender disparities in those. And here I'm talking about things like performance ratings. Another factor often that can be predictive of pay is whether someone was hired into a job or moved up into that job. And so those are some factors that you can really kind of dig in and start looking at in terms of any possible gender disparities to see if there's some issues there that you may be able to uncover it. Doesn't mean you should throw them in the study. But you may want to do due diligence to establish job relatedness or if there's stepped you could take or look at issues about hiring more women into a job if you give a premium for those kinds of -- that kind of movement. So, some are going to be readily available, such as your tenure variables. Others may require some proxies, age, prior experience. And then you got some that just may be unavailable. Such as skills or relevant prior experience.

So any factor for which you don't have data or you can't get a proxy, then you kind of need to note those because those are going to be some of the first factors you dig in to in those groups where you have pay disparities.

And then the next thing you probably heard in other presentations is depending on the size of the group, there are different analytic methods that are going to be more or less appropriate, whether that be regression for large groups and even some nonstatistical methods so you can make sure as many employees as you can are covered in some kind of a study.

And then analyze the data.

And so at that point then we really do have some clients that are like, okay, we're done. Well, you shouldn't be. It is not uncommon for disparities to be identified, particularly if you're a large company, have you lots of pay groups, if have you pay groups that are very large then you're likely going to have statistical indicators. And just because you have a statistical indicator does not mean that you are committing pay discrimination. It is simply a statistical indicator that warrants further investigation.

And lastly, in coordination legal counsel, the company, you can plan for communicating the results of that study and potentially communicating any adjustments you might make in response to the study. And so the next slide, you know. I'm not going to cover much on this because, again, I think we've heard a lot about regression probably in other presentations but I did want to note that the value of regression is it does allow to control for job related factors related to pay so we can look for those disparities after we control for the factors. But note the usefulness of the results of the regression are only as good as the employee group us you've used, the job related factors and the integrity of the pay itself. So those are all things you need to be thinking about when you're conducting these studies.

And then the -- oh, go ahead.

>> So no, you -- I was going to add one thing. I wanted to add real quick because we get to do this, I think that's a really fantastic point about regression and just how useful it is. But remembering that regression isn't like decided, like it is not we're deciding how to a factor, time and company or performance. The regression is based on how it is correlated with pay and it is a night point but no the necessarily what should be related to pay and I think that's like a really important distinction because sometimes folks are shocked that well, shouldn't performance be a higher weight too in my regression, it's like, well, the data is telling us the different story and I think that's really important when it comes to interpretation of results, like looking at the direction of a you relationships between the factors and in your regression to see if they're doing what the philosophy of the company, is you know, when it comes to pay and that's just critical as we move forward as we talk about your next slide. So I just wanted to tag team there.

>> Yep.

>> And Joanna is absolutely right. So when we're doing these studies, we'll do a lot of conversations to identify what the are the factors you state in your policies and procedures influence pay or we're hearing but then the measure though is a big influence on how the model actually behave and then to Joanna's point, you say I paid for performance and I paid for this, sometimes the model doesn't bear that out. We can still control for those factors and see if there are gender disparities afterwards but it doesn't mean that those, that model is going to behave as anticipated.

The only other thing I wanted to say about the statistical analysis is it has to do with interpreting the results. There is a gold standard of a P value, of .05 or a number of standard deviations of two and the only thing I just want to say about that is that it is not that you should, you know, discount those, you but don't put all of your emphasis there. And what I mean by that is the P value of the number of standard deviations is affected by the other things, certainly wit size of the difference but also the size of the group. And so you need to give some consideration to both the practical significance of any of those differences as well as, again, a is it theically significant result does not mean

there's discrimination. What the P value and number of standard deviations does is help us to kind of focus in on the groups that we want to dig in to a little bit further. So and then the other important point and again, I hope what sets us a little bit apart from some of the other panels is the other critical component and certainly clients and companies sometimes don't think about how much effort this takes is to conduct your follow-up research. As I mentioned this disparity in pay is not evidence. You -- there's some employees that shouldn't have been grouped in there, particularly if you're going to be by job, family or grade and particularly also if you've con any job structuring. Sometimes I've done work for some clients who have restructured their pay system and one of the things we find in conducting pay studies is am so of the people or jobs they've put into certain areas don't belong there.

