

# BALANCE *view*

NEWS & INFORMATION ON HR & AFFIRMATIVE ACTION ISSUES

Berkshire Associates Inc. Newsletter ~ Qtr. 1 ~ 2009

Applicant Management | Compensation Management | Affirmative Action | Workforce Planning | Diversity | Professional Training

The logo for HR, with the letters 'HR' in a bold, orange, sans-serif font.

## UPCOMING EVENTS

### Berkshire's signature Breakfast Seminars 2009

Don't miss essential information on: contractor compliance, applicant tracking, performance management, compensation, and diversity.

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### REFER BERKSHIRE!

THE HIGHEST COMPLIMENT OUR CLIENTS CAN GIVE IS THE REFERRAL OF THEIR COLLEAGUES AND BUSINESS ASSOCIATES.

BERKSHIRE WILL SEND YOU A \$20 SUPERCERTIFICATE FROM [GIFTCERTIFICATES.COM](http://GIFTCERTIFICATES.COM) FOR EVERY VALID REFERRAL YOU SEND US.



## HR AUTOMATION— MOVING FROM SOFTWARE TO WEB-BASED SYSTEMS

By: Javier Rios

The World Wide Web continues to grow rapidly, and the horizon of technology is expanding in every creative direction. After development of richer features, responsive animation, and real-time control, a new breed of Web-based systems are starting to appear. Unlike traditional systems, these Web-based systems can help every aspect of a business, especially in human resources.

The growing popularity of Web-based systems among human resources is influenced by several factors; Web-based systems install and run client applications from any Web-browser, and when users login, they always get the most recent version of an application. No longer is there a need to manage licensure or compatibility issues with different operating systems. This saves companies time and money.

During these economic times, Web-based systems are a sound financial choice. The varying functionality of numerous systems allows the user to encompass more exactly the tools they need at reasonable costs. On average, a business owner today can find a Web-based system that works without having to spend a lot of money. Often businesses will invest in software and buy a tool they think will help accomplish their goals, when in actuality it falls short. Web-based systems allow for businesses to buy technology that provides functionality they need to enable good use of time, focus, and management.

Automation is allowing professionals to work fast and seamlessly with other

applications by allowing applications to share data. The companies are able to focus more on what they need to do than on having to make sure the processes for their software are correct. Collaboration is essential for businesses to succeed, and having a platform allowing users to easily access an application, use it, and get out, has grown exponentially via the Web. Web-based systems allow for a seamless transition of information throughout an organization without unnecessary difficulty and cost.

If you have questions about how Web-based applications can increase productivity, efficiency, and cost-savings, please contact Berkshire at 800.882.8904 or [bai@berkshireassociates.com](mailto:bai@berkshireassociates.com).

## Fast Facts

According to the Equal Employment Opportunity Commission, "On September 25, 2008, the President signed the Americans with Disabilities Act Amendments Act of 2008. The Act makes important changes to the definition of the term "disability" by rejecting the holdings in several Supreme Court decisions and portions of EEOC's ADA regulations. The Act retains the ADA's basic definition of "disability" as an impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment. However, it changes the way these statutory terms should be interpreted in several ways."

On January 1, 2009, the ADA Amendment Act went into effect. Are you up-to-date? To find out, call Berkshire Associates at 800.882.8904 or email [bai@berkshireassociates.com](mailto:bai@berkshireassociates.com).

## MISSION STATEMENT

BALANCEview is Berkshire Associates voice to the HR Community. Our mission is to provide up-to-date information on trends and challenges facing HR professionals. BALANCEview is also an extension of Berkshire's mission to provide outstanding services and software solutions to organizations of all sizes, shapes, and business focus. Berkshire's balance comes from its staff of expert HR consultants as well as its innovative team of software developers that turn your ideas into reality. The entire staff of Berkshire Associates wishes to provide you with exceptional service, products and information to help BALANCE your workforce.

