



**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS**

**REFERENCE MANUAL**

**FOR**

**DIVISION OFFICE CIVIL RIGHTS PERSONNEL**

**MODULE 1**

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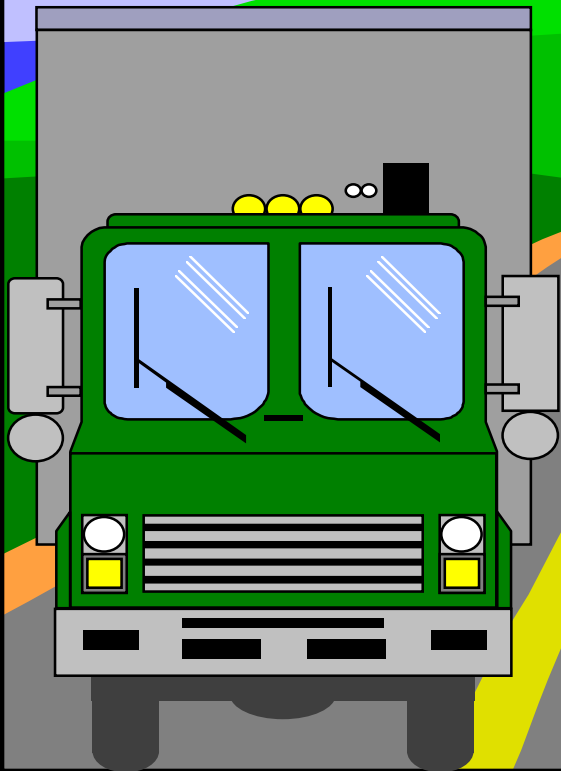
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**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 1**

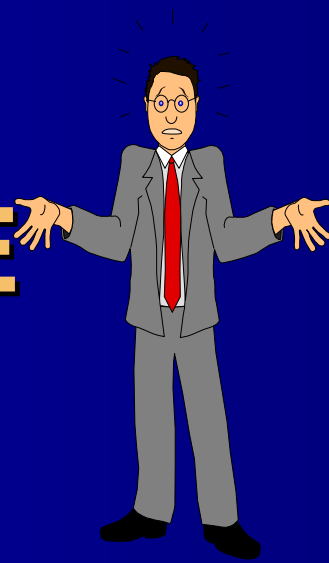
**Training Outline**

# STATE INTERNAL EEO/AAP PROGRAMS



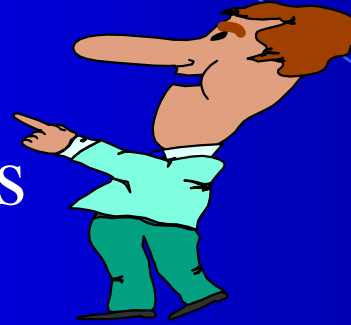
Federal Highway Administration  
Office of Civil Rights

# TRAINING OBJECTIVE



- **To enable participants to:**
  - ➔ Understand and apply requirements for State Internal EEO/Affirmative Action Programs.
  - ➔ Review and approve State EEO/Affirmative Action Program documents.
  - ➔ Understand and apply adverse impact analysis.
  - ➔ Devise options to obtain compliance and take enforcement actions.

# TO START



- Self Introductions

- Name
- Title and Organization
- What do you expect from course?

- ✓ Training Materials and Handouts

- Fill out Tent Cards
- Form Learning Groups



# OBJECTIVE OF STATE EEO/AAP PROGRAM

- To ensure non-discrimination and affirmative action (where appropriate) on the basis of race, color, creed, national origin, age, handicap or sex in the employment practices and terms and conditions of employment of State Transportation Agencies.





# AFFIRMATIVE ACTION--FYI

## ELEMENTS OF AFFIRMATIVE ACTION

### THE *STRICT SCRUTINY STANDARD*

#### ■ Compelling Interest

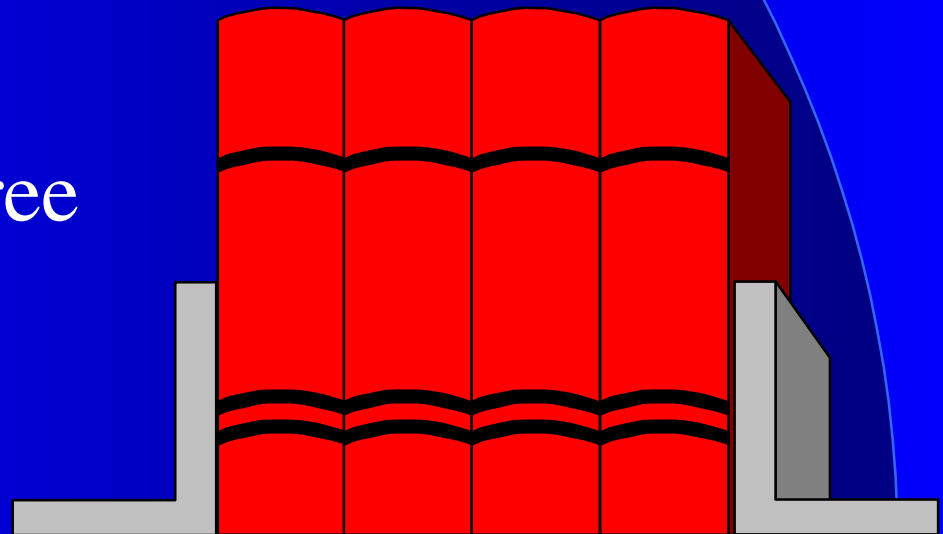
- Why? What is reason for AA Program?
  - Promote **Inclusion**
  - Achieve **Diversity**
  - Remedy **Discrimination**
- If to remedy discrimination;
  - Evidence of discrimination (Predicate Study)
  - Scope of study (Local, Regional, National, Industry)
  - Broad societal discrimination insufficient.



# AFFIRMATIVE ACTION--FYI

## – Basis for Affirmative Action Program

- Law
- Regulation
- Court Order
- Consent Decree
- Voluntary



# AFFIRMATIVE ACTION--FYI

## ■ Narrowly Tailored

– Scope

● Focus on problem

– Target Group

– Geographical Area

– Program/Industry Affected

– Areas/classifications of  
underrepresentation

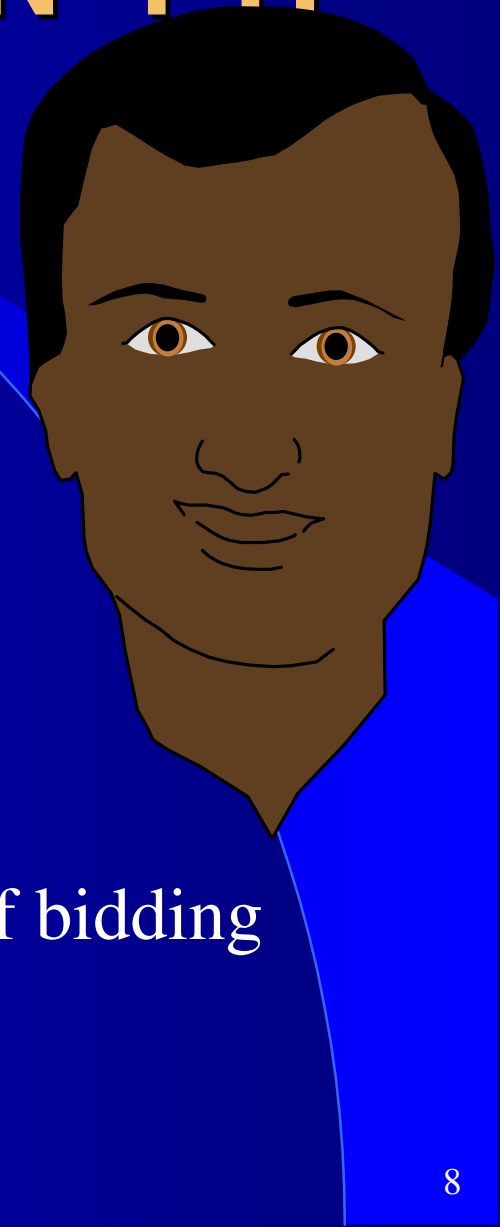


# AFFIRMATIVE ACTION--FYI

## ■ Narrowly Tailored (continued)

### – Race Neutral Options

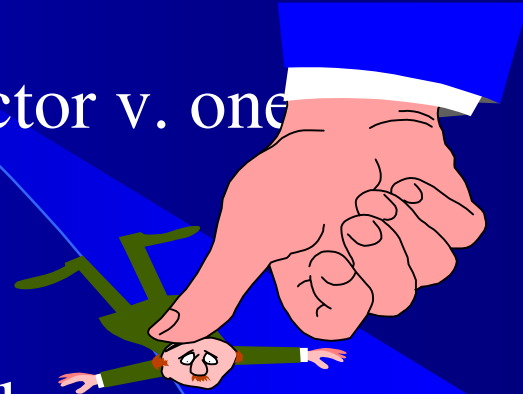
- Identification/removal of barriers
- Targeted recruitment/outreach
- Validation of job requirements
- Technical Assistance/Training
- Breakup of projects (DBE)
- Simplification/waiver/reduction of bidding & bonding requirements (DBE)



# AFFIRMATIVE ACTION--FYI

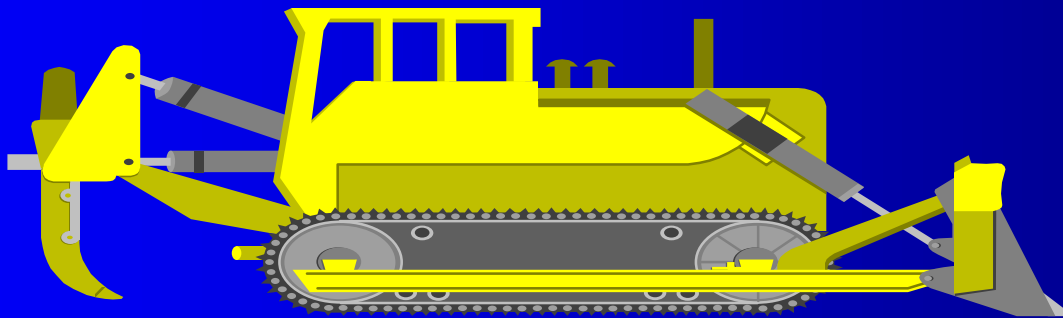
## ■ Narrowly Tailored (continued)

- Inclusive, not Exclusive
  - How race is used. (Primary factor v. one factor)
  - Goals and timetables.
- Consider relevant (qualified) pool.
- Transitional
  - Periodic review
  - Adjustment
  - Termination



# AUTHORITIES--LAWS

- **Federal Aid Highway Act of 1968**, as amended {23 USC 140(a)}
  - Requires STAs to provide written assurances as a condition for receipt of federal funds, that employment in connection with proposed projects will be provided without regard to race, color, creed, national origin, or sex.

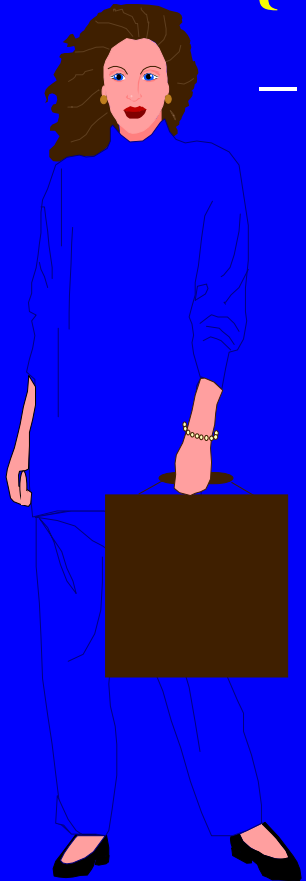




# AUTHORITIES--LAW

- **Federal Aid Highway Act of 1973,**  
{ 23 USC 324 }

- “No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this title or carried on under this title.”



# AUTHORITIES--LAW

- **Age Discrimination Act of 1975,**  
{42 USC 6101}

- “No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

# AUTHORITIES--LAW



## ■ Rehabilitation Act of 1973, Section 504

{29 U.S.C. 790}

- “No qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance.”



# AUTHORITIES REGULATION/POLICY



## ■ State Assurances With Regard to the Equal Opportunity Program (EEO Assurances)

- Pursuant to Federal-aid Highway Act of 1968, section 22(a).
- Submitted as condition to receipt of Federal aid.
- State **commits** to ensuring that employment in connection with all projects after 8/23/68 will be provided on nondiscriminatory basis.

# AUTHORITIES REGULATION/POLICY

## ■ EEO Assurances (continued)

### State agrees to:

- Establish Equal Opportunity Program
- Furnish information/reports required by FHWA
- Procedures to prevent/correct discrimination
- Appoint Equal Opportunity Coordinator
  - Primary duty to administer program

# AUTHORITIES REGULATION/POLICY

## ■ **EEO Assurances** (continued)

- Take affirmative action including;
  - Contract sanctions/legal proceedings
  - Actively cooperate w/FHWA in investigations and enforcement actions
- Establish liaison w/agencies & organizations involved in equal opportunity
  - Labor unions, contractor associations, community organizations, State and Federal Depts. of Labor, employment agencies

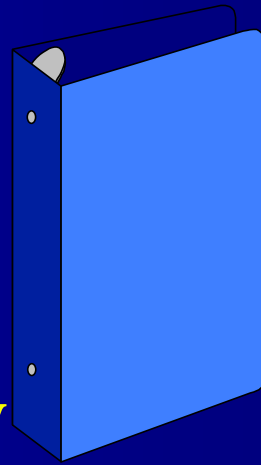
# AUTHORITIES

## REGULATION/POLICY

### ■ **EEO Assurances** (continued)

- Seek cooperation of unions, contractors, and other agencies in establishing skills training programs
- Include EEO requirements in bid/contract specifications
- Obtain and furnish to FHWA information/reports to ascertain compliance
- ➔ Ensure that its own employment policies and practices are without discrimination

# AUTHORITIES REGULATION/POLICY



- **23 CFR 230 Subpart C-State Highway Agency Equal Employment Opportunity Programs**
  - Establishes FHWA requirements for State Internal EEO/AAPs and Contractor Compliance Programs
  - Covers all employment practices including;
    - Recruiting, Hiring, Transfers, Promotions, Training, Compensation, Benefits, Awards, Layoffs, and Terminations

# AUTHORITIES

## REGULATION/POLICY

### ■ **23 CFR 230, Subpart C** (continued)

- Defines “Affirmative Action Plans” for internal employment (written document) and contractor employment (EEO Bid Conditions).
- Persons to be identified by group to which they identify with or are regarded in the community as belonging.
- Requires standardized format for State EEO/AAP and Contractor Compliance Programs (Appendix A)
- Requires State to prepare annual program update

# AUTHORITIES

## REGULATION/POLICY

- **23 CFR 230, Subpart C** (continued)
  - Annual program update to include (in general);
    - Internal employment data & analysis for entire work force as prescribed in Appendix A
    - The EEO Program Document including internal AAP as prescribed in Appendix A
    - Consideration and response to written FHWA comments on the preceding program

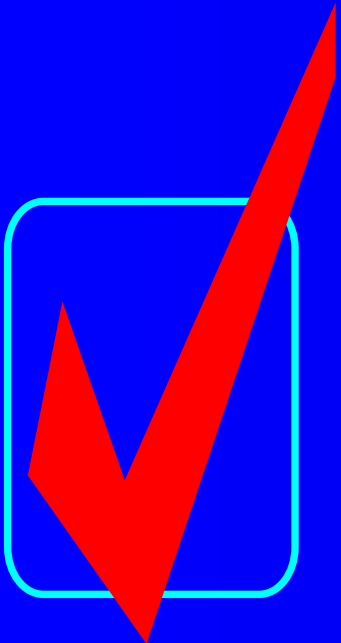
# AUTHORITIES

## REGULATION/POLICY

### ■ 23 CFR 230, Subpart C (continued)

#### – State AAP Approval Procedures

- Delegated to Division Administrator
- Division has 30 days to coordinate with FRA and FTA
- After 30 days have passed, program approved in writing
- Program approval effective for one year from date of approval
- Copies of approval letters to FRA & FTA