And the other thing is there may be some employees who are somewhat of an anomaly in a glue because they have special skill, special experience that warrants the removal from a group. Undoubtedly --

>> I'm sorry. I wanted to put in a legal perspective on this for a moment is this follow-up research is absolutely imperative before any discussion about whether you actually have disparities in the workplace and remember certainly before any adjustments. I know it was said before but it needs to be restated. A statistical indicator is not discrimination. It is a flag to say, I need to look at this more closely. And are our groupings right. And in a perfect world, every factor can be put into a regression but no company lives in a perfect world, except for a highly union knees the lock step workforce. There's a lot of things that don't go in to regression. So I think everyone needs to remember that before jumping to oh, I have indicators, I need to make adjustments.

This follow up research is there. And this is where you find there are problems. Sometimes that, you know, that's where you start to see oh, do we have a decision maker here is there. Where you where are the problems. So go ahead. Sorry, Lisa.

>> That's okay. Absolutely. Usually in this follow-up, I have clients who want to dig in, there's a couple of different followups that come from that research. Why ideally to your client, they figure out exactly what is going on with the individuals, this job requires a really special skill and this person came from this company because they invented this technique and so sometimes they can very quickly identify why some people are being paid very, very high lie or paid very low compared to the predicted pay. Other times they find the common factor that we just didn't include at all for a group. And if that's the case we can say we have the data, run it the with the data point included.

And then the other one that's not quite as comfortable is there may be individual reasons for different people. So in those cases the recommendation would be to document those specific reasons for specific individuals in case any questions are raised to. Your point, unless I have a regression model where I have a R squared of one and the employees are grouped appropriately, so we are do overgroup and do the job and explain the variability in pay. But if we have employees who are similar in terms of their job content and control for factors that should influence pay and I have explained a lot of I have a y'all ya built in play, from more room for explaining why these differences in pay exist.

>> And Lisa, this is Michelle. This is so incredibly important and I think this is often not discussed in terms of what are the steps to really take a pay equity analysis all the way

and really get it over the finish line. When we talked earlier about thinking about those resources and expenses associated with a pay equity analysis, this is squarely within that issue. I cannot tell you how many times I have worked with companies who by this point in the process they're like just let's just make the adjustment based on the results from the analysis. And we say, hang on a minute because you haven't thought through the impact that making pay adjustments will have not only the groups that we've identified as being paid less but also just on everybody else, right? We could really undermine legitimate factors in our pay system and making pay adjustments before we've done our due diligence. And so this is really important to do due diligence in this area and make sure that we have fully researched by certain folks are outliers. The second thing, and this is one other point and I'll turn it back to you is many employers misunderstood that if you have great results of a pay equity analysis, they may believe that they are insulated from individual complaints of discrimination.

>> Exactly.

>> And that is absolutely false. And so, you know, going back to what is the purpose of your study, if you do a pay equity analysis, those results are meaningful and we can use them as a diagnostic tool but it is fought the end all, be all and there's still a chance that an individual could bring a legitimate claim of pay discrimination its based on disparate treatment. So just making sure we're all talking the same language and understanding all of the option that is we have available to us in this realm is really going to make more informed clients who can come to the table eyes wide open on the what the objective is and what they can take away from a study like this.

>> That's absolutely right.

>> And Michele and Lisa, you both did a great job because this is a slide I often use as well for pay equities, two practical takeaways here, build this step in your project time line at the start of the project, that conducting of the follow-up research after the regression, it is important, critical, you knead to do it at the end on your organization.

Two, a lot of the appropriate internal stakeholders and resources for this effort. So somebody that understands compensation that knows your HRS data, knows comp data, somebody that's not going to have a bias towards this project and that they're not just, you know, that they're -- that, you know, are coming into the project with a research find set. So that's, those are a couple of takeaways.