# BALANCEview

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## From Our Editor

By: Dawn S. Hyde, SPHR

It comes as no surprise most companies across the country are feeling the effects of one of the worst economic downturns since the Great Depression. During these unstable times, it is important for business professionals to pause and rethink their strategic initiatives and long-term views within their organizations.

As a business owner for over 25 years, I understand the reaction companies take when there is a fear, or reality of economic crisis. It is natural to want to slam on the brakes of normal business processes, slow spending, and review growth patterns. Is this the right approach? From personal experience, it is not. Smart businesses use this time to accelerate in areas that may have more opportunity, while preparing for, and dodging the slowdown.

What can your company do right now to make the best of hard times and come out ahead? Many businesses are beginning to look at ways to increase productivity and efficiencies while cutting costs and retaining valuable talent. One solution many HR professionals are embracing is technology. By creating a technology strategy and investing in the right tools, productivity can actually be increased, along with profitability. According to a recent survey from the International Association for Human Resources Information Management professional group, forty-two percent of nearly 210 respondents reported their human resources information technology budgets will remain the same in 2009 as in 2008. Another 21 percent of participants said budgets will increase by an average of 23 percent.

I believe this is the best time to look at places where technology could be used to increase efficiency, improve productivity, and cut costs. Technology should be leveraged and treated as a value-added partner rather than an overhead. Technology savvy business leaders who realized this in the past are now reaping the benefits of earlier investments, but it is not too late to start

benefiting as well. You can read more about HR technology options in the article, HR Automation—Moving from Software to Web-based Systems.

It is important to note HR technology works better with skilled people. So to prepare, here are a few guidelines:

- Look at your most labor-intensive processes and see how they can be improved by the use of technology
- Invest in technology that gives you the biggest bang for your buck
- Retain the skill set needed to match the technology you require—handpick people who understand the business, internal processes, and possess technical aptitude
- Be prepared for change—trying to fit new technology in the old mold will have zero effect; instead try to change old processes to fit the new technology

Just because the economy is slowing down, HR technology companies are not going to stop creating more advanced technological solutions. At Berkshire, we are working harder to create the latest in HR technology, because we understand the importance of technology in our own operations. As HR professionals, we understand fellow professionals are struggling to juggle multiple tasks. By developing innovative software and solutions, we can help HR professionals complete their tasks easily and more effectively.

In a recent Workforce.com article, John Greer, Senior Vice President for HR and Development at Smart Financial Credit Union and incoming chair of IHRIM, said, "For companies in a good financial and cash position, they should take this opportunity to extend their market share and make long-term investments. Companies are likely to lose their competitive advantage if they cut development budgets."

Now is the time for HR technology. Invest in technology that allows you to automate your processes, while sharing your workload and improving productivity. So prepare for tomorrow with better tools and a more balanced workforce.

## Online HR Training



### SAVING TIME AND MONEY

By: Nicole Yeldell

In current economic times, business professionals are faced with the challenge of meeting organizational needs with few financial resources. It is during times like these new resources and technologies are sought out, and human resource training is no exception.

Most human resource professionals have relied heavily on tried-and-true traditional classroom learning to meet training needs. Although this method has numerous advantages, one disadvantage is cost. Typically, attending classroom training requires not only the cost of the class itself, but also the cost of transportation, accommodations, meals, and loss of production from being out of the office. All these are expenses many organizations cannot afford right now, so it makes sense to explore other options.

There are many alternative approaches to traditional training. With the HR industry expanding into Web-based software and services, it is not surprising online training has become a leading trend. Online training can take many forms including tutorials, webinars, live meetings, and virtual classrooms. Regardless of the type of online training, they share some common benefits.