# AUTHORITIES

## REGULATION/POLICY

### ■ 23 CFR 230, Subpart C--Appendix A, Part II--State Highway Agency Employment

#### Requires:

- Commitment of all levels of agency
- AAP and EEO Program
- Identification/removal of barriers
- Identification of persons unfairly excluded or held back
- Actions to address barriers/problems identified



# AUTHORITIES REGULATION/POLICY

## ■ 23 CFR 230, Subpart C--Appendix A

### Requires:

- Agency head to have overall responsibility
- Specific program responsibility assigned to all management levels
- Short and long range actions and goals
- Appointment of qualified AA Officer
- AA Officer to have responsibility & authority to administer program

# AUTHORITIES REGULATION/POLICY

## 23 CFR 230, Subpart C--Appendix A

### Requires:

- AA Officer to have proven ability
- AA Officer to be full time

### AA Officer Responsibilities

- Develop AAP
- Publicizing AAP
- Collection/analysis of employment data



# AUTHORITIES REGULATION/POLICY

## ■ 23 CFR 230, Subpart C--Appendix A

### AA Officer Responsibilities

- Identification of problem areas
- Setting actions and goals & timetables
- Processing complaints
- Designing self-evaluation procedures
- Establishing monitoring procedures to assess progress
- Reporting to CAO



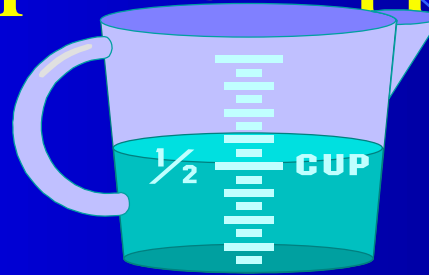
# AUTHORITIES

## REGULATION/POLICY

### ■ 23 CFR 230, Subpart C--Appendix A

#### Contents of AAP

- Agency policy
- Assignment of responsibility and authority to qualified individual
- Civilian labor force data
- Underutilization analysis
- Goals & timetables for underutilization
- Management/supervisory accountability



# **AUTHORITIES REGULATION/POLICY**

## **■ 23 CFR 230, Subpart C--Appendix A**

### **Contents of AAP**

- Validation of job requirements
- Establishing recruitment strategies
- Assisting minorities/women into upward mobility/training programs
- Complaint processing procedures

# AUTHORITIES REGULATION/POLICY

## ■ 23 CFR 230, Subpart C--Appendix A

### Actions to Implement

- Issue policy statement
- Assign responsibility and accountability
- Take AA to overcome effects of past discrimination

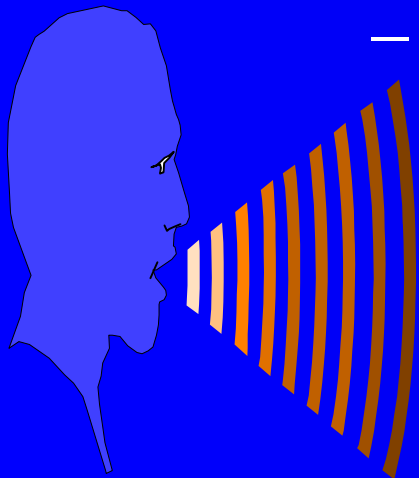


# AUTHORITIES REGULATION/POLICY

## ■ 23 CFR 230, Subpart C--Appendix A

### Actions to Implement

- Integrate EEO Program performance measures in performance standards of managers/supervisors
- Publicize program internally/externally
  - Meetings, posters, bulletin boards, newsletters, employee orientations, training, distribution to external groups, professional organizations



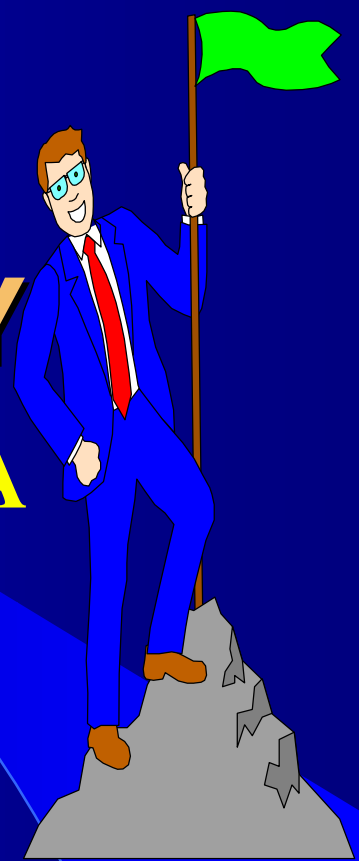


# AUTHORITIES REGULATION/POLICY

## ■ 23 CFR 230, Subpart C--Appendix A

### Actions to Implement

- Review of job descriptions/requirements
- Restructure positions to establish entry level/training opportunities
- Establish career counseling/guidance programs
- Establish procedures to facilitate career development plans for employees
- Ensure relevant recruitment literature



# AUTHORITIES REGULATION/POLICY

## ■ 23 CFR 230, Subpart C--Appendix A

### Actions to Implement

- Review recruitment to ensure non-discrimination
- Maintain contacts w/external sources
- Validate written tests
- Analyze applicant flow
- Review merit promotion plan
- Establish skills banks

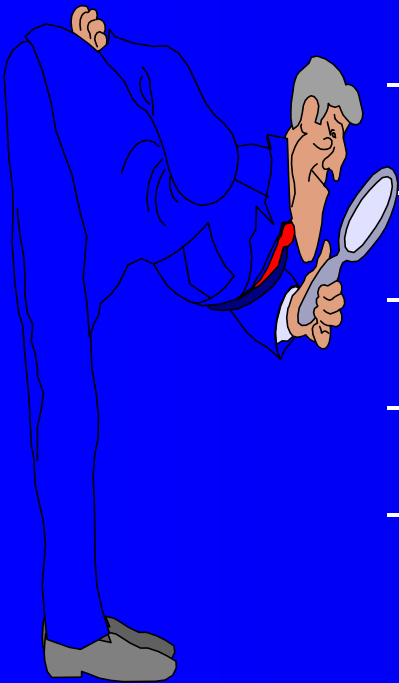


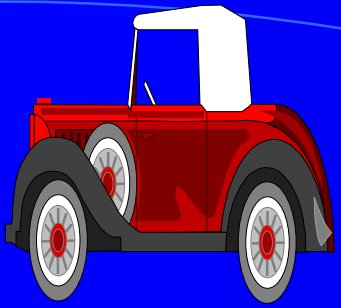
# AUTHORITIES REGULATION/POLICY

## ■ 23 CFR 230, Subpart C--Appendix A

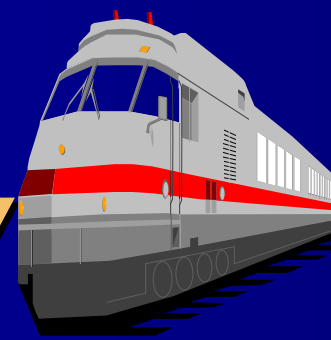
### Actions to Implement

- Review dissemination of job announcements
- Deliver EEO/AAP training
- Provide training on proper interviewing
- Review employee participation in training
- Review procedures for layoffs, terminations, demotions, disciplinary actions
- Conduct exit interviews



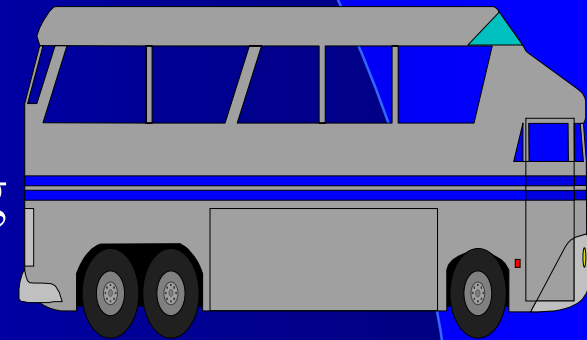


# AUTHORITIES REGULATION/POLICY

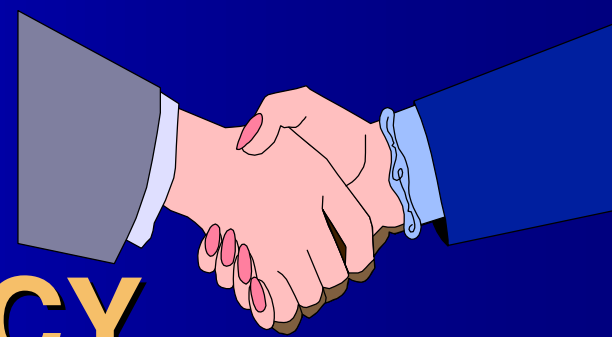


## ■ DOT/FHWA/FRA/FTA Memorandum of Understanding for State DOT EEO Programs (MOU)

- Created to avoid duplication of effort
- FHWA/OCR assigned lead responsibility for review and monitoring of State DOT employment practices
- FHWA to take lead role in developing guidelines for State AAPs
- FRA and FTA may provide assistance to State DOTs upon request by FHWA



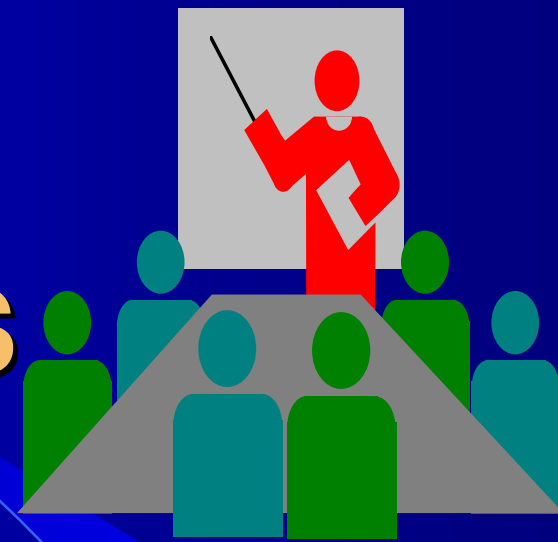
# AUTHORITIES REGULATION/POLICY



## ■ MOU (continued)

- FHWA and FRA to conduct joint reviews
- FTA to be notified of reviews
- Reviews to be scheduled by FHWA and coordinated with FRA and FTA
- State AAPs to be submitted to FHWA w/copies to FRA
- FHWA approval of AAPs to be coordinated w/FRA and FTA

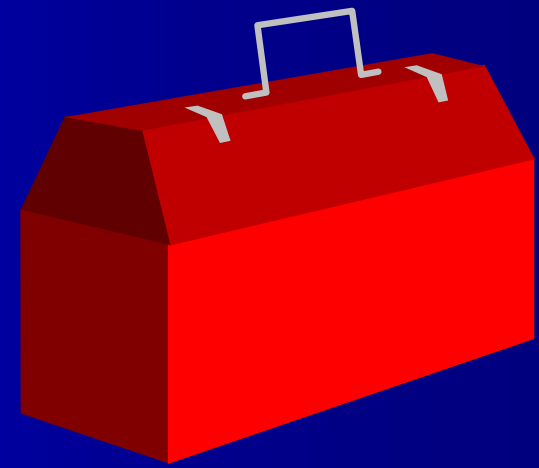
# ROLES AND RESPONSIBILITIES



## ■ Headquarters OCR

- Evaluate Division Office procedures for the review and approval of STA Internal EEO/AAPs
- Provide technical assistance & training to Resource Centers/Divisions
- Assist Resource Centers/Divisions in major enforcement actions

# ROLES AND RESPONSIBILITIES



## ■ Resource Center-Civil Rights

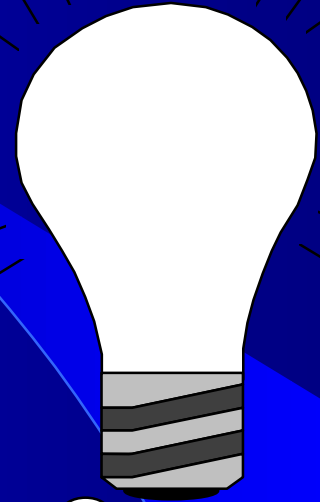
- Provide training/technical assistance
- Jointly with Division participate in process/program reviews
- Assist Division Office and other offices (e.g., legal) as appropriate, in developing alternative strategies to achieve compliance or take enforcement action



# ROLES AND RESPONSIBILITIES

## ■ Division Office

- Provide technical assistance/guidance
- Review & approve program document
- Take lead role in program evaluations
- Determine compliance with program requirements
- Participate in delivery of training/technical assistance to State
- Develop, in consultation w/RC, compliance/enforcement strategies
- Follow up on FHWA recommended actions







# IMPLEMENTATION

## STA Document Review

### ■ References

- 23 CFR 230, Subpart C and Appendix A

### ➔ Review the following:

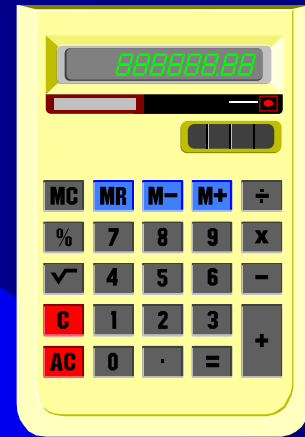
- FHWA State Transportation Agency EEO Program Guide
  - Section I.B. (page 3)
  - Section II.B. (page 12)
  - Section III. Internal AAP Evaluation Guidelines (page 14)
  - Attachments A through D
- FHWA Program Document Review Checklist

# IMPLEMENTATION

## STA DOCUMENT REVIEW

### → Review the following:

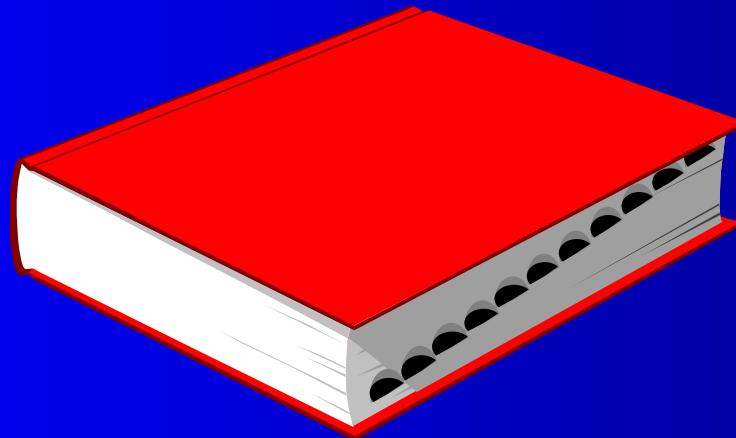
- Adverse Impact (Four Fifths Rule) Analysis (Attachment A. FHWA STA EEO Program Guide)
  - Adverse impact = selection rate of any group less than 80% of group with highest selection rate.
  - Analysis required for each group >2% of relevant labor force
  - Required for five racial/ethnic groups and 2 genders
  - Required for new hires, promotions, terminations



# IMPLEMENTATION STA DOCUMENT REVIEW

## → Review the following:

- Example of STA EEO Program Document
- Examples of FHWA correspondence to STA on Program Document review

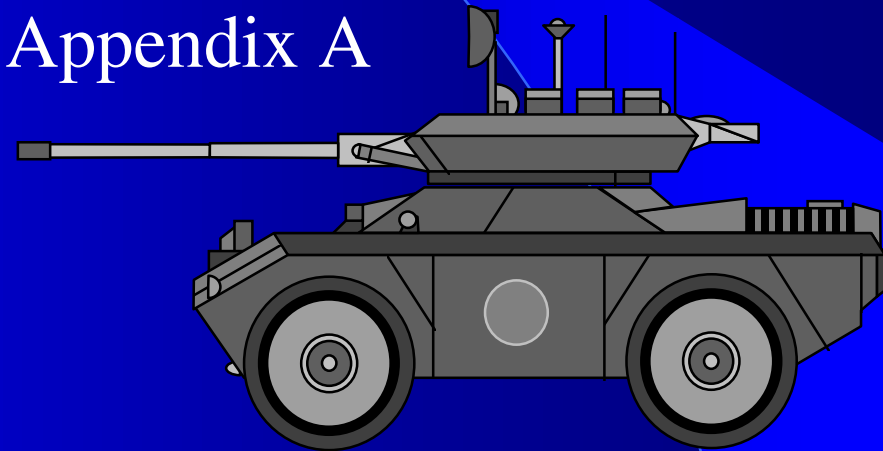




# IMPLEMENTATION COMPLIANCE & ENFORCEMENT

## ■ Authorities

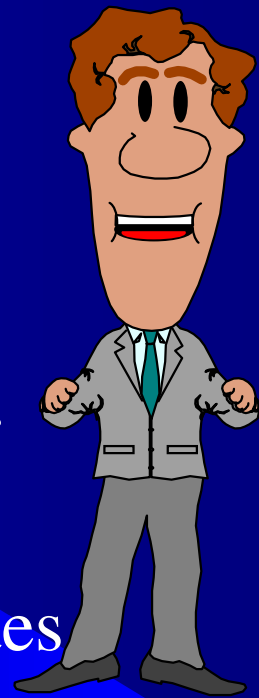
- 23 USC 140(a)
- 23 CFR 230, Subpart C and Appendix A
- 23 CFR 1.9 and 1.36
- State EEO Assurance
- State EEO/AAP Document



