36th Annual Workforce Management Briefing

Managing Workforce Compliance in an Unpredictable World

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Managing Workforce Compliance in an Unpredictable World
People Analytics: Using Big Data to Inform Hiring and Selection Processes
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PANELISTS

Tamara Bock
Member
Epstein Becker Green
New York

Nathaniel M. Glasser
Member
Epstein Becker Green
Washington, DC

Rick Holt, Ph.D.
Director
Resolution Economics

Robin Levine
Co-Founder and CEO
Scouted

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What Is Big Data?
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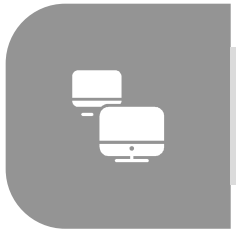
What Is “Big Data”?

“BIG DATA” DEFINED:

- Constantly evolving and expanding definition
- Data or methodology?



HR SOFTWARE TECHNOLOGY

KEY FEATURES:

- Embedded “big data analytics” to help employers better assess the quality of their sourcing and selection practices/strategies
- Proprietary computer algorithms that are designed to predict the “best” candidates for job openings and that employers use to improve their sourcing and selection practices/strategies
  - External (new hires) and internals (promotions)

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Where Do Companies Get the Data?

COMMON DATA POINTS:

Publicly Available Data

- Social media profiles/activity
- Other data available through the Internet

Applicant Information

- Application, resume, etc.
- Personality testing and other past assessments

Employer Data

- Employment history
- Job performance

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Big Data: Examples of Product Offerings

01 

“Predictive” computer-automated sourcing and matching functionality

02 

“Predictive” screening interviews

- Vendor-provided screening questions that are “statically proven” based on “world class behavioral data analytics” to identify the best candidates
- Automated screening and scoring (e.g., 1-5 “stars”)

03 

“Predictive” personality tests and other assessments

04 

Predictive” automated online reference checking

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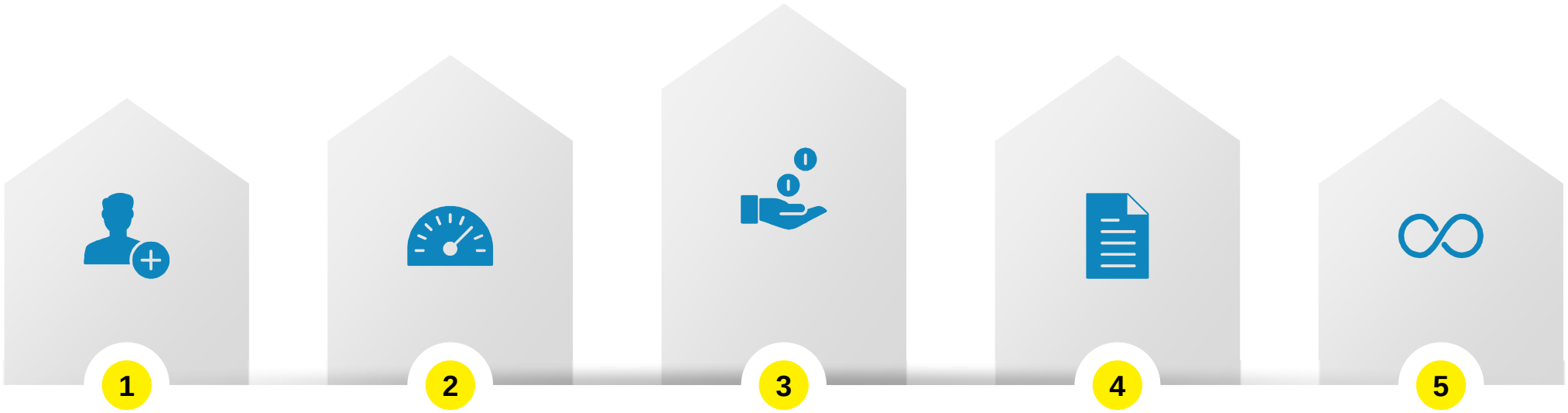
Grit Scale

How Can Human Resources Use Big Data?