#### Benefits of Online Training:

- Provides the same learning content without the travel related expenses associated with classroom training
- Accessible without taking time away from the office
- Allows for multiple learners in dispersed areas to receive the same training
- Conducted and accessible at the learner's own pace, and is not affected by learning needs or styles of classmates
- Provides on-demand access to the latest industry and regulatory updates

## Training Schedule

### FUNDAMENTALS of AFFIRMATIVE ACTION:

February 10-11	May 12-13
March 10-11	Chicago, IL
April 7-8	\$695

### BALANCE<sub>aap</sub> SOFTWARE TRAINING:

February 12 • February 26  
March 12 • March 26  
April 9 • May 7

### AFFIRMATIVE ACTION PLAN WORKSHOP:

*(software purchase and training are required)*

February 13 • February 27  
March 13 • March 27  
April 10 • May 8

### AAP BOOT CAMP:

*(register for four days in a row for the above three classes and save \$170)*

February 10-13  
April 7-10

### BREAKFAST SERIES:

*Introduction to Federal  
Contractor Compliance*  
February 4

*OFCCP Compliance in the Age of  
Applicant Tracking*  
March 4

*Performance Management*  
April 1

*Pay for Performance*  
May 6

Our classes are available at our facility or a location of your choice. Additional customized HR training options are also available.

For more information, or to register online, visit:  
[www.berkshireassociates.com/training](http://www.berkshireassociates.com/training)  
or call 800.882.8904.

- Allows for the design and delivery of customized training for both individual and group use

Berkshire Associates offers two forms of online training, both of which save production time and travel expenses by allowing you to learn from the convenience of your desk. Instructor-led Online Training provides the live interactive training you get from traditional classroom training, just in an online version. Self-paced Online Training can be done at your own pace, and has the extra benefit of being available for 12 months after date of purchase.

Take advantage of the economic climate, and put some new strategies to use. Berkshire challenges you to explore and experience online training and discover how it can help you and your organization thrive.

For more information on Berkshire's training delivery options, please visit: <http://www.berkshireassociates.com/training/delivery.aspx> or call 800.882.8904.

## ANNOUNCEMENT: BERKSHIRE CELEBRATES ITS 25TH ANNIVERSARY

Berkshire is proud to celebrate 25 years of servicing the HR industry! Since 1983, we have worked diligently to provide fellow human resource professionals with innovative software and service solutions to help them build the ideal, balanced workforce. With 2009 filled with new possibilities, we are excited to continue meeting your needs and pushing the limits to deliver advanced solutions in Applicant Management, Compensation Management, Affirmative Action, Workforce Planning, and Diversity.

As we spend 2009 commemorating our silver anniversary, we give a special thanks to all our clients, vendors, and colleagues. Our success could not be possible without you.

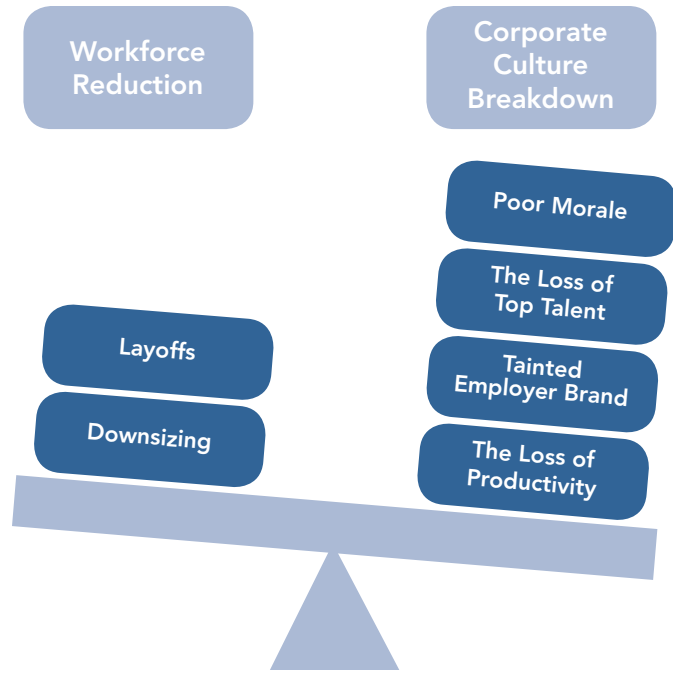
# PROCEED WITH CAUTION: BEFORE YOU DOWNSIZE, PERFORM A “WORKFORCE BALANCE” CHECK