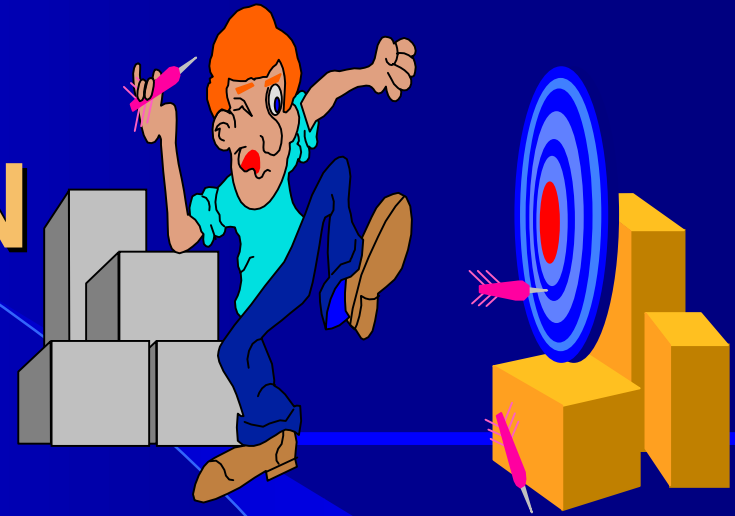
→ **Review**: Examples of FHWA compliance/  
enforcement correspondence

# SUMMARY

- STAs are required and have committed, as a condition of receipt of federal aid, to not discriminate and take affirmative action in their employment practices.
- STA EEO/AAP Program Documents and updates required to be submitted annually to FHWA for review and approval.
- FHWA obligated to assist STAs in development & implementation of programs.
- FHWA required to ensure compliance by STAs, including enforcement action where negotiation, conciliation and persuasion fail.



# DISCUSSION



- QUESTIONS?
- COMMENTS/FEEDBACK ON TRAINING MODULE
  - What did we do right?
  - What can we do better?
  - Any other comments/recommendations?
  - On scale of 1-5, with 1 being lowest, how would you rate module?

**el fin**



**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 2**

**23 U.S.C. 140(a)-(d)**



**§ 140. Nondiscrimination**

(a) Prior to approving any programs for projects as provided for in subsection (a) of section 105 of this title, the Secretary shall require assurances from any State desiring to avail itself of the benefits of this chapter that employment in connection with proposed projects will be provided without regard to race, color, creed, national origin, or sex. He shall require that each State shall include in the advertised specifications, notification of the specific equal employment opportunity responsibilities of the successful bidder. In approving programs for projects on any of the Federal-aid systems, the Secretary shall, where he considers it necessary to assure equal employment opportunity, require certification by any State desiring to avail itself of the benefits of this chapter that there are in existence and available on a regional, statewide, or local basis, apprenticeship, skill improvement or other upgrading programs, registered with the Department of Labor or the appropriate State agency, if any, which provide equal opportunity for training and employment without regard to race, color, creed, national origin, or sex. The Secretary shall periodically obtain from the Secretary of Labor and the respective State highway departments information which will enable him to judge compliance with the requirements of this section and the Secretary of Labor shall render to the Secretary such assistance and information as he shall deem necessary to carry out the equal employment opportunity program required hereunder.

## LIBRARY REFERENCES

## Encyclopedias

Mode and plan of construction or improvement, see C.J.S. Highways § 180.

## § 140. Nondiscrimination

*[See main volume for text of (a)]*

(b) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, Indian tribal government, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer highway construction training, including skill improvement programs. Whenever apportionments are made under section 104(b) of this title, the Secretary shall deduct such sums as he may deem necessary, not to exceed \$2,500,000 for the transition quarter ending September 30, 1976, and not to exceed \$10,000,000 per fiscal year, for the administration of this subsection. Such sums so deducted shall remain available until expended. The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not be not be applicable to contracts and agreements made under the authority herein granted to the Secretary. Notwithstanding any other provision of law, not to exceed  $\frac{1}{2}$  of 1 percent of funds apportioned to a State for the surface transportation program under section 104(b) and the bridge program under section 144 may be available to carry out this subsection upon request of the State highway department to the Secretary.

(c) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, Indian tribal government, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer training programs and assistance programs in connection with any program under this title in order that minority businesses may achieve proficiency to compete, on an equal basis, for contracts and subcontracts. Whenever apportionments are made under subsection 104(a) of this title, the Secretary shall deduct such sums as he may deem necessary, not to exceed \$10,000,000 per fiscal year, for the administration of this subsection. The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not be applicable to contracts and agreements

made under the authority herein granted to the Secretary notwithstanding the provisions of section 302(e) of the Federal Property and Administrative Services Act of 1949 (41-U.S.C. 252(e)).

(d) **Indian employment and contracting.**—Consistent with section 708(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-8(i)), nothing in this section shall preclude the preferential employment of Indians living on or near a reservation on projects and contracts on Indian reservation roads. States may implement a preference for employment of Indians on projects carried out under this title near Indian reservations. The Secretary shall cooperate with Indian tribal governments and the States to implement this subsection.

(As amended Pub.L. 102-240, Title I, § 1026, Dec. 18, 1991, 105 Stat. 1986; Pub.L. 102-388, Title IV, § 412, Oct. 6, 1992, 106 Stat. 1565.)

#### HISTORICAL AND STATUTORY NOTES

##### Revision Notes and Legislative Reports

1991 Act. House Report No. 102-171 (I & II) and House Conference Report No. 102-404, see 1991 U.S. Code Cong. and Adm. News, p. 1528.

##### Amendments

1992 Amendments. Subsec. (b). Pub.L. 102-388, § 412, increased the availability of funds to carry out highway construction training programs to  $\frac{1}{2}$  of 1 percent from  $\frac{1}{3}$  of 1 percent of the funds apportioned to a State for surface transportation and bridge programs.

1991 Amendments. Subsec. (b). Pub.L. 102-240, § 1026(a), added provisions making available not more than  $\frac{1}{2}$  of 1% of funds apportioned to State for surface transportation program under section 104(b) and bridge program under section 144 to carry out this subsec., upon request of State highway department to Secretary.

Pub.L. 102-240, § 1026(b), inserted provisions relating to Indian tribal government.

Subsec. (a). Pub.L. 102-240, § 1026(b), inserted provisions relating to Indian tribal government.

Subsec. (d). Pub.L. 102-240, § 1026(c), added provisions authorizing States to implement preference for employment of Indians on projects carried out under this title near reservations.

##### Effective Dates

1991 Act. Amendment by Pub.L. 102-240 effective on December 18, 1991, to be applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, except as otherwise provided, see section 1100(a), (b) of Pub.L. 102-240, set out as a note under section 104 of this title.

#### LIBRARY REFERENCES

##### Encyclopedias

Discrimination in federally assisted programs, see C.J.S. Civil Rights § 46 et seq.

**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 3**

**Federal –Aid Highway Act 1968**

**U.S. DEPARTMENT OF TRANSPORTATION**  
**FEDERAL HIGHWAY ADMINISTRATION**

**SUBJECT** Federal-Aid Highway Act of 1968

**FHWA NOTICE**

September 16, 1968  
26-10

There is enclosed for your information and use a copy of the Federal-Aid Highway Act of 1968, approved August 23, Public Law 90-495, 82 Stat. 815. Also enclosed is a section-by-section analysis of the major provisions of the above Act.

*Howard A. Raffron*

Howard A. Raffron  
Chief Counsel

Enclosures

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SECTION-BY-SECTION ANALYSIS OF THE FEDERAL-AID  
HIGHWAY ACT OF 1968

Section 1. Short Title

Cites Act as the "Federal-Aid Highway Act of 1968".

Section 2. Revision of Authorization of Appropriations for  
Interstate System

Section 2 increases authorizations of appropriations for the Interstate System for each of the fiscal years 1970 and 1971 from \$3.6 billion to \$4 billion and from \$2.685 billion to \$4 billion for 1972 and authorizes an additional amount of \$4 billion for fiscal years 1973 and \$2.225 billion for 1974.

Section 3. Authorization of Use of Cost Estimate for Apportionment of Interstate Funds

Section 3 authorizes the Secretary to use the apportionment factors contained in Revised Table 5 of the 1968 Cost Estimate (set forth in S. Rep. No. 1340, 90th Cong., 2d Sess.) to apportion the sums authorized to be appropriated for fiscal years 1970 and 1971 for expenditure on the Interstate System. (The revised table includes the cost of constructing the Century Freeway in California and the acquisition and reconstruction of the West Virginia Turnpike.)

Section 4. Extension of Time for Completion of System

(a) This subsection extends the time for completion of the Interstate System to June 30, 1974.

Howard Amendment to be no greater than the cost of the mileage withdrawn from the system as that cost was included in the 1968 cost estimate rather than in the 1965 cost estimate.

Section 22. Equal Employment Opportunity

Section 22 adds a section 140 to title 23, United States Code, which requires that before the Secretary can approve any Federal-aid project he must receive satisfactory assurances from the State that employment on the project will be open to all persons without regard to race, color, creed, or national origin. This section expressly instructs the Secretary to require that each State shall include in the advertised specifications for contracts on Federal-aid projects notification of the specific equal employment opportunity responsibilities of the successful bidder.

Each State, when the Secretary deems it necessary to assure equal employment opportunity, shall certify that an appropriate apprenticeship or training program, available to all, is in effect on the local, Statewide, or regional basis. The Secretary of Labor is directed to assist the Secretary in effecting this section.

Subsection (c) of section 22 amends 23 U.S.C. 112(b), relating to letting of contracts, to provide that contracts for construction shall be awarded only on the basis of the

lowest responsive bid submitted by a bidder meeting established criteria of responsibility and no requirement or obligation is to be imposed as a condition precedent to the Secretary's concurrence in the award of a contract to the bidder unless that request or obligation is specifically set forth in the advertised specification.

Section 23. District of Columbia

Section 23 requires that the District of Columbia and the Secretary of Transportation complete all Interstate System routes under construction in the District of Columbia and to commence "within 30 days" work on (1) the Three Sisters Bridge (I-266), (2) the Potomac River Freeway (I-266), (3) the Center Leg of the Inner Loop (I-95), and (4) the East Leg of the Inner Loop (I-295). The District of Columbia Government and the Secretary are further directed to restudy all other projects on the District of Columbia Interstate System and report to Congress any recommendations for modification in 18 months. If no recommendations are submitted, the District of Columbia must construct the routes as set out in the 1968 Cost Estimate.



**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 4**

**Federal –Aid Highway Act 1970**

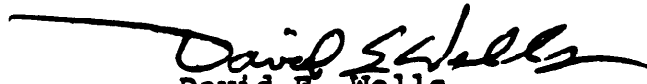
U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION

<b>SUBJECT</b>	Federal-Aid Highway Act of 1970	FHWA NOTICE
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January 18, 1971

CC-10

There is enclosed for your information and use a copy of the Federal-Aid Highway Act of 1970, approved December 31, 1970, Public Law 91-605, 84 Stat. 1713. Also enclosed is a section-by-section analysis of the major provisions of the above Act.

  
David E. Wells  
Chief Counsel

Enclosures

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to structural deficiencies or physical deterioration. Present law prohibits the Secretary from expending funds on such bridges unless they have been damaged by a natural disaster or have collapsed.

Subsection (b) of this section would amend the term "comparable facility" to mean a facility which meets the current geometric and construction standards required for the type and volume of traffic which such facility will carry over its design life. This definition would also apply to the term "comparable facility" as used in subsection (a) of section 144, the bridge replacement program. The amendment would apply retroactively to the term as used in the 1968 Act.

#### SECTION 110. TRAINING PROGRAMS

This section would authorize the Secretary to develop, conduct, and administer highway construction-related training and skills improvement programs for construction workers. Whenever an apportionment is made for the Federal-aid primary system, the Federal-aid secondary system, extensions of the Federal-aid primary and Federal-aid secondary systems within urban areas, the Interstate System and the Federal-aid urban system the sums authorized to be appropriated for fiscal years 1972 and 1973, the Secretary shall deduct such sums as he deems necessary not exceeding \$5 million per fiscal year for administering these training programs. Such sums shall remain available until expended.

**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 5**

**State EEO Assurances**

U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION  
WASHINGTON, D.C. 20591

OFFICE OF THE ADMINISTRATOR

August 30, 1968

Subject: State Assurances with regard to the Equal  
Opportunity Program

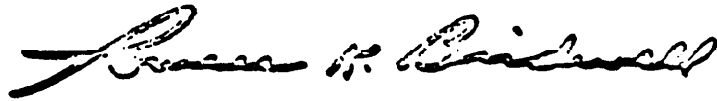
The Federal-Aid Highway Act of 1968 provides in section 22(a), that prior to approving any program for projects as provided for in subsection (a) of section 105, title 23, United States Code, the Secretary of Transportation shall require assurances from any State desiring to avail itself of the benefits of Chapter 1, title 23, United States Code, that employment in connection with all projects approved on or after August 23, 1968, will be provided without regard to race, color, creed or national origin. Pursuant to section 22(a), the enclosed interim assurances have been prepared for execution by the head of the State Highway Department.

Under the provisions of section 22(a), no projects as provided for in 23 U.S.C. 105(a) can be approved by the Federal Highway Administration until the enclosed assurance has been executed and returned to this office, through the Division Engineer, Bureau of Public Roads.

The State Equal Opportunity Program to be established pursuant to these assurances does not replace the on-going federal Equal Opportunity Program but will bring State resources to bear in the overall opportunity effort.

Your cooperation in this matter of mutual concern will be appreciated to the end that the Federal-Aid Highway Program in your State may proceed in accordance with the equal employment opportunity policy set forth in the Federal-Aid Highway Act of 1968.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lowell K. Bridwell".

Lowell K. Bridwell  
Federal Highway Administrator

Enclosure

INTERIM  
STATE ASSURANCE WITH REGARD TO EQUAL EMPLOYMENT  
OPPORTUNITY AS REQUIRED BY THE FEDERAL-AID HIGHWAY  
ACT OF 1968

Pursuant to the requirements of Section 22(a) of the Federal-Aid Highway Act of 1968, the State of \_\_\_\_\_ desiring to avail itself of the benefits of Chapter 1, Title 23, United States Code, and as a condition to obtaining the approval of the Secretary of Transportation of any programs for projects as provided for in Title 23, United States Code, Section 105(a), hereby gives its assurance that employment in connection with all proposed projects approved on or after August 23, 1968, will be provided without regard to race, color, creed or national origin.

More specifically, and without limiting the above general assurance, the State highway department hereby gives the following specific assurances:

1. The State highway department will establish an Equal Opportunity Program in furtherance of the above General Assurance, which shall include a system to ascertain whether contractors and subcontractors are complying with their equal employment opportunity contract obligations and the degree to which such compliance is producing substantial progress on the various project sites in terms of minority group employment. The State highway department will furnish such information and reports regarding contractor and subcontractor compliance as may be requested by the Federal Highway Administration.

2. The State highway department program shall include effective procedures to assure that discrimination in employment on the grounds of race, color, creed or national origin will not be permitted on any projects and if discrimination exists at the time this assurance is made it will be corrected promptly.

3. The State highway department has appointed, or will appoint, an Equal Opportunity Coordinator whose primary duty shall be to administer the State's Equal Employment Opportunity Program as established pursuant to these assurances.

4. The State highway department will, on its own initiative, take affirmative action, including the imposition of contract sanctions and the initiation of appropriate legal proceedings under any applicable State or Federal law to achieve equal employment opportunity on Federal-aid highway projects and will actively cooperate with the Federal Highway Administration in all investigations and enforcement actions undertaken by the Federal Highway Administration.