1. Recruitment
2. Performance Measurement
3. Compensation
4. Workforce Planning
5. Retention

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Advantages and Disadvantages of Big Data Analytics
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Advantages: Limiting Number of Applicants

Reduces recordkeeping obligations

"Reduces legal risk by limiting applicants

- Quickly weeds out applicants by using basic qualifications or qualifications without expected adverse impact
- Data management techniques
- "Big numbers are bad numbers"

Speed

- Allows for faster decision making

Efficiency

- Utilizes all available information

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Advantages: Neutral Criteria

Initial screening done with objective, non-comparative, job-related factors

Limiting subjectivity in selection

Equal standard for all candidates

Protects against unintentional discrimination

- Consistent application of data evaluation tools may reduce bias

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Disadvantages

Correlation vs. causality

- Transient vs. persistent relationships
- Potential spurious correlation

Opaque vs. transparent

- Multitude of factors makes model difficult to interpret
- Model details are often proprietary

Defining success and "me too" bias

Not consistent with Uniform Guidelines on Employee Selection Procedures

- Validation not feasible
- Adverse impact analysis problematic

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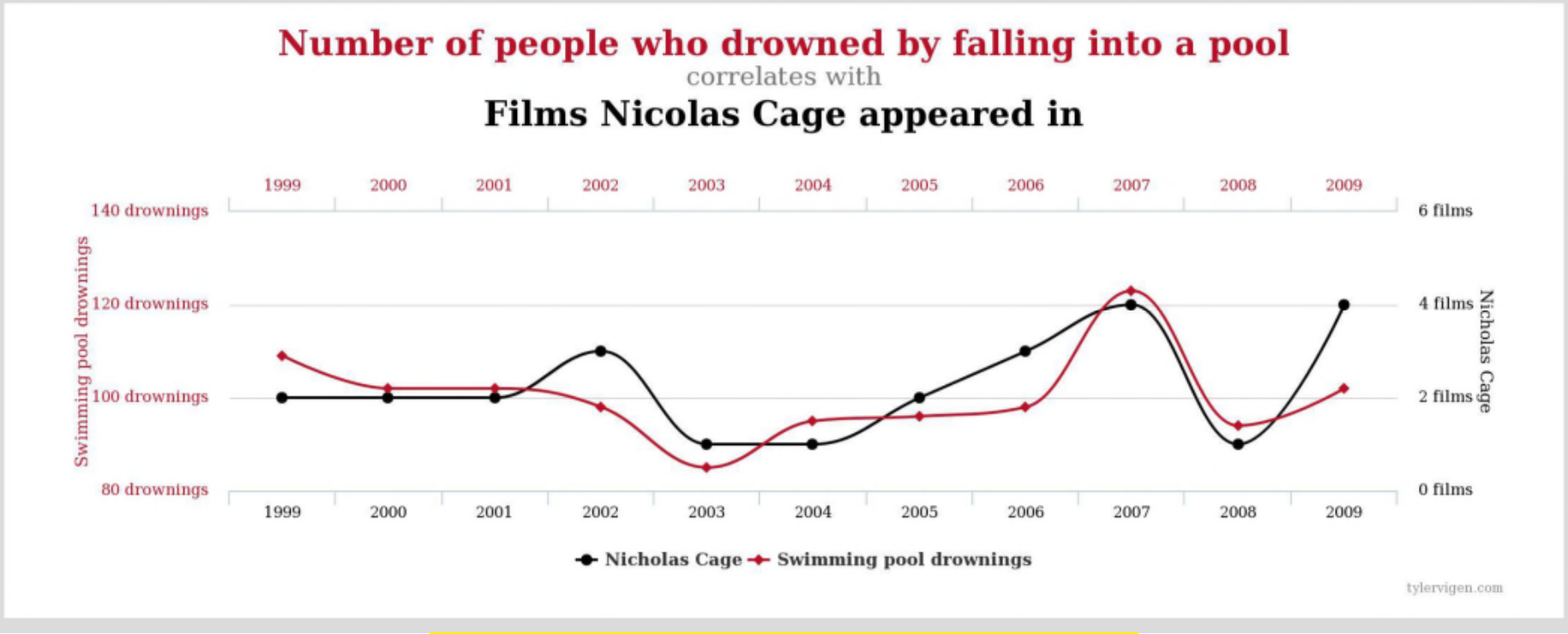
Disadvantages: Potential Spurious Correlations