By Carla A. Pittman

If your company is responding to today’s economic environment with downsizing or layoffs—proceed with caution. While workforce reduction offers some relief from financial difficulty, steps must be taken to soften the inevitable blow to corporate culture. Studies have shown downsizing activities rarely return the expected benefit. The termination of employees is a traumatic event, with the power to weaken a company’s brand. The impact to the overall culture and company reputation usually results in some loss, offsetting the anticipated cost-savings.

Performing a Workforce Balance check will help you uncover potential problems, so you can take proactive steps to mitigate them. Conducting this type of evaluation forces the examination of how workforce reduction efforts affect diversity (and/or affirmative action compliance if you are a federal contractor), compensation, and your applicant management practices. These areas are instrumental in both cultivating the desired corporate culture, and complying with employee regulations.

If the aforementioned areas are not safeguarded, they become areas of potential liability and conduits for negatively altering company values. This can lead to the loss of talented employees you had hoped to retain, loss of productivity, low morale, inability to attract top talent, and lastly upset your existing employer brand. The following diagram illustrates the effects of a workforce reduction.



*“Using the Workforce Balance Check means you can uncover potential problems and take proactive steps to mitigate them.”*

Below is an example of a Workforce Balance Check:

Check	Description	Potential Threat
Diversity	Ensure one group isn’t being adversely affected over another—start with race and gender and extend to other groups as defined by your company	“Unbalanced” downsizing practices result in lawsuits
Affirmative Action (for federal contractors)	-Protect your federal contract -Prepare or update your plan -Reassess your AAP goals	Loss of federal contract and potential revenue from contract
Compensation	Evaluate compensation to ensure the elimination and/or adjustment of salaries do not result in pay disparities	Creation of pay gaps seen as discriminatory; retained employees exit; weak inability to compete
Applicant Management	Evaluate applicant process, procedures, and practices— assess the entire applicant lifecycle from job descriptions to your applicant database	“Unbalanced” hiring practices that result in non-compliance of federal regulations; loss of qualified candidates; and hiring of employees that fail to reinforce the desired value and culture

Once your company has decided workforce reduction is the way to go, follow the below steps to conduct a Workforce Balance Check-up:

✓ *Are There Other Expendable Activities?*

The first step is to double-check whether you really need to make eliminations or reductions. Conduct an analysis of other activities that are more expendable. Can you forgo the annual picnic, the company holiday party, contract workers, or even the snacks in the kitchen? Are there perks that can be suspended or eliminated? Have you considered a hiring freeze, no overtime, or a reduced work schedule?

✓ *Adverse Impact Analysis*

After your company has come to the conclusion to eliminate or reduce the workforce, and you have earmarked positions for separation, the next step is to conduct an analysis on the selected positions. This is to ensure one group isn't being adversely affected at a greater rate than another and is called an adverse impact analysis. Conduct an adverse impact analysis on employees by race and gender first. Since these are protected classes, you don't want to end up with a potential lawsuit.

✓ *Affirmative Action Compliance*

If you are a federal contractor, check to see if you have an affirmative action plan. If you don't have one, seek to get your affirmative action plan created. If you already have one, be sure to update your plan and consider how your terminations will affect your plan results.

✓ *Diversity*

In addition to performing an adverse impact analysis on race and gender, conduct an adverse impact analysis on other diverse groups defined by your company. This is to ensure your diversity efforts are not undone by the downsizing. During the diversity check you should also evaluate what the post-downsized workforce will look like. Is the composition of the new workforce a reflection of your company's diversity values, vision, and mission?

✓ *Compensation*

With the elimination of positions, comes the elimination of salaries. A pay analysis must be conducted to identify any pay gaps caused by the downsizing that could be a potential liability. Also, if positions are being replaced at lower salaries, evaluate how this will impact the unaffected positions. Are there similar positions with significant pay disparities?