5. The State highway department will establish and maintain effective liaison with public and private agencies and organizations which are, or should be, involved in equal opportunity programs. Such agencies and organizations include, but are not limited to labor unions, contractor associations, minority group organizations, the U. S. and State Employment Services, the U. S. and State Department of Labor.

6. The State highway department hereby agrees that it will seek the cooperation of unions, contractors, appropriate State agencies and other related organizations in the establishment of skill training programs, and will assure that all persons will have an opportunity to participate in such programs without regard to race, creed, color or national origin.

7. The State highway department hereby agrees that its own employment policies and practices with regard to State highway department employees any part of whose compensation is reimbursed from Federal funds will be without regard to race, color, creed or national origin.

8. The State highway department shall include in the advertised specifications notification of the specific equal employment opportunity responsibilities of the successful bidder as those responsibilities are currently defined and required by the Federal Highway Administration. No requirement or obligation shall be imposed as a condition precedent to the award of a contract for a project unless such requirement or obligation is otherwise lawful and is specifically set forth in the advertised specifications. Procedures for the prequalification of Federal-aid contractors and subcontractors to determine their capability to comply with their equal employment opportunity contract obligations will be issued as a supplement to this interim assurance for implementation by December 1, 1968.

9. The State highway department will obtain and furnish to the Federal Highway Administration such information and reports as may be requested to enable the Federal Highway Administration to determine compliance by the State highway department with this assurance.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



**STATE TRANSPORTATION AGENCY INTERNAL EQUAL EMPLOYMENT  
OPPORTUNITY PROGRAM  
Re-Creation of Original Memorandum  
Recreated May 11, 1999**

[**Background:** The following is a recreation of an original memorandum issued by FHWA's Chief Counsel on July 22, 1969, in response to a question on whether the State EEO Assurances pursuant to the Federal aid Highway Act of 1968, covered all State employees or just employees who were paid in part or wholly with FHWA funds. The response is that all of a State Highway Agency's are covered by the assurances.]

☆☆☆☆☆☆☆☆  
**Memorandum**

**To** :Mr. A.D. Gaither

**Date:** July 22, 1969

**From** :Howard A. Heffron  
Chief Counsel

**In reply refer to:**26-01

**Subject:**Employment Practices of State Highway Departments

This will reply to your memorandum of June 3, 1969, which inquires whether "the law and regulations give us jurisdiction over all State highway department employees and not just those employees reimbursed in whole or in part with Federal-aid funds?"

As you know, the State construction assurances obtained pursuant to section 22 of the Federal-Aid Highway Act of 1968 are limited to employment policies and practices with regard to "State highway department employees any part of whose compensation is reimbursed from Federal funds...". That limitation was included as an administrative matter not because it was required by law. Your memorandum apparently asks whether the Secretary has authority to require that all employees of State highway departments be included within non-discrimination requirements regardless of their payroll funding source.

My opinion is that the Secretary does possess such authority. Under 23 U.S.C. section 302 (a) a State highway department must be suitably organized to discharge to the Secretary's satisfaction the duties required by title 23. The Secretary could properly find that an organization which permitted discrimination or was based on discriminatory practices was not suitably organized. A State highway department which permitted discrimination in any aspect of its employment or refused to assure against discrimination would create barriers to the recruitment, promotion, or retention of minority group employees thereby defeating the purposes of the various Federal rules and regulations regarding nondiscrimination. Furthermore, under 23 C.F.R. section i.11(a) expenditures for general administration and supervision of State highway departments are not eligible for Federal participation so that employees performing these functions are not covered by the assurances presently in effect. If the Secretary could not require that such employees be covered by nondiscrimination assurances then administrative and supervisory personnel of State highway departments--including those employees running its federal aid activities -- could be hired, promoted, etc. without regard to nondiscrimination assurances. Any such arrangement would be incompatible with the policies set forth in Federal law and regulations. The Secretary can avert such a possibility by finding that the State highway department is not "suitably organized" until it covers all employees by nondiscrimination pledges. The State is under an independent

constitutional obligation with respect to any and all of its employees to refrain from discriminatory practices. The Secretary may properly ask, as a condition of federal aid, for the State's assurance that it is not violating its constitutional obligations in that department directly involved in the implementation of the Federal highway program.

The same conclusion follows from other considerations. Plainly, employees who participate in any way in carrying out the federal-aid program could be covered by an assurance, even though it may not be possible to trace a specific federal funding dollar to their salaries. If such coverage were sought, however, the administrative difficulty of identifying all such employees - a class which could vary from day to day, week to week, or month to month - would justify a decision to cover all employees by the assurance.

The Labor Department's regulations under E.O. 11246 also provide a basis for covering all employees of State highway departments by equal opportunity assurances. Under 40 C.F.R. section 60-1.4(b) the applicant for a federal grant agrees "that it will be bound by the above [basic] equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work...". Labor's regulations define construction work to include highway construction and "the supervision, inspection, and other on-site functions incidental to the actual construction." 41 C.F.R. section 1.3(e). According to Labor's interpretation any State highway department actually participating in the constructions work is obliged to follow equal opportunity requirements throughout the Department (letter from OFCC to Director, Equal Opportunity, DOT, July 26, 1968). Since the Department of Labor is authorized under the Executive Order to adopt rules and regulations and issue rulings or interpretations necessary to implement the government-wide equal opportunity program this Department would be bound by Labor's interpretation unless plainly illegal.

Finally, the special report recently issued by the Senate Committee on Roads regarding interpretation of section 22 contains language pointing in the same direction.

"The Federal Highway Administration, the Bureau of Public Roads, and the State highway departments as the supervising government agencies, have a leadership responsibility in carrying out positive equal employment programs: therefore, the employment practices of these agencies themselves should reflect the highest level of performance. Minorities should be employed in all categories and grade levels of agency activity for which they are qualified. In the event that few qualified applicants are available, these agencies must undertake training programs which will enable unemployed and under-employed people to participate in the overall program..."  
[emphasis added].

For the reasons set forth above, I conclude that the Department can, if it chooses to do so, enlarge the equal opportunity assurance covering State highway department employment practices to cover all employees of such department.

**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 6**

**23 CFR 230, Subpart C**

policy and FHWA and State responsibilities relative to a State highway agency's internal equal employment opportunity program and for assuring compliance with the equal employment opportunity requirements of federally-assisted highway construction contracts.

**§ 230.303 Applicability.**

The provisions of this subpart are applicable to all States that receive Federal financial assistance in connection with the Federal-aid highway program.

**§ 230.305 Definitions.**

As used in this subpart, the following definitions apply:

(a) *Affirmative Action Plan* means:

(1) With regard to State highway agency work forces, a written document detailing the positive action steps the State highway agency will take to assure internal equal employment opportunity (internal plan).

(2) With regard to Federal-aid construction contract work forces, the Federal equal employment opportunity bid conditions, to be enforced by a State highway agency in the plan areas established by the Secretary of Labor and FHWA special provisions in nonplan areas (external plan).

(b) *Equal employment opportunity program* means the total State highway agency program, including the affirmative action plans, for ensuring compliance with Federal requirements both in State highway agency internal employment and in employment on Federal-aid construction projects.

(c) *Minority groups.* An employee may be included in the minority group to which he or she appears to belong, or is regarded in the community as belonging. As defined by U.S. Federal agencies for employment purposes, minority group persons in the U.S. are identified as Blacks (not of Hispanic origin), Hispanics, Asian or Pacific Islanders, and American Indians or Alaskan Natives.

(d) *Racial/ethnic identification.* For the purpose of this regulation and any accompanying report requirements, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no

**Subpart C—State Highway Agency Equal Employment Opportunity Programs**

**AUTHORITY:** 23 U.S.C. 140(a), 315; E.O. 11246; 41 CFR 80-1; 49 CFR 1.48.

**SOURCE:** 41 FR 28270, July 9, 1976, unless otherwise noted.

**§ 230.301 Purpose.**

The purpose of the regulations in this subpart is to set forth Federal Highway Administration (FHWA) Federal-aid

person should be counted in more than one racial/ethnic category. The following group categories will be used:

(1) The category *White (not of Hispanic origin)*: All persons having origins in any of the original peoples of Europe, North Africa, the Middle East, or the Indian Subcontinent.

(2) The category *Black (not of Hispanic origin)*: All persons having origins in any of the Black racial groups.

(3) The category *Hispanic*: All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

(4) The category *Asian or Pacific Islanders*: All persons having origins in any of the original peoples of the Far East, Southeast Asia, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

(5) The category *American Indian or Alaskan Native*: All persons having origins in any of the original peoples of North America.

(e) *State* means any of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands.

(f) *State highway agency* means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The term *State* should be considered equivalent to *State highway agency* if the context so implies.

[41 FR 28270, July 9, 1976, as amended at 41 FR 46293, Oct. 20, 1976]

#### § 230.307 Policy.

Every employee and representative of State highway agencies shall perform all official equal employment opportunity actions in an affirmative manner, and in full accord with applicable statutes, executive orders, regulations, and policies enunciated thereunder, to assure the equality of employment opportunity, without regard to race, color, religion, sex, or national origin both in its own work force and in the work forces of contractors, subcontractors, and material suppliers engaged in

the performance of Federal-aid highway construction contracts.

#### § 230.309 Program format.

It is essential that a standardized Federal approach be taken in assisting the States in development and implementation of EEO programs. The format set forth in appendix A provides that standardized approach. State equal employment opportunity programs that meet or exceed the prescribed standards will comply with basic FHWA requirements.

#### § 230.311 State responsibilities.

(a) Each State highway agency shall prepare and submit an updated equal employment opportunity program, one year from the date of approval of the preceding program by the Federal Highway Administrator, over the signature of the head of the State highway agency, to the Federal Highway Administrator through the FHWA Division Administrator. The program shall consist of the following elements:

(1) The collection and analysis of internal employment data for its entire work force in the manner prescribed in part II, paragraph III of appendix A; and

(2) The equal employment opportunity program, including the internal affirmative action plan, in the format and manner set forth in appendix A.

(b) In preparation of the program required by § 230.311(a), the State highway agency shall consider and respond to written comments from FHWA regarding the preceding program.

#### § 230.313 Approval procedure.

After reviewing the State highway agency equal employment opportunity program and the summary analysis and recommendations from the FHWA regional office, the Washington Headquarters Office of Civil Rights staff will recommend approval or disapproval of the program to the Federal Highway Administrator. The State highway agency will be advised of the Administrator's decision. Each program approval is effective for a period of one year from date of approval.

APPENDIX A TO SUBPART C—STATE  
HIGHWAY AGENCY EQUAL EMPLOYMENT  
OPPORTUNITY PROGRAMS

Each State highway agency's (SHA) equal employment opportunity (EEO) program shall be in the format set forth herein and shall address Contractor Compliance (part I) and SHA Internal Employment (part II), including the organizational structure of the SHA total EEO Program (internal and external).

PART I—CONTRACTOR COMPLIANCE

I. *Organization and structure.* A. *Statehighway agency EEO Coordinator (External) and staff support.* 1. Describe the organizational location and responsibilities of the State highway agency EEO Coordinator. (Provided organization charts of the State highway agency and of the EEO staff.)

2. Indicate whether full or part-time; if part-time, indicate percentage of time devoted to EEO.

3. Indicate length of time in position, civil rights experience and training, and supervision.

4. Indicate whether compliance program is centralized or decentralized.

5. Identify EEO Coordinator's staff support (full- and part-time) by job title and indicate areas of their responsibilities.

6. Identify any other individuals in the central office having a responsibility for the implementation of this program and describe their respective roles and training received in program area.

B. *District or division personnel.* 1. Describe the responsibilities and duties of any district EEO personnel. Identify to whom they report.

2. Explain whether district EEO personnel are full-time or have other responsibilities such as labor compliance or engineering.

3. Describe training provided for personnel having EEO compliance responsibility.

C. *Project personnel.* Describe the EEO role of project personnel.

II. *Compliance procedures.* A. *Applicable directives.* 1. FHWA Contract Compliance Procedures.

2. EEO Special Provisions (FHWA Federal-Aid Highway Program Manual, vol. 6, chap. 4, sec. 1, subsec. 2, Attachment 1)<sup>1</sup>

3. Training Special Provisions (FHWA Federal-Aid Highway Program Manual, vol. 6, chap. 4, sec. 1, subsec. 2, Attachment 2)<sup>1</sup>

4. FHWA Federal-Aid Highway Program Manual, vol. 6, chap. 4, sec. 1, subsec. 6 (Con-

tract Procedures), and subsec. 8 (Minority Business Enterprise).<sup>1</sup>

B. *Implementation.* 1. Describe process (methods) of incorporating the above FHWA directives into the SHA compliance program.

2. Describe the methods used by the State to familiarize State compliance personnel with all FHWA contract compliance directives. Indicate frequency of work shops, training sessions, etc.

3. Describe the procedure for advising the contractor of the EEO contract requirements at any preconstruction conference held in connection with a Federal-aid contract.

III. *Accomplishments.* Describe accomplishments in the construction EEO compliance program during the past fiscal year.

A. *Regular project compliance review program.* This number should include at least all of the following items:

1. Number of compliance reviews conducted.

2. Number of contractors reviewed.

3. Number of contractors found in compliance.

4. Number of contractors found in non-compliance.

5. Number of show cause notices issued.

6. Number of show cause notices rescinded.

7. Number of show cause actions still under conciliation and unresolved.

8. Number of followup reviews conducted.

(NOTE: In addition to information requested in items 4-8 above, include a brief summary of total show cause and followup activities—findings and achievements.)

B. *Consolidated compliance reviews.* 1. Identify the target areas that have been reviewed since the inception of the consolidated compliance program. Briefly summarize total findings.

2. Identify any significant impact or effect of this program on contractor compliance.

C. *Home office reviews.* If the State conducts home office reviews, describe briefly the procedures followed by State.

D. *Major problems encountered.* Describe major problems encountered in connection with any review activities during the past fiscal year.

E. *Major breakthroughs.* Comment briefly on any major breakthrough or other accomplishment significant to the compliance review program.

IV. *Areawide plans/Hometown and Imposed (if applicable).* A. Provide overall analysis of the effectiveness of each areawide plan in the State.

B. Indicate by job titles the number of State personnel involved in the collection, consolidation, preparation, copying, reviewing, analysis, and transmittal of area plan reports (Contracting Activity and Post Contract Implementation). Estimate the amount of time (number of hours) spent collectively on this activity each month. How does the State use the plan report data?

<sup>1</sup>The Federal-Aid Highway Program Manual is available for inspection and copying at the Federal Highway Administration (FHWA), 400 7th St., SW., Washington, DC 20580, or at FHWA offices listed in 49 CFR part 7, appendix D.

C. Identify Office of Federal Contract Compliance Programs (OFCCP) area plan audits or compliance checks in which State personnel participated during the last fiscal year. On the average, how many hours have been spent on these audits and/or checks during the past fiscal year?

D. Describe the working relationship of State EEO compliance personnel with representatives of plan administrative committee(s).

E. Provide recommendations for improving the areawide plan program and the reporting system.

V. *Contract sanctions.* A. Describe the procedures used by the State to impose contract sanctions or institute legal proceedings.

B. Indicate the State or Federal laws which are applicable.

C. Does the State withhold a contractor's progress payments for failure to comply with EEO requirements? If so, identify contractors involved in such actions during the past fiscal year. If not, identify other actions taken.

VI. *Complaints.* A. Describe the State's procedures for handling discrimination complaints against contractors.

B. If complaints are referred to a State fair employment agency or similar agency, describe the referral procedure.

C. Identify the Federal-aid highway contractors that have had discrimination complaints filed against them during the past fiscal year and provide current status.

VII. *External training programs, including supportive services.* A. Describe the State's process for reviewing the work classifications of trainees to determine that there is a proper and reasonable distribution among appropriate craft.

B. Describe the State's procedures for identifying the number of minorities and women who have completed training programs.

C. Describe the extent of participation by women in construction training programs.

D. Describe the efforts made by the State to locate and use the services of qualified minority and female supportive service consultants. Indicate if the State's supportive service contractor is a minority or female owned enterprise.

E. Describe the extent to which reports from the supportive service contractors provide sufficient data to evaluate the status of training programs, with particular reference to minorities and women.