Spurious correlations are easy to find



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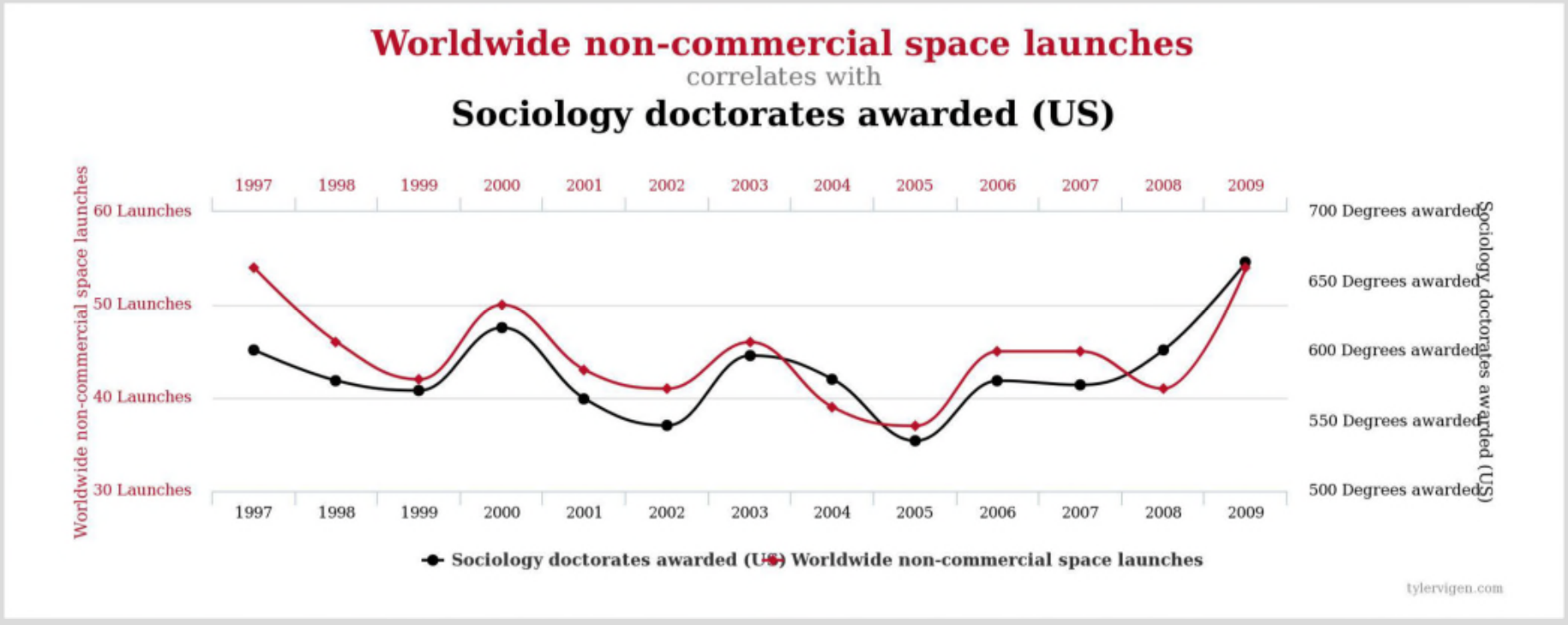
Disadvantages: Potential Spurious Correlations

And they are often ridiculous



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Potential Legal Concerns
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Discrimination: Disparate Treatment

Disparate treatment:

- Intentional discrimination based on membership in protected class

Claims may arise when:

- Use of analytics/selection procedures for one protected group but not others
- Use of predictive criterion that may produce fewer candidates in protected group
- Analytics are controlled by too few employees, who may exhibit bias in selection or data inputs

Potential systemic discrimination findings

- "Pattern or practice" claims
- Class action claims

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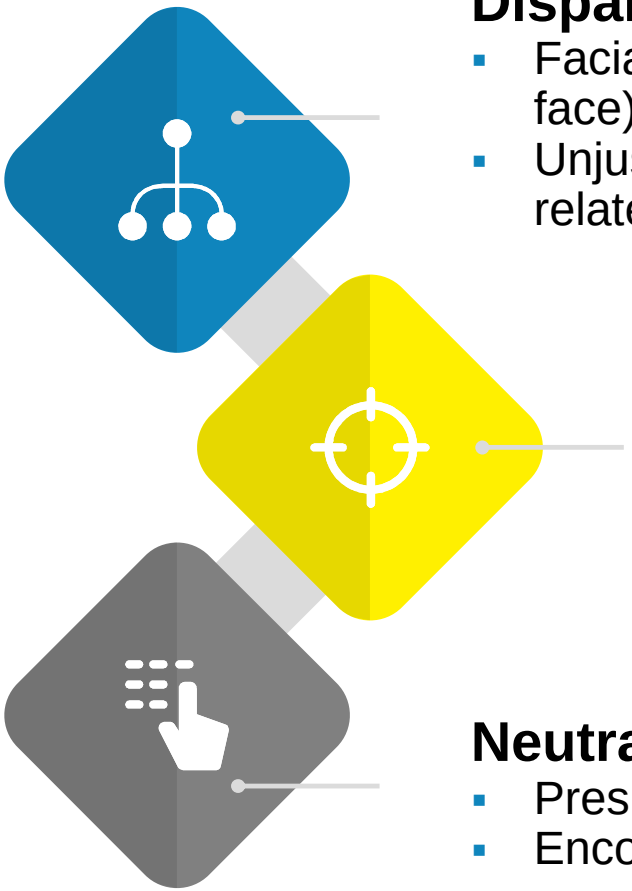
Discrimination: Disparate Impact