>> And Joanna, including managers, you know, who know these individual employees is critical because this is the point in the project where we shift from looking at big pools of data to actually looking a the individual outliers and oftentimes your VP of HR, director of compensation are not going to know exactly what these people to be able to understand whether their duties are aligned with others or they may not know all of the I think so and outs of things like performance or you know, market driven factors that impacted a individual employees starting pay. So getting those managers lined up for this is also incredibly important.

>> Absolutely. Great takeaways and this is so important for folks on the line to hear. Build us in the timeline, get the right folks involved, such an important step.

>> So I'm not going to spend hardly any time on this one because we could do a whole another session and I'm pretty sure we have done whole other sessions on salary adjustments. But, you know, to the point that, you know, you've done your investigation and you get to the stage where you can't explain some pay differences, there are some

very broad different strategies and a lot of them depend on whether or not you have outliers. So something to keep in mind is run a regression, there may not be outliers. There could be one group above predicted pay and a group below predicted pay that it triggers a group difference. So there is some different strategies depending on number of outliers and the kind of general approach you want to take. But you do need to spend some time thinking about the approach you want to take to salary adjustments. So that's all I'm going to say on that because I know we're running short on time.

>> This is Liz and I do want to chime in here and give the legal approach, legal thought on this. We often see this being done and again, I'm going to take women as example but this works for women and minorities. We look at where are the outliers and there's only so much of a budget to do adjustments and so companies can say, we're only adjusting the women and you bring those women up. And you know, folks, because you have just made a compensation decision based on gender. You have just said that the female low outliers can be adjusted up. And you don't adjust those men and that right there, you have locked yourself in to a he reverse discrimination claim because under Title 7, you cannot make a decision to make adjustments only to the women who are the low outliers. Be very careful about that. And this is something to really consider because there's a lot going on in our society right now. There's a lot of pressure both gender and race based pressures. We are now seeing white men coming out and saying, I feel like we were discriminated against, our company is making these statements about how they're going to promote, hire, etc., G number of women and minorities and I feel like I'm not giving a fair shot. So this is something we need to be looking at and making sure all of the decisions are neutral with regards to race and gender on both sides of the scale. That's all I'll say on that to you because I know we are running late.

>> Thank you. So let's pull this together, we're going to have some parting thoughts, questions and answers, Tony has posted this session will go to 3:30, that was our goal, to announce to everybody, ten minutes, if you can stay on. But to tie this all together, we talk about pay equity and we talk with specifically the wage gap. Just some reminders, you know, understanding what the pay gap or the wage gap really is. It's not answering a question about pay equity. Often the numbers, those are really unadjusted numbers, it is a function of the job, where is your talent distributed in your organization, who is in higher paying roles. And if you want to get to the root cause over the overall fey gap or the overall wage gap, macro level, micro level and in your organization really doing something in hoe elastic manner to really identify the relationship between pay equity but all recommendation and movement in your organization and looking at the candidates and selecting and retaining, we know from the folks on the phone that do a lot of OFCCP work, sometimes we work in silos, pea equity is over here on the side and another side we look at affirmative action and we look at whole another department and they may not talk to teach other.

It is important to look at this holistically and focus on the gap that exists identifying those trends, understanding why the gap may exist in your organization at a real holistic root cause way and that pay equity analysis that we just talked about is just one tool in the toolkit of the overall pay equity state that most or, s should really adopt, right? So pay equity is doing a pay equity analysis, right, that we just talked about. It may be looking at your talent distribution in alignment with the pay equity analysis,

looking at hiring and promotions pipeline, glass ceilings, how often are women turning over, is there even a glass ceiling, where when and where they're turning over, minorities in your organization, also a very important question.

They also explain how people paid and how they're leveled in your organization, so doing that pay analysis or just doing a wage gap analysis is just one facet of a more holistic review in which just one analysis isn't going to help answer all of the problems or all of the root causes. So that is really our main take away from today is use pay equity as one tool in your tool kit and ask yourself some good questions before you start a pay equity project.