VIII. *Minority business enterprise program.* FHWM 6-4-1-8 sets forth the FHWA policy regarding the minority business enterprise program. The implementation of this program should be explained by responding to the following:

A. Describe the method used for listing of minority contractors capable of, or interested in, highway construction contracting or subcontracting. Describe the process used

to circulate names of appropriate minority firms and associations to contractors obtaining contract proposals.

B. Describe the State's procedure for insuring that contractors take action to affirmatively solicit the interest, capability, and prices of potential minority subcontractors.

C. Describe the State's procedure for insuring that contractors have designated liaison officers to administer the minority business enterprise program in an effective manner. Specify resource material, including contracts, which the State provides to liaison officers.

D. Describe the action the State has taken to meet its goals for prequalification or licensing of minority business. Include dollar goals established for the year, and describe what criteria or formula the State has adopted for setting such goals. If it is different from the previous year, describe in detail.

E. Outline the State's procedure for evaluating its prequalification/licensing requirements.

F. Identify instances where the State has waived prequalification for subcontractors on Federal-aid construction work or for prime contractors on Federal-aid contracts with an estimated dollar value lower than \$100,000.

G. Describe the State's methods of monitoring the progress and results of its minority business enterprise efforts.

IX. *Liaison.* Describe the liaison established by the State between public (State, county, and municipal) agencies and private organizations involved in EEO programs. How is the liaison maintained on a continuing basis?

X. *Innovative programs.* Identify any innovative EEO programs or management procedures initiated by the State and not previously covered.

#### PART II—STATE HIGHWAY AGENCY EMPLOYMENT

I. *General.* The State highway agency's (SHA) internal program is an integral part of the agency's total activities. It should include the involvement, commitment and support of executives, managers, supervisors and all other employees. For effective administration and implementation of the EEO Program, an affirmative action plan (AAP) is required. The scope of an EEO program and an AAP must be comprehensive, covering all elements of the agency's personnel management policies and practices. The major part of an AAP must be recognition and removal of any barriers to equal employment opportunity, identification of problem areas and of persons unfairly excluded or held back and action enabling them to compete for jobs on an equal basis. An effective AAP not only benefits those who have been denied equal employment opportunity but will also greatly benefit the organization which often has

overlooked, screened out or underutilized the great reservoir of untapped human resources and skills, especially among women and minority groups.

Set forth are general guidelines designed to assist the State highway agencies in implementing internal programs, including the development and implementation of AAP's to ensure fair and equal treatment for all persons, regardless of race, color, religion, sex or national origin in all employment practices.

II. *Administration and implementation.* The head of each State highway agency is responsible for the overall administration of the internal EEO program, including the total integration of equal opportunity into all facets of personnel management. However, specific program responsibilities should be assigned for carrying out the program at all management levels.

To ensure effectiveness in the implementation of the internal EEO program, a specific and realistic AAP should be developed. It should include both short and long-range objectives, with priorities and target dates for achieving goals and measuring progress, according to the agency's individual need to overcome existing problems.

A. *State Highway Agency Affirmative Action Officer (internal).* 1. *Appointment of Affirmative Action Officer.* The head of the SHA should appoint a qualified Affirmative Action (AA) Officer (Internal EEO Officer) with responsibility and authority to implement the internal EEO program. In making the selection, the following factors should be considered:

a. The person appointed should have proven ability to accomplish major program goals.

b. Managing the internal EEO program requires a major time commitment; it cannot be added on to an existing full-time job.

c. Appointing qualified minority and/or female employees to head or staff the program may offer good role models for present and potential employees and add credibility to the programs involved. However, the most essential requirements for such position(s) are sensitivity to varied ways in which discrimination limits job opportunities, commitment to program goals and sufficient status and ability to work with others in the agency to achieve them.

2. *Responsibilities of the Affirmative Action Officer.* The responsibilities of the AA Officer should include, but not necessarily be limited to:

a. Developing the written AAP.

b. Publicizing its content internally and externally.

c. Assisting managers and supervisors in collecting and analyzing employment data, identifying problem areas, setting goals and timetables and developing programs to achieve goals. Programs should include spe-

cific remedies to eliminate any discriminatory practices discovered in the employment system.

d. Handling and processing formal discrimination complaints.

e. Designing, implementing and monitoring internal audit and reporting systems to measure program effectiveness and to determine where progress has been made and where further action is needed.

f. Reporting, at least quarterly, to the head of the SHA on progress and deficiencies of each unit in relation to agency goals.

g. In addition, consider the creation of:

(1) An EEO Advisory Committee, whose membership would include top management officials.

(2) An EEO Employee Committee, whose membership would include rank and file employees, with minority and female representatives from various job levels and departments to meet regularly with the AA officer, and

(3) An EEO Counseling Program to attempt informal resolution of discrimination complaints.

B. *Contents of an affirmative action plan.* The Affirmative Action Plan (AAP) is an integral part of the SHA's EEO program. Although the style and format of AAP's may vary from one SHA to another, the basic substance will generally be the same. The essence of the AAP should include, but not necessarily be limited to:

1. Inclusion of a strong agency policy statement of commitment to EEO.

2. Assignment of responsibility and authority for program to a qualified individual.

3. A survey of the labor market area in terms of population makeup, skills, and availability for employment.

4. Analyzing the present work force to identify jobs, departments and units where minorities and females are underutilized.

5. Setting specific, measurable, attainable hiring and promotion goals, with target dates, in each area of underutilization.

6. Making every manager and supervisor responsible and accountable for meeting these goals.

7. Reevaluating job descriptions and hiring criteria to assure that they reflect actual job needs.

8. Finding minorities and females who are qualified or qualifiable to fill jobs.

9. Getting minorities and females into upward mobility and relevant training programs where they have not had previous access.

10. Developing systems to monitor and measure progress regularly. If results are not satisfactory to meet goals, determine the reasons and make necessary changes.

11. Developing a procedure whereby employees and applicants may process allegations of discrimination to an impartial body without fear of reprisal.



C. *Implementation of an affirmative action plan.* The written AAP is the framework and management tool to be used at all organizational levels to actively implement, measure and evaluate program progress on the specific action items which represent EEO program problems or deficiencies. The presence of a written plan alone does not constitute an EEO program, nor is it, in itself, evidence of an ongoing program. As a minimum, the following specific actions should be taken.

1. *Issue written equal employment opportunity policy statement and affirmative action commitment.* To be effective, EEO policy provisions must be enforced by top management, and all employees must be made aware that EEO is basic agency policy. The head of the SHA (1) should issue a firm statement of personal commitment, legal obligation and the importance of EEO as an agency goal, and (2) assign specific responsibility and accountability to each executive, manager and supervisor.

The statement should include, but not necessarily be limited to, the following elements:

a. EEO for all persons, regardless of race, color, religion, sex or national origin as a fundamental agency policy.

b. Personal commitment to and support of EEO by the head of the SHA.

c. The requirement that special affirmative action be taken throughout the agency to overcome the effects of past discrimination.

d. The requirement that the EEO program be a goal setting program with measurement and evaluation factors similar to other major agency programs.

e. Equal opportunity in all employment practices, including (but not limited to) recruiting, hiring, transfers, promotions, training, compensation, benefits, recognition (awards), layoffs, and other terminations.

f. Responsibility for positive affirmative action in the discharge of EEO programs, including performance evaluations of managers and supervisors in such functions, will be expected of and shared by all management personnel.

g. Accountability for action or inaction in the area of EEO by management personnel.

2. *Publicize the affirmative action plan.* a. *Internally:* (1) Distribute written communications from the head of the SHA.

(2) Include the AAP and the EEO policy statement in agency operations manual.

(3) Hold individual meetings with managers and supervisors to discuss the program, their individual responsibilities and to review progress.

(4) Place Federal and State EEO posters on bulletin boards, near time clocks and in personnel offices.

(5) Publicize the AAP in the agency newsletters and other publications.

(6) Present and discuss the AAP as a part of employee orientation and all training programs.

(7) Invite employee organization representatives to cooperate and assist in developing and implementing the AAP.

b. *Externally:* Distribute the AAP to minority groups and women's organizations, community action groups, appropriate State agencies, professional organizations, etc.

3. *Develop and implement specific programs to eliminate discriminatory barriers and achieve goals.* a. *Job structuring and upward mobility:* The AAP should include specific provisions for:

(1) Periodic classification plan reviews to correct inaccurate position descriptions and to ensure that positions are allocated to the appropriate classification.

(2) Plans to ensure that all qualification requirements are closely job related.

(3) Efforts to restructure jobs and establish entry level and trainee positions to facilitate progression within occupational areas.

(4) Career counseling and guidance to employees.

(5) Creating career development plans for lower grade employees who are underutilized or who demonstrate potential for advancement.

(6) Widely publicizing upward mobility programs and opportunities within each work unit and within the total organizational structure.

b. *Recruitment and placement.* The AAP should include specific provisions for, but not necessarily limited to:

(1) Active recruitment efforts to support and supplement those of the central personnel agency or department, reaching all appropriate sources to obtain qualified employees on a nondiscriminatory basis.

(2) Maintaining contracts with organizations representing minority groups, women, professional societies, and other sources of candidates for technical, professional and management level positions.

(3) Ensuring that recruitment literature is relevant to all employees, including minority groups and women.

(4) Reviewing and monitoring recruitment and placement procedures so as to assure that no discriminatory practices exist.

(5) Cooperating with management and the central personnel agency on the review and validation of written tests and other selection devices.

(6) Analyzing the flow of applicants through the selection and appointment process, including an analytical review of reasons for rejections.

(7) Monitoring the placement of employees to ensure the assignment of work and workplace on a nondiscriminatory basis.

c. *Promotions.* The AAP should include specific provisions for, but not necessarily limited to:

1. Establishing an agency-wide merit promotion program, including a merit promotion plan, to provide equal opportunity for all persons based on merit and without regard to race, color, religion, sex or national origin.

2. Monitoring the operation of the merit promotion program, including a review of promotion actions, to assure that requirements procedures and practices support EEO program objectives and do not have a discriminatory impact in actual operation.

3. Establishing skills banks to match employee skills with available job advancement opportunities.

4. Evaluating promotion criteria (supervisory evaluations, oral interviews, written tests, qualification standards, etc.) and their use by selecting officials to identify and eliminate factors which may lead to improper "selection out" of employees or applicants, particularly minorities and women, who traditionally have not had access to better jobs. It may be appropriate to require selecting officials to submit a written justification when well qualified persons are passed over for upgrading or promotion.

5. Assuring that all job vacancies are posted conspicuously and that all employees are encouraged to bid on all jobs for which they feel they are qualified.

6. Publicizing the agency merit promotion program by highlighting breakthrough promotions, i.e. advancement of minorities and women to key jobs, new career heights, etc.

d. *Training.* The AAP should include specific provisions for, but not necessarily limited to:

(1) Requiring managers and supervisors to participate in EEO seminars covering the AAP, the overall EEO program and the administration of the policies and procedures incorporated therein, and on Federal, State and local laws relating to EEO.

(2) Training in proper interviewing techniques of employees who conduct employment selection interviews.

(3) Training and education programs designed to provide opportunities for employees to advance in relation to the present and projected manpower needs of the agency and the employees' career goals.

(4) The review of profiles of training course participants to ensure that training opportunities are being offered to all eligible employees on an equal basis and to correct any inequities discovered.

e. *Layoffs, recalls, discharges, demotions, and disciplinary actions.* The standards for deciding when a person shall be terminated, demoted, disciplined, laid off or recalled should be the same for all employees, including minorities and females. Seemingly neutral practices should be reexamined to see if they have a disparate effect on such groups. For example, if more minorities and females are being laid off because they were the last

hired, then, adjustments should be made to assure that the minority and female ratios do not decrease because of these actions.

(1) When employees, particularly minorities and females, are disciplined, laid off, discharged or downgraded, it is advisable that the actions be reviewed by the AA Officer before they become final.

(2) Any punitive action (i.e. harassment, terminations, demotions), taken as a result of employees filing discrimination complaints, is illegal.

(3) The following records should be kept to monitor this area of the internal EEO program:

On all terminations, including layoffs and discharges: indicate total number, name, (home address and phone number), employment date, termination date, recall rights, sex, racial/ethnic identification (by job category), type of termination and reason for termination.

On all demotions: indicate total number, name, (home address and phone number), demotion date, sex, racial/ethnic identification (by job category), and reason for demotion.

On all recalls: indicate total number, name, (home address and phone number) recall date, sex, and racial/ethnic identification (by job category).

Exit interviews should be conducted with employees who leave the employment of the SHA.

f. *Other personnel actions.* The AAP should include specific provisions for, but not necessarily limited to:

(1) Assuring that information on EEO counseling and grievance procedures is easily available to all employees.

(2) A system for processing complaints alleging discrimination because of race, color, religion, sex or national origin to an impartial body.

(3) A system for processing grievances and appeals (i.e. disciplinary actions, adverse actions, adverse action appeals, etc).

(4) Including in the performance appraisal system a factor to rate manager's and supervisors' performance in discharging the EEO program responsibilities assigned to them.

(5) Reviewing and monitoring the performance appraisal program periodically to determine its objectivity and effectiveness.

(6) Ensuring the equal availability of employee benefits to all employees.

4. *Program evaluation.* An internal reporting system to continually audit, monitor and evaluate programs is essential for a successful AAP. Therefore, a system providing for EEO goals, timetables, and periodic evaluations needs to be established and implemented. Consideration should be given to the following actions:

a. Defining the major objectives of EEO program evaluation.

b. The evaluation should be directed toward results accomplished, not only at efforts made.

c. The evaluation should focus attention on assessing the adequacy of problem identification in the AAP and the extent to which the specific action steps in the plan provide solutions.

d. The AAP should be reviewed and evaluated at least annually. The review and evaluation procedures should include, but not be limited to, the following:

(1) Each bureau, division or other major component of the agency should make annual and such other periodic reports as are needed to provide an accurate review of the operations of the AAP in that component.

(2) The AA Officer should make an annual report to the head of the SHA, containing the overall status of the program, results achieved toward established objectives, identity of any particular problems encountered

and recommendations for corrective actions needed.

e. Specific, numerical goals and objectives should be established for the ensuing year. Goals should be developed for the SHA as a whole, as well as for each unit and each job category.

III. *Employment statistical data.* A. As a minimum, furnish the most recent data on the following:

1. The total population in the State,

2. The total labor market in State, with a breakdown by racial/ethnic identification and sex, and

3. An analysis of (1) and (2) above, in connection with the availability of personnel and jobs within SHA's.

B. State highway agencies shall use the EEO-4 Form in providing current work force data. This data shall reflect only State department of transportation/State highway department employment.