Disparate impact requires:

- Facially neutral employment practice/policy (i.e., not discriminatory on its face) AND
- Unjustified adverse impact on members of a protected class (i.e., not job-related or consistent with business necessity)

Increased focus on hiring by the Equal Employment Opportunity Commission and the Office of Federal Contract Compliance Programs

- Expect scrutiny of big data analytics (particularly if used as a pre-employment test)

Neutral selection policy may have disparate impact

- Presumptive adverse effect using 80% rule
- Encoded biases

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Recordkeeping and Validation

Uniform Guidelines on Employee Selection Procedures

Internet Applicant Rule

- Requires all federal contractors and subcontractors to maintain recordkeeping regarding the Internet hiring process and the solicitation of race, gender, and ethnicity of "Internet Applicants"
- Does the Internet Applicant Rule apply to big data analytics?
  - Depends on when data analytics are used:
    - To improve sourcing decisions
    - To narrow applicant pools
    - To make selection decisions

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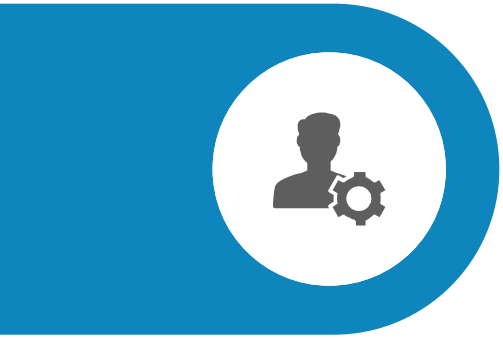
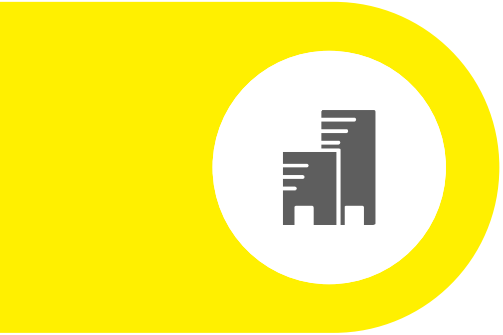
Other Legal Concerns



Applicants with disabilities

- How is the exam/test taken?
- Does it allow for accommodation(s)?
- Be sure to include disclaimer noting availability of accommodations



Fair Credit Reporting Act

- When might big data analytics become a background check?
  - United States v. Spokeo, Inc., No. 2-12-cv-05001-MMM-SH (C.D. Cal. June 12, 2012)

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Technical Perspectives to Mitigate Risks

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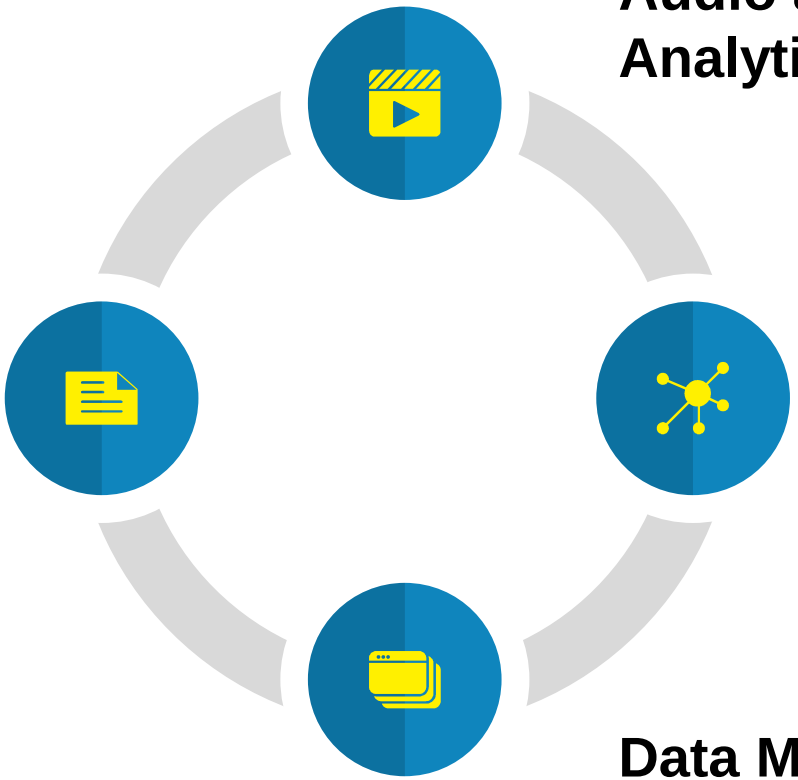
Analytic Tools