And with that, I'm going to go around the table to get some final thoughts. Liz, do you want to go next and give us your kind of main take away from today?

>> Yeah, another thing we didn't talk about is the holistic view and again, I don't know if a wage gap is actually a pay equity study, right? It is showing a distribution of jobs. So is that a hiring, a promotion? An advancement? A termination analysis?

So I think the other thing that everybody should consider, and I think this goes to answer in one of the questions that we didn't get to I saw in the chat line is looking at where is that barrier. And EEO1 report doesn't answer that. But if you do a glass ceiling where you look at your emotions, your availability, you look at your terminations, voluntary terminations, are women in minority leaving your company at a certain level because there's no advancement? So that is, again, a promotions type tool but it drives your wage gap and then it also does get to the sort of the pay equity issues. So you can't address the issues with any one single study. There's a lot that can be done.

Sorry, that was a long-winded last thought. Moving on. Who wants to be next?

>> Michelle, do you want to go next?

>> Sure. Yeah. Thanks, Joanna.

You know, there's a lot of folks out here offering -- offering services around pay equity and they'll do a wage gap analysis and a pay equity analysis for you. There's a lot of consultants and law firms doing this work and the one thing that I will hope you walk away from with this presentation is that you want to make sure you're partnering with folks who are going to be asking the difficult questions. You know, there's software you can purchase that will allow you to DIY, you know, a pay analysis. But is that really going to get you to where you need to be in this day and age of increased scrutiny internally and externally around pay?

One of the questions that came through on the chat is should employers be looking at larger societal issues like women leaving the workforce to care for families and things like that. And I know as Joanna and the rest of the panel, as we were planning for this, we made a real distinction between macro issues, societal issues, and micro issues.

Company wide issues. And I think we need to be able to have kind of both view points in mind as we give advice and counseling around those issues.

I would say absolutely you should be looking at whether your practices and policies are somehow, you know, creating a barrier or a disadvantage to women who choose to go part time to care for family or for whatever reason. Or who perhaps take long sabbatical in the middle of their career.

We all know that timed variables are used by everyone, enforcement agencies and us alike, in regression analyses. But if those time variables are operating to a disadvantage of a particular group, know, shouldn't we be looking at that? And so I

would say these are the kinds of things you need to think about and think through and you need to partner with experts who have a similar world view who are willing to go down that hard road of answering these questions. There is that is the only way we're going to go to pay equity issue. Those are my final thoughts. It has been a pleasure being with you all on this panel. And I'll turn it over to Lisa.

>> Yeah. And I think my thoughts, my final thoughts here are to stay a little focussed, though, too to really think about the questions you're asking. We've thrown a lot out at you and there's a lot you can glean from pay gap and pay equity studies and I say we have clients who do pay equity studies who say great, see you later. But then I also have some clients that dig in so deep that they get lost.

So you know, there's lots of questions you can answer here. But, you know, kind of figure out, what is the goal of the study? What do you have to answer? And if other questions come up along the way, great, they put them in a parking lot for a little bit and come back to them because you can really go down a lot of analytical rabbit holes and then just get really lost.

So that is the only thing in your planning really think about, you know, what are we doing? What we trying to answer? Let's stick at that and if other things come up, let's definitely note them we may want to go look at them late leaf with you not get off track.

>> All right. Thank you all. I really enjoyed presenting to you. I think that concludes our presenting portion of the session and I'm going to turn it over to Rosemary Cox who is going to help us facilitate some Q & A.

>> Great. Thanks. Ladies, that was awesome. Wow. We really appreciate that very much. So you have answered most of the questions but there are a few that I don't believe that we answered. One of them is concerning the attorney-client privilege and it says do these privileges extend to public agencies.