**D. EMPLOYMENT DATA AS OF JUNE 30**  
(Do not include elected/appointed officials. Blanks will be counted as zero)

**I. FULL TIME EMPLOYEES (Temporary employees not included)**

JOB CATEGORIES	ANNUAL SALARY (in Thousands \$00)	TOTAL (COLUMNS B-E) A	MALE					FEMALE				
			NON-HISPANIC ORIGIN		HISPANIC D	ASIAN OR PACIFIC ISLANDER E	AMERICAN INDIAN OR ALASKAN NATIVE F	NON-HISPANIC ORIGIN		HISPANIC I	ASIAN OR PACIFIC ISLANDER J	AMERICAN INDIAN OR ALASKAN NATIVE K
			WHITE B	BLACK C				WHITE G	BLACK H			
OFFICIALS/ ADMINISTRATORS	1. \$ 31-39											
	2. 40-59											
	3. 60-79											
	4. 80-99											
	5. 100-129											
	6. 130-159											
	7. 160-249											
	8. 250 PLUS											
PROFESSIONALS	9. 0-139											
	10. 40-59											
	11. 60-79											
	12. 80-99											
	13. 100-129											
	14. 130-159											
	15. 160-249											
	16. 250 PLUS											
TECHNICIANS	17. 0-139											
	18. 40-59											
	19. 60-79											
	20. 80-99											
	21. 100-129											
	22. 130-159											
	23. 160-249											
	24. 250 PLUS											
PROTECTIVE SERVICE	25. 0-139											
	26. 40-59											
	27. 60-79											
	28. 80-99											
	29. 100-129											
	30. 130-159											
	31. 160-249											
	32. 250 PLUS											
PARA PROFESSIONALS	33. 0-139											
	34. 40-59											
	35. 60-79											
	36. 80-99											
	37. 100-129											
	38. 130-159											
	39. 160-249											
	40. 250 PLUS											
OFFICE/ CLERICAL	41. 0-139											
	42. 40-59											
	43. 60-79											
	44. 80-99											
	45. 100-129											
	46. 130-159											
	47. 160-249											
	48. \$ 250 PLUS											

5010 FORM 100 APR 76

D. EMPLOYMENT DATA AS OF JUNE 30 (Cont.)												
(Do not include elected/appointed officials. Blanks will be counted as zero)												
1. FULL TIME EMPLOYEES (Temporary employees not included)												
JOB CATEGORIES	ANNUAL SALARY In thousands 000s	TOTAL (COLUMN B-K) A	MALE					FEMALE				
			NON-HISPANIC ORIGIN		HISPANIC	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE	NON-HISPANIC ORIGIN		HISPANIC	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE
			WHITE	BLACK				WHITE	BLACK			
			B	C	D	E	F	G	H	I	J	K
SKILLED CRAFT	49.5 0.1-3.9											
	50 4.0-5.9											
	51 6.0-7.9											
	52 8.0-9.9											
	53 10.0-12.9											
	54 13.0-15.9											
	55 16.0-24.9											
	56 25.0 PLUS											
SERVICE/ MAINTENANCE	57 0.1-3.9											
	58 4.0-5.9											
	59 6.0-7.9											
	60 8.0-9.9											
	61 10.0-12.9											
	62 13.0-15.9											
	63 16.0-24.9											
	64.5 25.0 PLUS											
64. TOTAL FULL TIME (LINES 1-64)												
2. OTHER THAN FULL TIME EMPLOYEES (Include temporary employees)												
66. OFFICIALS / ADMIN.												
67. PROFESSIONALS												
68. TECHNICIANS												
69. PROTECTIVE SERV.												
70. PARA-PROFESSIONAL												
71. OFFICE / CLERICAL												
72. SKILLED CRAFT												
73. SERV. / MAINT.												
74. TOTAL OTHER THAN FULL TIME (LINES 66-73)												
3. NEW HIRES DURING FISCAL YEAR Permanent full time only JULY 1 - JUNE 30												
75. OFFICIALS / ADMIN.												
76. PROFESSIONALS												
77. TECHNICIANS												
78. PROTECTIVE SERV.												
79. PARA-PROFESSIONAL												
80. OFFICE / CLERICAL												
81. SKILLED CRAFT												
82. SERV. / MAINT.												
83. TOTAL NEW HIRES (LINES 75-82)												

[41 FR 28270, July 9, 1976, as amended at 41 FR 46294, Oct. 20, 1976]

**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 7**

**23 CFR 1.9 and 23 CFR 1.36**

**§1.9 Limitation on Federal participation.**

(a) Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable Federal and State law, the regulations in this title, and policies and procedures prescribed by the Administrator. Federal funds shall not be paid on account of any cost incurred prior to authorization by the Administrator to the State highway department to proceed with the project or part thereof involving such cost.

(b) Notwithstanding the provisions of paragraph (a) of this section the Administrator may, upon the request of a State highway department, approve the participation of Federal-aid funds in a previously incurred cost if he finds:

(1) That his approval will not adversely affect the public,

(2) That the State highway department has acted in good faith, and that there has been no willful violation of Federal requirements,

(3) That there has been substantial compliance with all other requirements prescribed by the Administrator, and full compliance with requirements mandated by Federal statute,

(4) That the cost to the United States will not be in excess of the cost which it would have incurred had there been full compliance, and

(5) That the quality of work undertaken has not been impaired.

(c) Any request submitted under paragraph (b) of this section shall be accompanied by a detailed description of the relevant circumstances and facts, and shall explain the necessity for incurring the costs in question.

[38 FR 18368, July 10, 1973]

**§1.36 Compliance with Federal laws and regulations.**

If the Administrator determines that a State has violated or failed to comply with the Federal laws or the regulations in this part with respect to a project, he may withhold payment to the State of Federal funds on account of such project, withhold approval of further projects in the State, and take such other action that he deems appropriate under the circumstances, until compliance or remedial action has been accomplished by the State to the satisfaction of the Administrator.

**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 8**

**Memorandum of Understanding—OST/FHWA/FRA/FTA**



July 30, 1979

STATE TRANSPORTATION AGENCY EEO  
PROGRAMS - Memorandum of Understanding  
(OST, FHWA, FRA, UMTA)

HCR-06

W. S. Mendenhall, Jr.  
Regional Administrator  
Fort Worth, Texas

Division Administrators - Messrs. McMillen,  
McDonald, MacAllister, Penney and Conrado

Attached is a copy of the recent Memorandum of Understanding executed by OST, FHWA, FRA and UMTA related to State Transportation Agency EEO Programs. Basically, the memorandum:

- Is applicable to State DOT's.
- Gives FHWA OCR lead responsibility for reviewing and monitoring such programs, and developing uniform DOT guidelines to govern such programs.
- Calls for joint FHWA/FRA compliance reviews of State programs and coordination of such reviews.
- Requires submittal by State DOT's of program documents to FHWA with copies to FRA OCR as appropriate.

Please inform the State of the attached.

For: Regional Civil Rights Officer

Attachment

cc:  
Mr. Martinez  
Mr. Montoya  
Files (3)  
CR  
HRMartinez/dr

UNITED STATES GOVERNMENT

DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY

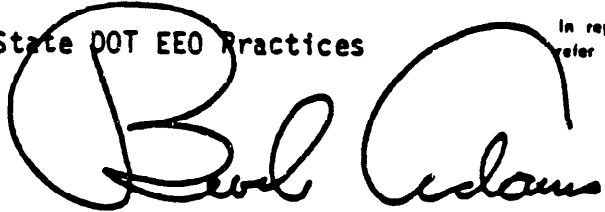
# Memorandum

DATE: JUL 14 1979

SUBJECT: Information: State DOT EEO Practices

In reply  
refer to:

FROM : The Secretary



TO : Federal Highway Administrator  
Federal Railroad Administrator  
Urban Mass Transportation Administrator

I am delighted that FHWA, FRA and UMTA have signed a Memorandum of Understanding which provides for a single, consistent and cooperative process for the review of State DOT equal employment practices. I have approved the document (copy attached) and established July 16, 1979 as its effective date.

The Memorandum sets out FHWA as the lead agency. The Departmental Office of Civil Rights is to monitor this effort and report to me on its progress by October 1, 1979.

Please notify your field offices of this Memorandum. A revised regulation is being prepared which will consolidate all Departmental EEO requirements of State DOTs in one document.

Attachment



It's a law we  
can live with.

MEMORANDUM OF UNDERSTANDING BETWEEN  
THE DEPARTMENT OF TRANSPORTATION (OST),  
FEDERAL HIGHWAY ADMINISTRATION (FHWA),  
FEDERAL RAILROAD ADMINISTRATION (FRA), AND  
URBAN MASS TRANSPORTATION ADMINISTRATION (UMTA)  
RELATIVE TO THE ADMINISTRATION OF THE  
STATE DOT EEO PROGRAM

Whereas, the Secretary, FRA, FHWA, and UMTA are mutually desirous of advancing the cause of equal employment opportunity (EEO) with respect to the internal employment practices of State Departments of Transportation (DOTs), and

Whereas, FRA, FHWA, and UMTA have produced different affirmative action requirements and reporting procedures to implement their respective legislative mandates and each is unilaterally monitoring the internal employment practices of State DOTs, (Authorities are identified as FHWA, 23 USC 140 and State Assurances; FRA, 45 USC 801; and UMTA, Section 19 of the Surface Transportation Act of 1978), and

Whereas, the different affirmative action plan (AAP) requirements and monitoring procedures of the respective modes have caused duplication of effort, and

Whereas, the Secretary is desirous of eliminating duplication and providing coordinated and uniform implementation and monitoring of State DOT Affirmative Action EEO Program requirements, and

Whereas, over the last 10 years FHWA Washington Headquarters and field staffs have acquired a thorough understanding and familiarity with the internal employment policies and practices of State DOTs, and

Whereas, the highway component is the major element in 38 of 40 State DOTs, with the mass transit and rail components having elements in 27 and 15 State DOTs, respectively and

Whereas, FHWA is the dominant source of Federal funding for State DOTs,

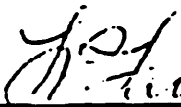
Now, therefore, FHWA, FRA, and UMTA hereby mutually covenant and agree as follows:

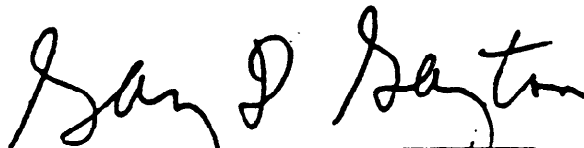
- FIRST:** That FHWA OCR will assume the lead responsibility for reviewing and monitoring the State DOT employment practices programs administered by FHWA, FRA, and UMTA.
- SECOND:** The FHWA OCR will provide leadership for the development of uniform DOT guidelines for State DOT Affirmative Action Programs, such development to be performed in close coordination with OST and the other cited operating elements.

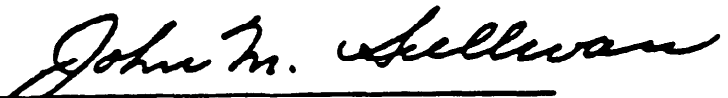
- THIRD: That such guidelines will be broad enough to cover the requirements of all operating elements.
- FOURTH: That FRA and UMTA Civil Rights staffs, as appropriate, in addition to the FHWA, will provide technical assistance to State DOTs upon request by FHWA, in the development and implementation of EEO Affirmative Action Programs.
- FIFTH: That FHWA and FRA civil rights personnel will conduct periodic joint compliance reviews of the internal employment practices of State DOTs. The UMTA civil rights personnel will be notified of such reviews, as appropriate. By mutual agreement, State DOT reviews will be scheduled by FHWA civil rights personnel and coordinated with FRA and UMTA personnel.
- SIXTH: The AAPs will be submitted by State DOTs to appropriate FHWA field offices for review and recommendations, with copies to FRA OCR as appropriate.
- SEVENTH: The FHWA field offices will submit AAPs to Washington Headquarters for review and approval or disapproval. Review and approval actions will be coordinated with the affected operating elements.
- EIGHTH: The approval of the initial program submissions will be made by the FHWA, UMTA, and FRA Administrators, as appropriate, unless an agency elects to waive this responsibility.
- NINTH: Complaints - R E S E R V E D.
- TENTH: Enforcement Action - R E S E R V E D.
- ELEVENTH: The FHWA, UMTA, and FRA will notify their respective field offices and other relevant parties of the Memorandum of Understanding.
- TWELFTH: The procedures and requirements established by or pursuant to this Memorandum of Understanding shall be applied prospectively only and shall not affect actions in progress or commitments to correct deficiencies. The FRA and UMTA shall provide FHWA such reports, data, and other materials as will enhance the capability of FHWA to execute its lead responsibility effectively.

- THIRTEENTH:** The terms and conditions set forth in this Memorandum of Understanding will apply, as appropriate, to the 40 State DOTs presently in existence and any other State agencies that subsequently convert to State DOTs.
- FOURTEENTH:** The Departmental Office of Civil Rights will periodically review the effectiveness of this arrangement in carrying out applicable Departmental civil rights policy and program enforcement, and will initiate any procedural changes deemed necessary.
- FIFTEENTH:** The effective date of this Memorandum of Understanding will be determined by the affected parties.

APPROVED:

  
\_\_\_\_\_  
FOR  
Administrator, Federal Highway Administration

  
\_\_\_\_\_  
Acting Administrator, Urban Mass  
Transportation Administration

  
\_\_\_\_\_  
Administrator, Federal Railroad  
Administration

**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 9**

**FHWA State Transportation Agency EEO Program  
Implementation Guide**

**FHWA**  
**State Transportation Agency**  
**Equal Employment Opportunity Program Guide**

**Issued on: February 2, 1983**

**Revised on: September 24, 1999**

## FHWA EEO PROGRAM GUIDE

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C. Review Plan	
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## **FHWA STATE TRANSPORTATION AGENCY EEO PROGRAM IMPLEMENTATION GUIDE**

### Introduction

#### A. Background and Purpose

This Guide is designed to facilitate the development and update of the State Transportation Agency (STA) Equal Employment Opportunity Program. This program, required by 23 CFR 230, Subpart C, pursuant to 23 USC 140(a), covers both the STA's contract compliance and internal affirmative action programs. The Guide is designed to allow the STA maximum flexibility in the development and implementation of their program document while providing criteria sufficiently definitive to ensure compliance with regulatory requirements.

Program approval will be based on the submission of the EEO Program Document and Annual Accomplishment Reports. Implementation of the self-evaluation portion of the Guide will enable the STA to internally monitor its program, and identify and resolve problems.

#### B. Overview of Guide

The guide is comprised of three major sections: Program Document Development, Accomplishment Reports, and Program Self-Evaluation. The Program Document Development and Accomplishment sections are further subdivided into Contractor Compliance and the STA Affirmative Action Plan. The Self-Evaluation section applies to the STA Affirmative Action Plan.

#### Program Document Development

This part provides guidance on minimum program components. It is based on requirements contained in 23 CFR Part 230, Subpart C. It also provides a standardized approach and format for EEO Program documents.

#### Annual Accomplishment Report

Following FHWA's initial approval of the STA's EEO Program, an Annual Accomplishment Report along with one copy of the STA's currently approved program document is to be submitted to the FHWA. This part provides guidance on how to prepare the Annual Accomplishment Report.

#### Program Self-Evaluation

This part provides guidance to the STA for conducting on-site evaluations of its internal Affirmative Action Plan. This area of guidance is based on the experience accumulated by the FHWA Office from evaluations conducted since the inception of the program.

## I. Program Document Development

The following items must be addressed in the STA's EEO Program document in order to comply with 23 CFR 230, Subpart C. The information contained in this section should be policy, procedures, and organizational structure. For example, where organizational structure is mentioned, names of incumbents need not be included. This approach will decrease the need to change the actual program document.

### A. Contractor Compliance

#### 1. Organization and Structure

- a. Describe the organizational location of the contract compliance function. This should be done at all levels (Headquarters, District, Division, and Project).
- b. Describe the staffing for the contract compliance function at all organizational levels. Indicate which positions are full-time and which are part-time. List major duties and responsibilities of each position.
- c. Describe training which is provided to contract compliance personnel.

#### 2. Compliance Review Procedures

- a. Describe STA procedures followed in reviewing contractor compliance with EEO requirements.
- b. Describe how State contract compliance personnel are familiarized with FHWA requirements.
- c. Describe how contractors are informed of EEO contract requirements.

#### 3. Contract Sanctions

- a. Describe procedures used by the STA to impose sanctions on non-complying contractors. Where absent, such procedures should be developed and incorporated into the program document.
- b. Describe methods used by the STA in ensuring corrective action is taken when contractor deficiencies in EEO implementation are found.
- c. Identify applicable State and Federal laws.

4. Discrimination Complaints

Describe the STA's procedures for processing and resolving complaints of discrimination filed against contractors. The procedures should include time limits for complaint processing.

5. External Training Programs

- a. Describe on-the-job training program and supportive services programs used by the STA and contractors.
- b. Describe the State's procedures for monitoring the impact of these programs on the employment of minorities and women in highway construction.
- c. Describe the STA's system for assigning OJT trainee slots to Federal-aid highway construction contracts.

6. Disadvantaged Business Enterprise

Describe the STA's procedures for ensuring contractor compliance with DBE contract provisions through the contract compliance review process.

7. Liaison

Describe the methods used by the STA to communicate with the public on EEO contract compliance matters - particularly with minority, women, and contractor organizations and groups.

8. Innovative Programs

Describe any innovative programs not covered above which facilitate contractor compliance with EEO requirements.

B. State Transportation Agency Employment - Affirmative Action Plan (AAP)

1. EEO Policy

This part of the AAP should include the STA's EEO Policy Statement. The Policy Statement should include:

- a. The STA's commitment to equal employment opportunity, non-discrimination based on race, color, religion, sex, national origin, handicap and age; and affirmative action.
- b. Signature of the top STA official.

c. Assignment of responsibility for AAP implementation.