✓ *Applicant Management*

Consider your applicant practices and procedures. Whether hiring is suspended or slowed, downsizing is the time you want to have your applicant management practices and procedures in order. Check to see if you have (1) defined an applicant, (2) an effective database to store and classify your applicants, and (3) updated job descriptions with the appropriate qualifications identified. This will help keep your recruitment strategy in order. If your company is fortunate, there will be replacements or an upsizing in your future. This will also help monitor whether recruits maintain and reinforce your desired workplace culture.

While it is almost impossible to foresee everything that could go wrong, conducting the Workforce Balance Check will help you be prepared. Going through these assessments may seem cumbersome, but the up-front evaluations will save you time, money, and even lawsuits. Berkshire offers a line of software and service solutions to help streamline the Workforce Balance Check. So, if you're faced with downsizing, Berkshire can assist you with the appropriate proactive analyses. We are also available to answer any questions. Contact us at 800.882.8904 or [bai@berkshireassociates.com](mailto:bai@berkshireassociates.com), and put "downsizing" in the subject line.

## Out and About

By: Lauren Perry

2009 started off with a bang, and so has Berkshire! We are busier than ever, keeping our clients compliant and up-to-date, while creating new services and products to match the anticipation of the new year's industry trends and changes.

Before starting Q1, we finished 2008 traveling around the country speaking and meeting with fellow HR professionals. Our first stop was the SHRM Diversity Conference, one of the premier events focusing on the importance of diversity. There our Senior HR and Diversity Specialist, Sybil Randolph, PHR, presented: "The Marriage Between Diversity & Affirmative Action." For more information about this presentation, or to book an expert speaker at your next event or meeting, please contact Lauren Perry at 800.882.8904 or [laurenp@berkshireassociates.com](mailto:laurenp@berkshireassociates.com).

Our next stop was the HR Southwest Conference and Expo where we met with fellow HR professionals to discuss upcoming trends and challenges for 2009. This conference had a tremendous turnout; with over 2,000 attendees eager to share their HR related ideas and needs. Next, we made our way to the Virginia SHRM Conference where we mingled with local HR professionals while showcasing our latest software and services.

We concluded our travels at the Maryland SHRM Conference enjoying the company of fellow HR clients and colleagues. This conference took place right after the election, so it was interesting to take part in the buzz about how the new administration may impact HR policy.

As the year begins, we are proud to launch our much anticipated 2009 training schedule, with continuing promotion of our new online training options. Online training allows users to learn at their own pace, and their own time. To find out more about our training schedule and options, go to: [http://www.berkshireassociates.com/training/self-paced\\_ot.aspx](http://www.berkshireassociates.com/training/self-paced_ot.aspx).

See *OUT AND ABOUT...cont.* on page 7

## Did You Know?

By: Lauren Perry

On November 14, 2008, the Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration published a final rule that requires most federal contractors to use the E-Verify system in addition to standard I-9 procedures.

The Department of Justice (DOL) has announced they are moving the effective date of the E-Verify mandate for federal contractors and subcontractors from January 15, 2009 to February 20, 2009. This postponement is a result of various businesses, including the Chamber of Commerce and the Society for Human Resource Management (SHRM), challenging the law.

The E-Verify clause will be inserted into contracts over \$100,000, and agencies will begin amending existing contracts to include the clause. The clause requires most federal contractors to use E-Verify to confirm all current employees working on a federal contract, as well as all new hires, regardless of whether they are assigned to work on a federal contract. Employees working in the 50 states and the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands are covered. However, certain contractors such as: higher education institutions; state or local governments; Indian tribes; or surety working under a takeover agreement; are only required to use E-Verify to confirm the status of existing employees and new hires assigned to a contract, as opposed to all new hires.