Audio and Video Analytics

Text analytics (mining)

- Information extraction
- Text summarization
- Question answering
- Sentiment analysis



Predictive modeling

- Multiple regression
- Machine learning (neural networks)

Data Management

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Analytic Challenges

Data Requirements

- Completeness and accuracy
- Long vs. wide

Statistical Issues

- Heterogeneity
- Noise accumulation
- Spurious correlation
- Incidental endogeneity

Validation

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Validation Challenges

Interpreting the result

- Rationale for observed relationships
- Rational plus statistical meaningfulness

Validation issues

- Focus on job requirements vs. people characteristics
- Test items may not be secure or “face valid”
- Determining what is “passing” score

Algorithms may be based on “tests” designed for very different purposes (e.g., clinical psychological diagnoses)

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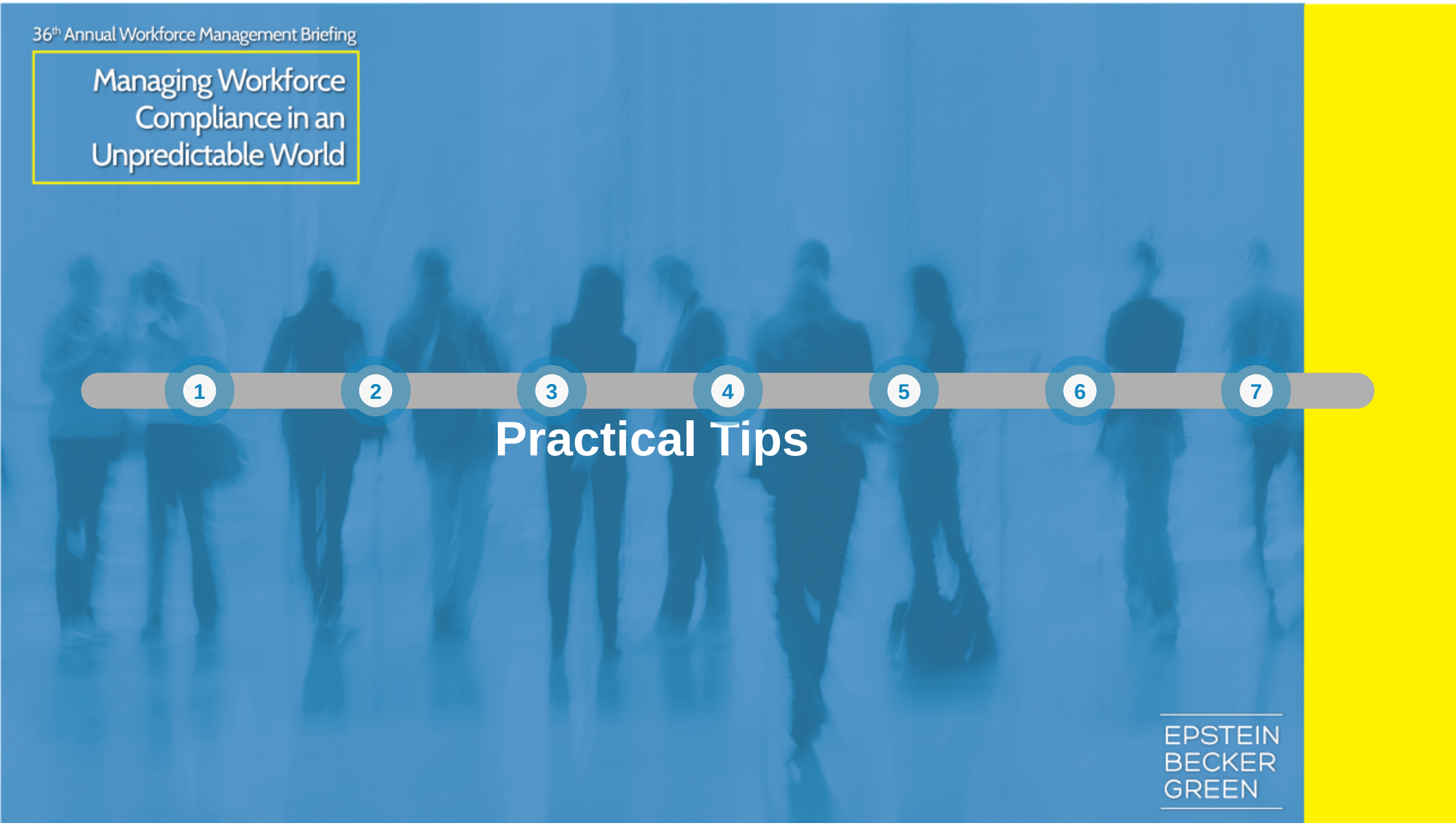
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Practical Tips
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Questions to Ask Vendors