This part of the AAP should also describe how the AAP and STA's EEO policy is publicized internally and externally. Examples of publicizing methods are:

- o Distribution of the Policy Statement to STA employees and outside organizations.
- o Distribution of the AAP to employees.
- o Meetings on the AAP with employees and outside organizations.
- o Posting of the Policy Statement on STA bulletin boards.
- o Publicizing the AAP and accomplishments in STA newsletters.

2. AAP Organization and Resources

This part of the AAP should describe AAP organization and resources. At a minimum the following should be included:

a. Organizational Charts

- (1) The STA organizational chart which shows the location of the AAP function. It should indicate direct access of the Affirmative Action Officer to the top STA official.
- (2) The Civil Rights Unit organizational chart showing the AAP function.

b. Resources

(1) Staffing

- (a) The Affirmative Action Officer and support staff by position should be listed. Responsibilities should be described for each position.
- (b) All other positions with AAP responsibilities should be listed. Examples of these are recruiters, personnelists, EEO Counselors and Discrimination Complaint Investigators.
- (c) For each position listed indicate whether it is full time or part time. For part time positions indicate the percentage of time devoted to EEO.

(2) Budget

- (a) Describe the kinds of budgetary resources devoted to AAP implementation (salaries, travel funds, training funds, etc.).
- (b) Identify STA official(s) by position responsible for the AAP budget.

3. AAP Procedures

This part of the program document should describe ongoing STA procedures for implementing the AAP, assessing the impacts of personnel policies and practices on minorities and women, problem identification, problem resolution, and AAP monitoring and evaluation as outlined below.

a. AAP Awareness

Describe how STA employees, supervisory and nonsupervisory are kept informed of the AAP. This part should also indicate how supervisors are kept informed of their responsibilities under the AAP. Examples of methods to inform all employees include:

- (1) Employee meetings.
- (2) Newsletters.
- (3) AAP briefings of top management by the Affirmative Action Office.
- (4) Incorporation of AAP implementation into the performance evaluation of managers and supervisors.
- (5) Memoranda to employees.
- (6) Posting of information on bulletin boards.
- (7) EEO training.

b. Merit System Requirements

Indicate whether the STA's personnel policies and practices are governed by a State Civil Service System. If so, describe how the system affects the STA's AAP in the following areas:

(1) Recruitment

Is recruitment centralized in the State Merit Board or has all or parts of it been delegated to the STA? Describe which activities are retained by the State's Merit Board and which ones are delegated to the STA.

(2) Hiring Authority

Indicate whether the STA has direct hire authority or whether lists of eligibles must be requested from the State's Merit Board. List positions for which the STA has direct hire authority and those for which lists of eligibles must be obtained.

(3) Testing

Identify those STA positions which require testing by the State Merit Board or the STA itself.

(4) State Merit Board Affirmative Action Requirements

Indicate whether the STA must comply with such requirements. If so, describe.

c. Recruitment Procedures

Describe the STA's overall recruitment policies and practices and its programs for recruiting minorities and women. Outline activities and responsibilities related to recruitment.

d. New Hire Procedures

Describe the STA's procedures for hiring employees. This part should also describe the STA's procedures for assessing the impact of new hire procedures on the employment of minorities and women. Applicant flow data as well as new hire data should be maintained and analyzed through application of the "Four-Fifths Rule."

New hire selection rates should be determined and analyzed by both total new hires and new hires by occupational categories. Attachment A provides guidance for application of the "Four-Fifths Rule" to new hires.

e. Promotion Procedures

Describe the STA's procedures for promoting employees. Include information on advertisement and criteria used in making selections. This part should also describe procedures for assessing the impact of promotion procedures on the representation of minorities and women. Promotion data should be maintained and analyzed through the "Four-Fifths Rule."

Selection rates should be determined and analyzed by total promotions and promotions by occupational categories. Attachment A provides guidance for application of the "Four-Fifths Rule" to promotions.

f. Termination Procedures

Describe the STA's procedures for terminating employees through dismissal and lay-off actions. This part should also describe procedures for assessing the impact of termination procedures on the representation of minorities and women. Termination data should be analyzed through the "Four-Fifths Rule."

Termination rates should be determined and analyzed by total terminations and occupational categories. Attachment A provides guidance for application of the "Four-Fifths Rule" to terminations.

g. Employee Development Programs

This part of the AAP document should describe the STA's programs for developing its employees and furthering career advancement opportunities. It should also indicate how such programs are utilized to enhance the employment status of minorities and women. The AAP should describe how formal and on-the-job training programs, upward mobility and job restructuring techniques, and career counseling activities are utilized to facilitate the upward movement of minorities and women.

h. Job Validation Procedures

This part of the AAP should describe the STA's procedures for ensuring that job qualifications match traits, characteristics, skills and abilities necessary for successful job performance. It should also detail how such procedures are utilized to ensure nondiscrimination.

i. AAP Monitoring and Evaluation Procedures

This part of the AAP should describe the STA's process for monitoring and evaluating the implementation and effectiveness of the AAP. It should include the following components.

(1) Information/Feedback System

This should describe the STA's internal information maintenance and reporting procedures. It should cover:

- (a) Monitoring of AAP action items and goals and timetables.
- (b) Maintenance of statistics on overall employment, and employment of minorities and women by occupational categories. Statistics should be maintained by the five racial/gender groups.
- (c) Maintenance of statistics on applicants, new hires, promotions, and terminations by race, sex and occupational categories.
- (d) Maintenance of statistics on participants in State training programs by race, sex and occupational categories.
- (e) Methods followed in analyzing minority and female representation overall and by occupational category compared to availability in the Civilian Labor Force.

Attachment B provides examples of suggested formats for these areas.

(2) Problem Identification and Resolution

This part of the AAP should describe the STA's process for identifying problem areas, minority and female underrepresentation, prioritizing problems for corrective action, and developing solutions. It should provide for communication between EEO and management personnel on problem resolution. This process should result in establishment of minority and female goals and action items for addressing underrepresentation and other problems identified.



#### 4. Discrimination Complaint Procedures

The AAP document should include the STA's procedures for receiving, processing, and resolving discrimination complaints based on race, color, religion, sex, national origin, handicap and age from employees and applicants for employment. STA complaint procedures should include the following:

##### a. Responsibilities

Overall responsibility for the procedure should rest with the Affirmative Action Officer. Other persons with responsibilities, such as EEO counselors, investigators, attorneys, and management and supervisors should be identified.

##### b. Required Elements

- (1) The STA's process for resolution of informal complaints should be described along with time limits and responsibilities.
- (2) The STA's process for resolution of formal complaints. The formal procedure should provide for investigation, findings and conclusions on complaints, corrective measures whenever discrimination is found, and informing complainants of decisions reached on their complaints. Time limits for completion of formal procedures should be indicated.

A description of how the STA's complaint files are maintained and to whom they are made available should be included.

- (3) The STA's procedures for informing complainants of other avenues of appeal including the Equal Employment Opportunity Commission, U. S. Department of Justice, State Fair Employment Practices Agencies, U. S. Department of Transportation and FHWA.
- (4) The STA's methods for publicizing both informal and formal complaint procedures available to employees and applicants for employment should be included. Appropriate methods would include posting of procedures on bulletin boards, employee meetings, STA newsletters and memoranda.
- (5) Prohibition of retaliation or reprisals against complainants or STA employees involved in processing complaints, with appropriate disciplinary measures for officials found to have taken reprisal and/or retaliatory actions.

## II. Accomplishment Reports

State Transportation Agency EEO Program updates will be required annually. The annual update will include an Accomplishment Report covering both the Contractor Compliance and Affirmative Action Programs and the current EEO Program document. The accomplishment reports should include:

- o Program document revisions determined necessary because of changes in the STA's organization, staffing and/or procedures or because of changes in FHWA requirements.
- o A report of accomplishments since the last program update. The rest of this part of the Guide provides details on what is expected in this part of the update.
- o An assessment of the status of the program including problem areas requiring attention.
- o An annual work plan which will detail the STA's plans for activity during the coming year.

Program approval will be extended for a twelve month period upon receipt of an acceptable update.

The STA's will be given the discretion to establish the work plan for the twelve month period most workable for them. The specific due dates for submission of revised EEO Program documents or updates will be worked out on an individual basis with each STA.

### A. Contractor Compliance Program Accomplishment Report

#### 1. Accomplishments

##### (a) Contract Compliance Review Activity

Summarize the number of:

- (1) Reviews conducted.
- (2) Contractors reviewed.
- (3) Contractors found in compliance.
- (4) Contractors found in non-compliance.
- (5) Show cause notices issued.
- (6) Show cause notices rescinded.
- (7) Show cause actions still unresolved.

(b) Contract Sanctions

Describe sanction actions taken against contractors and their current status. Summarize the types of actions taken (withholding of payments, denial of prequalification, contract suspension or termination), the issues involved, and the names of the contractors.

(c) Complaints

Identify complaints filed against Federal-aid highway contractors and provide their current status. The basis for each complaint (race, color, religion, sex, national origin, handicap or age), the actions complained about, and STA actions should be summarized.

(d) External Training Programs, Including Supportive Services

Describe accomplishments and changes in these programs. Summarize the number of trainees enrolled, graduated, and terminated by race, national origin, sex, and trade.

2. Assessment

Describe the current status of minority and female representation in contractor workforces overall and by trade. This part should indicate increases and decreases in the employment of minorities and women overall and by trade since the previous program update. Describe major problems identified, solutions considered and major accomplishments.

3. Work Plan

The STA should describe planned contract compliance program activities for the coming year. The anticipated number of reviews should be indicated. Also, any action items or special emphasis activities resulting from the assessment should be listed in this part. Inclusion of target dates for completion of such items is encouraged.

## B. Affirmative Action Program Accomplishment Report

### 1. Accomplishments

This part should indicate which minority and female goals and action items have been accomplished and which have not been accomplished. Explanations should be provided for those goals and action items not accomplished. Other appropriate items would include significant breakthroughs in the employment of minorities and women and significant AAP accomplishments. Attachment B-1 provides a format for reporting accomplishments of goals and action items.

### 2. Assessment

The assessment should provide a basis for problem identification, prioritization and resolution. A current EEO-4 report along with an analysis of minority and female representation should be included. The analysis should compare minority and female representation to their availability in the Civilian Labor Force and describe changes in minority and female employment since the last program update. Areas of underrepresentation should be identified. Attachment B-2 provides a format for reporting net changes in employment of minorities and women since the last program update. Attachment B-3 provides a format on reporting current EEO-4 data. Attachment B-4 provides a format for reporting personnel actions including training provided since the last update. The participation rates for minorities and women in State sponsored training should be set forth and analyzed. Areas of low minority and female participation should be identified.

The results of the STA's application of the "Four-Fifths Rule" to applicant flow, new hire, promotions, and termination data should be summarized in this part (Attachment A). Areas where adverse impact has been identified should be described.

### 3. Work Plan

The STA's work plan should cover short and long term minority and female goals and action items to address underrepresentation and problem areas identified through the assessment. Target dates and assignment of responsibility for goals and action items should be indicated.

a. Goals

Short term goals should cover one year and long range goals five years or the ultimate goal of achieving parity. They should be expressed as numerical and percentage increases by the EEO-4 racial/ethnic gender and occupational categories.

The following criteria should be considered by the STA in developing goals:

- (1) Degree of minority and female underrepresentation compared to CLF availability.
- (2) Racial/gender groups most severely underrepresented.
- (3) Anticipated hiring opportunities and turnover.
- (4) Availability of minorities and women in the CLF.

Development of goals should be a joint effort by EEO personnel, personnelists and management officials.

b. Action Items

Action items should be aimed at correcting problem areas and making needed improvements identified through the assessment. They should be realistic yet ambitious enough to result in significant improvements. They should also be arrived at through joint efforts by EEO, personnel management and other management officials. Examples of action items are:

- o To develop an Upward Mobility program aimed at increasing female representation in non-clerical occupations.
- o To establish relationships with organizations capable of providing black applicants.
- o To provide first line supervisors training in race relations.
- o To evaluate selection procedures to determine the cause(s) of adverse impact on women and Blacks.

Target dates and STA officials responsible for accomplishment should be indicated for each action item.

### III. Internal State Transportation Agency Affirmative Action Plan Evaluation Guidelines

Affirmative Action Plan (AAP) on-site evaluations have in the past been conducted primarily by FHWA. In view of the STA's responsibilities under the State Assurance With Regard to Equal Employment Opportunity, major responsibility for on-site evaluations properly rests with the STA's. The requirement that STA Affirmative Action Plans include evaluation procedures is found at 23 CFR 230, Subpart C, Appendix A, Part II, Section II.C.4., Program Evaluation.

This change does not mean that the FHWA role in this area is being minimized. Instead, FHWA will concentrate on providing technical assistance, participating in selected STA conducted evaluations, and periodic reviews of the STA's on-site evaluations and the process itself. The purpose of this section of the Guide is to provide guidance to STA personnel in conducting internal self-evaluations.

Evaluations are normally comprised of four distinct phases; i.e., preparation, on-site visit, documentation and follow-up. These guidelines are structured accordingly.

#### A. Preparation

##### 1. Objective and Scope of the Evaluation

The first step in conducting an evaluation is to determine the objective and scope of the evaluation. The reviewer must decide whether the entire AAP will be evaluated or only parts of it. The reviewer must also decide which organizational unit should be reviewed. Finally the time period to be covered must be identified.

The following are factors to consider in deciding the objective and scope of an evaluation:

##### a. Minority and Female Representation

Organizational elements with the greatest underrepresentation should be targeted for review before those that are at or near parity.

##### b. EEO Problem Areas

Organizational elements with high discrimination complaint activity and/or decreases in minority and female representation should be targeted for review. Also, those elements whose selection procedures have resulted in adverse impact on minority groups and women should be targeted.

c. Previous Reviews

Reports on previous reviews should be researched to determine where problem areas have been identified previously. This information can be used in identifying organizational elements and/or AAP areas that should be reviewed.

d. Time Period Since Last Review

Those organizational elements not previously reviewed or not reviewed recently should be targeted.

The above are major suggested areas for STA personnel to consider in determining the scope and objective of an evaluation. It is likely that STA personnel may be aware of other reasons which would justify an evaluation. These should be given appropriate consideration.

The result of this step in the evaluation process should be the review objective and scope. Examples of review objectives and scopes are set forth below:

- o To evaluate implementation of the entire AAP Departmentwide from December 1987 to December 1988.
- o To evaluate a District/Section's implementation of the entire AAP from April 1987 to December 1988.
- o To evaluate a field District Construction Office's efforts to identify minority engineering candidates for employment during Fiscal Year 1988.
- o To evaluate the headquarters Design Section's provision of training opportunities for compliance with AAP requirements from January 1988 through December 1988.
- o To evaluate efforts of the Headquarters Planning Section to recruit black females for professional positions during May 1988.
- o To evaluate the effectiveness of the Department's sexual harassment policy.

2. Preliminary Analysis and Planning

Once the objective and scope of the evaluation have been established, the reviewer should prepare for it by researching pertinent information and making review plans.

a. Research

The type of preliminary research undertaken will vary depending on the scope and objective of the evaluation. For example, an evaluation of discrimination complaint procedures would cover different information than a review of minority recruitment efforts. The items listed below should be considered if they are relevant to the scope and objective of the evaluation.

(1) Employment Statistics

Minority and female representation compared to their availability in the civilian labor force should be analyzed. Personnel action data on new hires, promotions, dismissals, and layoffs should be analyzed using the "Four-Fifths Rule." Areas of underrepresentation and adverse impact should be identified.

(2) AAP Document

Those AAP items pertinent to the evaluation should be reviewed. For example, if the evaluation is covering efforts to recruit minorities the reviewer should determine which AAP procedures, goals, action items, and timetables are pertinent to the organization being evaluated.

(3) Training

Minority and female training participation rates related to the evaluation should be analyzed.

(4) Recruitment

Minority and female recruitment sources in the area where the organization is located should be identified and contacted prior to the review. The purpose for contacting them is to determine their capabilities as referral sources and whether they have been utilized by the organization being reviewed.

(5) Discrimination Complaints

The reviewer should analyze discrimination complaint activity in the organization being reviewed to determine patterns and to identify problem areas.



(6) Previous Reviews

Reports on previous evaluations covering the same or similar scope and objective should be reviewed to determine findings and problems which are relevant to the planned evaluation. Such reports can provide valuable background information to the reviewer on the organization to be reviewed.