There are four requirements under the new regulation:

- The contractor must enroll in E-Verify as a federal contractor.
- Within 90 days of enrollment, all new hires working in the U.S. and its territories must be verified through the E-Verify system within three working days of hire.

- Within 90 days of enrollment, or 30 days of assignment to the contract, all employees currently working on contracts through the online system must be verified. Those employees hired before November 6, 1986, or working in support, indirect, or overhead positions not related to a contract are excluded.
- Employers must require their subcontractors with contracts of \$3,000 or more to use the E-Verify system by including a clause in all service/supply or construction subcontracts. Exceptions to this requirement include: "under which all work will be performed outside of the United States, lasting for less than 120 days, or for commercially available off-the-shelf items."

Some contractors may be unable to distinguish between employees directly assigned to a contract with the E-Verify provision, and those working on other contracts or in support positions. In this case, there is an option available to verify the employment eligibility of all current employees, not just those assigned to a contract. These verifications must be completed within 180 days of enrollment and do not apply to individuals with a current security clearance.

Berkshire recommends the following steps to comply with this new requirement:

1. Notify the contracts department of the new regulation, and determine when a contract is awarded or amended that contains the new E-Verify clause
2. Decide if it is possible to distinguish between employees directly working on contracts and begin the process to identify those employees who will be input into the system

If the organization is already registered on E-Verify, the status should be updated to reflect the federal contractor. If not already set up on E-Verify, begin the process to do so and register by February 20, 2009. In either case, internal processes should be developed to support use of the system (in addition to the current paper based I-9 system)

starting early 2009. To register, update contractor status, sign up for upcoming two-hour informational sessions, download a user's manual, or more general information, please go to [www.dhs.gov/everify](http://www.dhs.gov/everify).

Berkshire consultants are also available to assist in your transition and developing processes, while monitoring any developments regarding this new requirement. Please contact us at 800.882.8904 or [bai@berskhireassociates.com](mailto:bai@berskhireassociates.com) for further information.



## FAMILY AND MEDICAL LEAVE ACT FINAL REGULATIONS

By: Loretta Metzger

The Department of Labor recently issued the final regulations interpreting the Family and Medical Leave Act (FMLA). These modifications represent the first significant change in a major employee leave law in 15 years, and will significantly impact the manner in which employers administer the FMLA.

The most significant changes to FMLA are as follows:

- Allowing family members of wounded military personnel to take up to six months of unpaid leave in a 12-month period to care for their relatives
- Letting families of National Guard members and the reserves use up to 12 weeks of "qualifying exigency leave" to manage the members' affairs while they are on active duty
- Clarifying the definition of a "serious health condition" and how often and when an employee must seek treatment to qualify

## Meetings & Seminars

- Explaining how frequently an employee must visit a health care provider each year to establish a "chronic serious health condition"
- Prohibiting direct supervisors from contacting the employee's health care provider about a medical certification
- Expanding the notice requirements for employers and employees
- Sorting out when employees may settle or waive FMLA claims
- Stopping employers from charging FMLA time to employees who return to the job but can perform only light-duty work
- Permitting employers to require a fitness-for-duty certification for an employee returning from intermittent leave if doing the job could lead to serious safety concerns

It will be important to keep your employees informed of the FMLA changes as well. Berkshire suggests you update not only your FMLA paperwork, but also employee handbooks and notice forms promptly as the new regulations took effect January 16, 2009.

For more information on the FMLA regulations, or help updating your plan and employees, please contact Berkshire Associates at 800.882.8904 or email [bai@berkshireassociates.com](mailto:bai@berkshireassociates.com).

### Interested in having a Berkshire expert speak at your next event?

Contact Lauren Perry at [lauren@berkshireassociates.com](mailto:lauren@berkshireassociates.com) or 800.882.8904 ext. 1307



Our computer room is equipped with 13 high resolution computers. Each computer has high speed Internet access, CD-Rom drive, & 15" LCD Flat-Panel monitors.