01 What safeguards have been put in place to prevent any potential discrimination?

02 Has the process demonstrated an adverse impact in any context?

03 What validation evidence has been collected to establish the job-relatedness of the algorithm? For each job?

04 Does the product or survey include an audit?

05 Does the validation evidence comply with the requirements of the Uniform Guidelines on Employee Selection Procedures?

06 What steps have been taken to ensure the security of test questions?

07 What kind of ongoing monitoring do you provide as we continue using the instrument?

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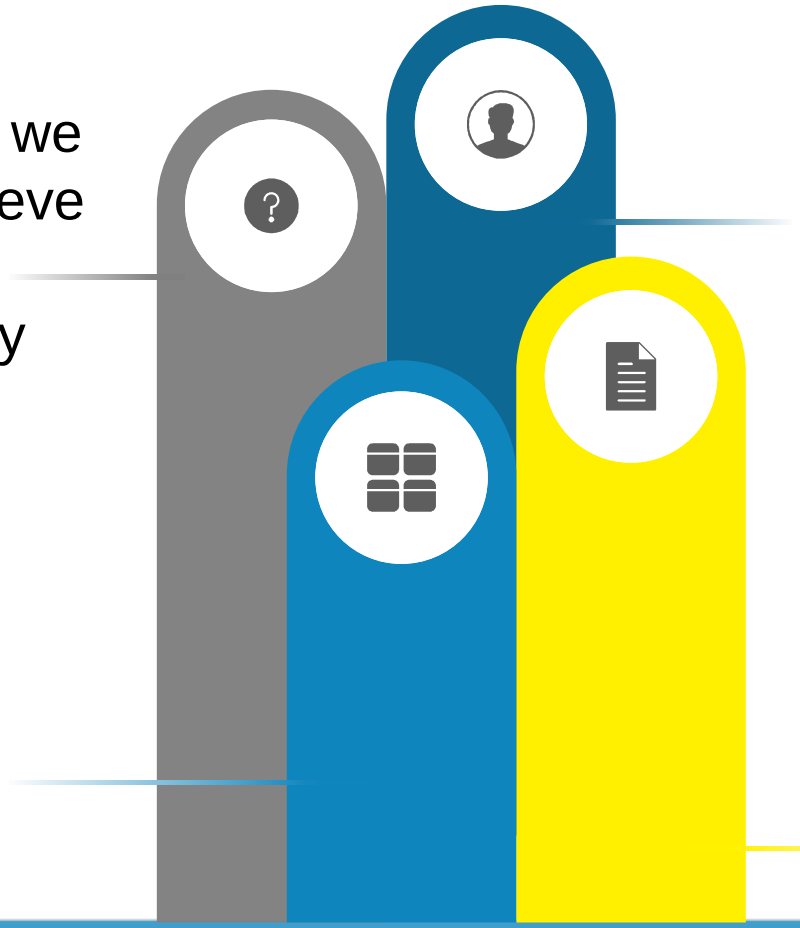
Other Considerations

Questions for internal decision makers

- What is the main goal we are attempting to achieve with the data?
- Are managers properly trained on using the data?

Data Collection and Storage



Who will ultimately be responsible if allegations regarding adverse impact occur?

- What indemnification provisions will be included?
- Transparency may be an issue

Implementation Plan

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Questions?
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