>> This is Liz. I'll kind of take both of those. With regards to public agencies, have you to go back and ask what is your purpose of doing the analysis. Really, whether the attorney-client privilege attached attaches is based on why the analysis is being done. So it is kind of hard to answer that question in a vacuum but if the analysis is done in anticipation of litigation, if it is being done in order to provide your attorney the ability to provide you with legal advice, then yes types of, then it can be covered. But again it is a nuanced question that I'm not comfortable totally don't have enough information. Another thing, the clarification on the privileged protocol it is identifying who is on the team, instructing them not to share the information beyond letting them know the protocols that are in place in setting up your client.

That comes in about advising employees that you represent the company and not them as individuals and some of that legal advice piece can be baked in to your privilege letter, your protocols letter just so that your individual members of the team understand that we are giving legal advice to the company not to them as individuals, and therefore the privilege attaches to the company and not them as individuals. So that's sort of, I don't know if that -- that might have made that clear as mud. There you go.

>> Perfect. Let's see. A couple of more questions and I think we'll probably have to stop.

On conducting follow-up research, how do you ensure you are engaging in neutral follow-up research and not just rationalizing existing pay disparities. Boy, I see this a lot.

>> That's great. That is a great question. So I'll start this but Lisa, would love any feedback as well Michele. I think initially I had talked about while we were discussing this session assigning some folks, like a internal project team that may not come to the table with either their own biases or maybe they weren't even involved in the projects or got to be a part of the rate read out of the results. And they may be given some instructions and some data that are very neutral in nature asking to do some research on the outliers and not really focussing on what the actual issue is. So they might not know what the result is so they can come to the table with a blind research perspective that's one way to handle that situation. Michele, Lisa, what else would you adhere?

>> I --

>> Go ahead.

>> I think this is where it is helpful to have some external people involved, whether it be, you know, a statisticians or a legal attorney because inevitably, you know, you want people, and you might want to vet them a little bit, we're going to call you to the mat. So if, you know, an external counsel would tell you quickly, that's not a job related reason or that's not going to hold up very well in court. Same thing from a statistical point of view, if you're offering variables that don't make sense in an analysis, I would pretty quickly relay that to you.

>> Yeah. And but the beauty of the doing this the right way leads to sort of a natural barrier to bias, and I'll explain that. But saying this. The experts are going to point out who the outliers are. Often low end and high end outliers. Then we're going to want to talk to managers or people who know about those individuals. To be able to see whether there are any explanations for why they are on the low other high end of that spectrum. But it doesn't end there. We don't say this person is a low performer, therefore, it's okay that they're a low end outlier. Instead, what we would direct, what I do, is I would say, okay. If it is performance metrics that we think is explaining this pay difference, then we would want you to go back for the entire group not just for the outliers but for the entire list of employers in this grouping and we would want you to pull performance metrics and we will then do our dowel Dow diligence to evaluate that and perhaps include it in the regression model. So, you know, offering those sort of one off applications doesn't get us off the hook. Whether we're really looking for is whether this there is additional data that can be gathered on the entire group and we test whether that's actually correlated to pay and whether that helps explain the pay difference. So that process helps to sort of create a barrier against just using, you know, bias information about outliers to explain away a problem that may co-exist.

>> Thank you, ladies, so much. We are about out of time, but I'm going to leave you one question, you don't have to answer it, and then I'll finish up with the housekeeping parts. But our friend David put out a nice note, thought this was a wonderful presentation, it is a lengthy paragraph that he wrote, but the question that he asked was why doesn't the OFCCP get a mustache on that slide about the different styles of pay equity analysis. So I will let you all address David's question later. I thought that was a nice chuckle. So thank you, David for that.

So thank you all so much for attending today. We do have a couple of more questions we didn't get to. I'll send those to the ladies. They can get back to you on there.

And then don't forget, thank you to all our sponsors and please cross your fingers that COVID is goes away or gets settled or whatever by next year because we will be in Nashville at the Omni hotel in Nashville August 1st through the 4th. You're not going to want to miss that. Also, if you are interested or need SHRM or letters, you will get the numbers after the last slide of this presentation and again, the presentation was included in the side panel where you see the chats and stuff, you can download it there. So thank you all, so, so much for attending. Please take care and stay safe.