In addition, the room includes:

- Two printers
- Ceiling mounted LCD projector
- White board
- Instructor podium

*Specifications for workstations can be configured to meet your needs. One hour of technical support is included.*

### Meeting Room Space

The standard meeting room accommodates 30 people & includes:

- Tables that can be configured in various ways
- Ceiling mounted LCD projectors
- White board & flip chart
- Instructor podium with laptop
- Speakers & clip on microphone

### Services & Amenities

Berkshire offers the options of:

- Catered Continental breakfast
- Catered lunch

**For your convenience & use, Berkshire provides:**

- Full kitchen with refrigerator
- Unlimited beverages
- Afternoon snack
- Private client room with phones, computers, & Internet access

### Contact Information:

To book a training room, or for additional information please call 800.882.8904 or 410.800.882.8904 ext. 1220.

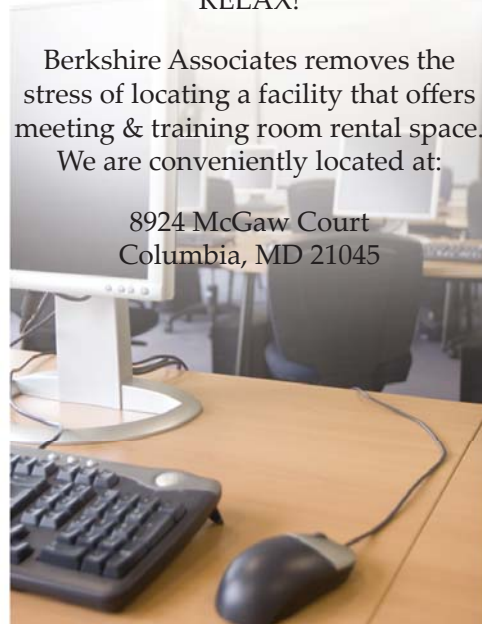
## Meeting and Training Room Rental Space

### AVAILABLE!

Worried about where to book a room for your next training class or meeting? Need computers? RELAX!

Berkshire Associates removes the stress of locating a facility that offers meeting & training room rental space. We are conveniently located at:

8924 McGaw Court  
Columbia, MD 21045



### OUT AND ABOUT...cont. from page 5

Along with conducting numerous training sessions, we continue to work diligently on audit plans, ensuring OFCCP compliance for all our clients.

And don't forget to check out our first white paper of the year written by our Human Resources Manager, Sonia Chapin, SPHR, CCP, titled, "Compliance and Management Issues." To view this informative white paper and learn about the HR regulations and policies surrounding managing an immigrant workforce, please visit: [http://www.berkshireassociates.com/infocenter/whitepapers/compliance\\_management\\_issues.pdf](http://www.berkshireassociates.com/infocenter/whitepapers/compliance_management_issues.pdf).

Our first quarter is gearing up to be one of the best yet! To find out what Berkshire has in store, make sure you check out the 2nd quarter issue of *BALANCEview*.



## Fundamentals of Affirmative Action Planning Chicago, Illinois May 12-13

Berkshire's signature Fundamentals of Affirmative Action Planning class is going regional! You get 100% of the same great class—now at a location most suitable to you.

Topics:

- Overview of AA and all Reports
- Creating a Written AAP
- Analyzing your Workforce and Personnel Actions
- Calculating Availability and Setting Goals
- OFCCP Audit Process
- Developing Applicant Flow Log using the OFCCP Definition of an Applicant

For more information call 800.882.8904 or visit: <http://www.berkshireassociates.com/training/faap.aspx>.

## Breakfast Seminar Series 2009

Wake up the right way with the return of Berkshire's Breakfast Seminar Series 2009! This learning series focuses on today's most essential HR topics, including:

- Contractor Compliance
- Applicant Tracking
- Performance Management
- Compensation
- Diversity

Don't miss your chance to grab one of the remaining seats for our fast-approaching informative sessions. Each class is only \$69, and is conveniently located at our Columbia, Maryland facility. *Seating is limited.*



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