

Small Business Notes

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New Survey of Small Businesses Confirms Continuing Concerns with Supply Chain and Inflation

In March and April of this year Bank of America conducted its annual survey of small businesses. The results, released in May as “Bank of America Small Business Owners Report”, showed continued concern with supply chain issues (76% of respondents) and with inflation (88% of respondents). With a corresponding drop in business confidence. That confidence in an improvement in the national economy dropped from 50% in 2021 to 31% in this survey. For confidence in improvement in the business’ local economy the confidence dropped from 56% in 2021 to 39% in this survey.

Among other issues identified as troubling were:

- Commodity prices (75% of respondents)
- Interest rates (57% of respondents)
- Health care costs (57% of respondents)
- Labor shortages (41% of respondents)
- International events (61% of respondents)

Significantly, the report noted that the two major concerns – inflation and supply chain disruption – had rapid effects on the small business respondents. For inflation those were:

- Raising prices (68% of respondents)
- Re-evaluating cash flows and costs (34% of respondents)
- Losing sales (31% of respondents)

For supply chain issues those were:

- Raising prices (68% of respondents)
- Delaying delivery of products or goods

For an earlier take on this subject see [Small Business Notes for February 2022](#).

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The Equal Opportunity Commission (EEOC) and the Department of Justice (DOJ) Provide Technical Guidance to Employers on Avoiding Disability Discrimination When Using AI Technologies

The Equal Opportunity Commission (EEOC) and the U.S. Department of Justice (DOJ) each issued guidance (May 12, 2022) about possible discrimination in violation of the Americans with Disabilities Act (ADA) when employers make employment decisions based on the use of artificial intelligence (AI) and other software tools. They also suggest “promising practices” to help avoid such discrimination.

The EEOC’s guidance, [“Americans with Disabilities Act and the Use of Software, Algorithms, and Artificial Intelligence to Assess Job Applicants and Employees”](#), a technical assistance document, identifies the most common ways that an employer’s use of AI tools could violate the ADA: by failing to provide reasonable accommodation to enable the applicant/employee to be rated fairly and accurately; by using an AI tool that intentionally or unintentionally screens out those with disabilities, even if they were able to do the job with a reasonable accommodation; or the use of AI tools violates the ADA’s restrictions on medical inquiries and examinations. Types of software might include resume scanners, employee monitoring software, virtual assistance or chat boxes that screen applicants, video interviewing software that assesses facial expressions with speech patterns, and testing software.

Of particular use to employers, the EEOC provides “promising practices” related to the use of AI tools, including the following:

- Training staff to recognize and process requests for reasonable accommodation as soon as possible;
- Training staff to develop or obtain alternative means of rating applicants or employees where the current process disadvantages them because of a disability;
- If the AI tool is administered by another entity, ensure that the entity provides reasonable accommodation or promptly forwards requests for accommodation to the employer;
- Ensure that AI tools have been designed to be as accessible to individuals with as many different kinds of disabilities as possible;
- Describe, in plain language and accessible formats, the AI tools being used, what traits are being assessed and how, and the factors that may affect the rating;
- Inform all applicants and employees of the availability of reasonable accommodations, and provide clear instructions for requesting accommodations;
- Ensure that AI tools only and directly measure those abilities and qualifications that are truly necessary for the job, even for those requiring a reasonable accommodation; and
- Confirm with the software vendor that the AI tool does not improperly elicit information about a disability or seek information about an individual’s physical/mental impairments or health.

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DOJ's technical assistance document "[Algorithms, Artificial Intelligence, and Disability Discrimination in Hiring](#)" does the following :

- Provides examples of the reasons employers may use AI.
- To show job advertisements to targeted groups.
- To decide if an applicant meets job qualifications.
- To hold online video interviews of applicants.
- To use computer-based tests to measure an applicant's skills or abilities and to score applicants resumes.
- Clarifies that, when designing or choosing technological tools, employers must consider how their tools could impact different disabilities.
- Explains that employers may violate the ADA when using AI technologies, including those developed by others, if such tools screen out people with disabilities.
- Asserts that testing technologies must evaluate job skills, not disabilities, and must not improperly elicit or request medical information.
- States that employers must provide reasonable accommodations in connection with the use of AI. The DOJ also reiterates that employers should inform applicants about what AI technologies are being used and how and should provide clear procedures for requesting reasonable accommodations.
- Provides information for employees on what to do if they believe they have experienced discrimination.

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Past issues of Small Business Notes are available on the Department of Employment and Economic Development website at [Small Business Notes](#)

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