(7) Past Accomplishments and Problem Areas

The reviewer should determine whether the organization being reviewed has had problem areas in the past and/or significant accomplishments which are related to the evaluation. Examples are breakthroughs in the employment of minorities, and EEO related problems caused by certain supervisors.

b. Review Plan

Upon completion of the research, the reviewer should contact key personnel to inform them of the objective and scope of the review, schedule review activities, and identify record information which should be available for the review. Once the arrangements have been made, the review plan and guidelines should be developed and provided in advance to the organization being reviewed.

The review plan should consist of the following:

- (1) An objective and scope statement.
- (2) Name(s) of the reviewer(s) and key management personnel who will be interviewed.
- (3) Background to the review. Why is the review being made?
- (4) The number and types of interviewees (job categories, racial/gender groups) if employee interviews will be conducted. Arrangements for private interview space should be made prior to the on-site visit.
- (5) The review schedule.

- (6) The guidelines and interview forms which will be followed in making the review.

Attachment C provides examples of a review plan, guidelines and interview forms.

## B. The On-Site Visit

Once the research and plans have been completed and the review plan has been transmitted to the organization being reviewed, the on-site visit can take place. This being the key part of the evaluation process, it is important that the reviewer keep certain things in mind and be governed accordingly.

- o The reviewer's manner is crucial to the success or failure of the evaluation. It should be one of professionalism and objectivity.
- o The reviewer should have thoroughly prepared himself/herself prior to the on-site visit on all aspects to be covered; i.e., employment statistics, problem areas, applicability of AAP procedures, background, etc.

The following are suggested steps for conducting the on-site evaluation:

### 1. Opening Conference

The reviewer should have an opening meeting with the top official and person assigned responsibility for AAP implementation in the District/Section being evaluated. The evaluation objective, scope, interview arrangements and schedule should be discussed fully to ensure that it proceeds as planned. Arrangements for a close out conference following the review should be confirmed.

### 2. Management Interviews

Following the opening conference, the reviewer should interview key management officials who have responsibility in the area covered by the evaluation. Such officials could include AAP personnel, personnel officials, managers, and supervisors depending on the nature of the review.

The review guidelines developed previously should be followed in carrying out this part of the evaluation. The reviewer should keep in mind that the guidelines are a tool for obtaining information related to the evaluation's objective and scope. It may be appropriate to deviate from the guidelines at times and improvise depending on how the review progresses.

Normally, the objective of this part of the evaluation is to determine how well management is carrying out AAP responsibilities assigned to them. The specific objective, however, will be governed by the evaluation's purpose.

3. Employee Interviews

To maximize the reliance and credibility of information received through interviews the reviewer(s) should select employees to be interviewed at random. Depending on the nature of the evaluation, a representative cross-section of interviews with minorities, nonminorities, and men and women in different occupational categories should be obtained. Interviews should be used to determine employee AAP awareness, identify problem areas and corroborate information provided by management officials. Confidentiality of the sources of information provided through these interviews should be strictly guarded unless the interviewee grants permission to reveal his/her identity. Normally, revealing the interviewees' identity is not necessary to correct problems identified by them unless individual problems are involved.

It is very important that the reviewer maintain an air of impartiality and objectivity in conducting employee interviews. The reviewer should strive to avoid even the appearance of bias and advocacy. This may be accomplished by the reviewer avoiding leading questions and not making judgmental statements during the interviews.

4. Review of Records

Documentation and records which are corroborative of information provided by management should be obtained. This would be necessary to substantiate that the AAP is being carried out. In addition, discrimination complaint files should be reviewed as a source of information regarding problem areas and to determine whether STA complaint procedures are being carried out.

Examples of documentation which should be obtained include:

- o Letters to minority and female recruitment sources soliciting applicants.
- o Instructions to key management officials on AAP responsibilities.
- o Organizational minority and female goals.
- o Dissemination of AAP related information to managers and employees.

- o Internal feedback documents such as progress reports.
- o Minutes of EEO/AAP Committee meetings where appropriate.

All records and documentation reviewed should be checked for accuracy.

5. Close Out Conference

Following the interviews and review of records, the reviewer should assess the information collected to determine whether it is sufficient to support findings, conclusions and recommendations related to the evaluation's objective and scope. If not, the reviewer should obtain the necessary information prior to holding the close out conference.

Before the close out conference, the reviewer should develop major findings, conclusions, and recommendations. These should then be presented to the top management official. If possible, deficiencies should be corrected on the spot. If not, timetables for implementation of recommendations should be discussed and agreed to before completion of the on-site visit.

The reviewer should also inform management official(s) of when the evaluation report can be expected and what action will be expected.

C. Documentation - The Evaluation Report

The evaluation report should be concise yet comprehensive enough to fully support review findings, conclusions, and recommendations. It should be provided to the organization reviewed as soon as possible following completion of the review. Normally this should not take longer than two weeks. The organization reviewed should be alerted to any delays in report finalization and transmittal.

A suggested evaluation report format is outlined below. Attachment D provides an example of a report.

1. Introduction

This part should state the scope and objective of the review, relevant background, identify the reviewer(s) and key management official(s) interviewed.

It should also describe the methods followed in making the review; i.e., interviews, records review, contacts with outside organizations, etc.

Key evaluation dates should be summarized - for example, the opening and close out conference dates, when the review was conducted, and the time period covered by the evaluation.

2. Findings

This part of the report should summarize all the facts collected during the review. For example, information collected relative to recruitment, new hires, terminations, complaints and other major areas evaluated should be summarized. Statistical data may be included in this part of the report. This part of the report should support the conclusions and recommendations sections.

3. Conclusions

This part of the report should state the reviewer's conclusions based on the findings. Conclusions should relate to the objective and scope of the evaluation. Both positive findings and areas needing corrective action or improvement should be stated.

4. Recommendations

All recommended actions, including those implemented prior to the report's preparation, should be stated. They should be fully supported by the findings and conclusions sections of the report.

Ideally, all recommendations should have been discussed at the close out conference. However, at times recommended actions may result from information obtained subsequent to the on-site visit. In those instances, the reviewer should discuss the additional deficiencies and recommended actions with the top official of the organization reviewed prior to transmittal of the review report.

5. Exhibits and Attachments

These can be used to provide employment statistics and other documentation supportive of review findings, conclusions, and recommendations. Their use is encouraged to the extent that they are related to the evaluation's findings, conclusions, and recommendations. The reviewer should avoid including unnecessary "paper" in the report.

Examples of attachments are employment data charts which show minority and female representation by occupational categories, personnel action data such as new hires, and sample copies of AAP policies.

## 6. Transmittal of the Evaluation Report

The report should be transmitted as soon as possible, preferably not more than two weeks after completion of the evaluation. The transmittal letter or memorandum should be directed to the top official of the organization reviewed. It should state clearly what action is expected. Normally the desired response to recommendations would be a written commitment specifying actions which will be taken. The transmittal document should request a response within a certain time period to avoid delaying the evaluation process.

It is strongly recommended that AAP reviewers discuss all major recommended actions, conclusions, and findings with the responsible official at the close out conference and prior to transmitting the report. This should minimize misunderstandings, enhance communication, and result in cooperative and productive relationships. Another effective technique would be to provide the evaluation report in draft form to the organization reviewed for their review and comment prior to finalizing the report.

### D. Follow-up

Once the evaluation report has been transmitted and commitments obtained to implement recommended actions, the follow-up phase of the evaluation process begins. This phase is crucial to ensuring that the evaluation actually results in positive changes in AAP implementation. The lack of effective follow-up will decrease the chances of recommendations being implemented.

There are several follow-up methods which can be employed. They can be used individually or in combination with each other depending on which approach is most effective. Whatever method is used, it should be keyed to the agreements made for implementing recommendations. Suggested methods are discussed below.

#### 1. Telephone Calls

This can be an effective method since it "humanizes" the process and can contribute to development of positive working relationships between AAP personnel and management officials. Periodic calls can be made at the appropriate time intervals to discuss progress being made in implementing recommendations. This is also a good method for identifying problems being encountered in implementing recommendations.

2. Progress Reports

This is an effective method for obtaining feedback on progress being made on recommendations. Its advantages are that it provides a record of progress made and can be specified at regular time intervals thereby minimizing the possibility of irregular follow-up. Reviewers are encouraged to always provide feedback to the organization making the report regarding the actions reported.

3. On-Site Visits

This is probably the most effective method in that it allows face to face discussion of progress being made on recommendations. This type of follow-up can be informal or formal.

The informal variety can be employed if the reviewer happens to be visiting the organization on other matters or if the recommendations are not serious enough to warrant a full-fledged follow-up evaluation.

The formal on-site follow-up should be planned and carried out in the same manner discussed above for initial evaluations. The reviewer should normally tailor the scope and objective of the follow-up evaluation to the initial recommendations. Otherwise, the same approach outlined above for initial evaluations should be followed. A review plan should be prepared and distributed prior to the follow-up. Opening and close out conferences should be held, and a report prepared on findings, conclusions and any recommendations resulting from the follow-up visit.

Reviewers are encouraged to document the "informal" varieties of follow-up to ensure that there is a record of progress being made. Such documentation should be provided to the organization reviewed.

**Attachment A**  
**Application of**  
**Four-Fifths Rule**



## Application of Four-Fifths Rule

### A. Introduction

The Uniform Guidelines on Employee Selection Procedures embody the concept that selection procedures resulting in adverse impact upon racial/ethnic or gender groups are discriminatory unless proven otherwise. There is evidence of adverse impact when any racial/ethnic or gender group has a selection rate of less than 80% of the group with the highest selection rate.

Selection procedures are those that lead to employment decisions in such areas as recruitment, hiring, promotions, demotions, retention, transfers, details, dismissals, layoffs, pay adjustments, awards, training, and performance appraisals. Whenever adverse impacts are found three options for action by the STA are available.

- o Change the procedure.
- o Use a different procedure.
- o Validate the procedure.

STA's are required to count and record applicants and selections by the five racial/ethnic origin groups and two genders. Records must be maintained on an annual basis on the number of persons hired, promoted, and terminated for each job.

Annual adverse impact determinations are required for each group comprising 2% or more of the relevant labor force or applicable workforce. For example, adverse impact determinations must be made for new hires for each group which constitutes 2% or more of the applicants. For promotions adverse impact determinations must be made for each group constituting 2% or more of the STA's workforce. The same principle applies to adverse impact determinations on terminations.

Whenever adverse impact is found, the STA should examine the selection procedure to determine what is causing it. At that point the three options should be considered and exercised as appropriate.

### B. Examples of Four-Fifths Rule Application

This section provides examples of Four-Fifths Rule applications to new hires, promotions, and terminations. Formats for maintaining and analyzing statistics in these areas follow the examples.

1. New Hires

Job: Maintenance Worker

1053 applicants, 359 selections

	<u>Blacks</u>	<u>Whites</u>	<u>Hispanics</u>
Applicants	351	452	250
Selections	100	220	39
Selection Rate	28%	49%	16%
Ratio to Highest Rate	.57	1.00	.33
Adverse Impact	Yes	No	Yes

Selection rates are determined by dividing the number of selections by the number of applicants, for each group. For example, out of 452 white applicants, 220 were selected for a selection rate of 49%.

To determine whether there is adverse impact, the other selection rates must be divided by the highest rate. In this case whites had the highest selection rate (49%). Blacks had a 28% rate. Dividing 28% by 49% results in a ratio of .57 which is less than .80 or Four-Fifths of the highest rate. Thus, adverse impact is indicated against blacks. It is also indicated for Hispanics.

The STA should examine selection procedures for Maintenance Workers to determine why blacks and Hispanics have selection rates lower than 80% of the white selection rate. Once the reasons are determined, the three options mentioned under "A" above should be considered and the appropriate one(s) exercised.

2. Promotions

Job: Clerk-Typist

1350 applicants, 720 selections

	<u>Blacks</u>	<u>Whites</u>	<u>Hispanics</u>
Applicants	320	620	410
Selections	169	329	222
Selection Rate	53%	53%	54%
Ratio to Highest Impact	.98	.98	1.00
Adverse Impact	No	No	No

Selection rates and ratios to the highest rate should be calculated in the same way as in the new hires example. In this case there is no adverse impact since the black and white selection rates are more than 80% of the Hispanic rate. No further action by the STA would be expected.

3. Terminations

Job: Highway Project Inspector  
135 lay-offs

	<u>Blacks</u>	<u>Whites</u>	<u>Hispanics</u>
Beginning Total	130	250	70
Terminations	85	20	30
Number Retained	45	230	40
Retention Rate	35%	92%	57%
Ratio to Highest Rate	.38	1.00	.62
Adverse Impact	Yes	No	Yes

To determine adverse impact in terminations the retention rate for each group must be determined. This is done by dividing the number of employees retained by the number employed before the terminations occurred. Once the highest retention rate is identified (in this case, 92% for whites) the other groups' ratio to it is determined by dividing their selection rates by the highest rate. For example, the black retention rate 35% divided by 92% results in .38. Whenever the ratio is less than .80 adverse impact exists.

In this example adverse impact exists for blacks and Hispanics. The STA would be expected to examine the retention procedures involved, identify the causes for the adverse impact, and consider and exercise the options listed under "A" above.

C. Forms for Four-Fifths Rule Application

Sample formats for applying the Four-Fifths rule to new hires, promotions, and terminations follow this section.







Attachment B  
Internal STA AAP  
Reporting System

Internal STA AAP Reporting System

Sample reporting formats for AAP progress reports on goal and action items, employment statistics by racial/gender groups and occupational categories, and personnel actions follow this page.



GOALS AND OBJECTIVES REPORT

Month/Quarter/Year

<u>Goal/Objective</u> (List each one)	Responsible Official	Target Date	<u>Status</u> (Extent of Accomplishments, Efforts Made to Accomplish, Problems Encountered)

**XYZ Department of Highways and Transportation  
Net Changes in Employment  
1986-1987**

Total employment decreased from 3,914 to 3,869 or 1.15%. Minority employment increased from 470 to 476 or 1.28%. Female employment increased from 495 to 498 or .61%. Minority percentage representation remained the same at 12%. Female percentage representation remained the same at 13%. Net changes by occupational categories were as follows:

	<u>Total</u>		<u>Minority</u>		<u>Female</u>	
	<u>#</u>	<u>%</u>	<u>#</u>	<u>%</u>	<u>#</u>	<u>%</u>
Officials/Administrators	-1	-2.86%	0	0	0	0
Professionals	-8	-1.87%	1	5.88%	2	5.41%
Technicians	1	0.15%	1	2.13%	7	8.24%
Protective Service	8	3.69%	-3	-13.64%	0	0
Para Professionals	-8	-4.44%	1	25.00%	-1	-4.17%
Administrative Support	0	0	5	16.13%	-2	-0.93%
Skilled Craft	59	5.09%	26	19.70%	6	54.55%
Service Maintenance	-96	-10.69%	-25	-11.57%	-9	-8.91%
Total	-45	-1.15%	6	1.28%	3	0.61%

**Minority Underrepresentation**

Minority availability in the State civilian labor force is 14.5%. The following categories fall below that percentage.

Officials/Administrators	3%
Professionals	4%
Technicians	7%
Protective Service	8%
Para Professionals	3%
Administrative Support	12%
Skilled Craft	13%
Total	12%

Female Underrepresentation

Female availability in the State civilian labor force is 38.1%. The following categories fall below that percentage.

Officials/Administrators	0
Professionals	9%
Technicians	13%
Protective Service	9%
Para Professionals	13%
Skilled Craft	1%
Service Maintenance	11%
Total	13%





PERSONNEL ACTIONS REPORT

(Month/Quarter/Year)  
APPLICANTS

Job Categories	Total Columns B-K A	FULL TIME EMPLOYEES (Temporary Employees Not Included)					
		Male			Female		
		Non-Hispanic Origin		American Indian or Alaskan Native F	Non-Hispanic Origin		American Indian or Alaskan Native K
		White B	Black C	White G	Black H	Hispanic I	Asian or Pacific Islander J
Officials/ Administrators							
Professionals							
Technicians							
Protective Service							
Para-Professionals							
Office/ Clerical							
Skilled Craft							
Service/ Maintenance							
Total							











Attachment C

Review Plan

Review of the XYZ Department  
of Highways and Transportation's  
Affirmative Action Plan  
Somewhere District  
Review Plan

I. Purpose of Review

To evaluate the XYZDHT's implementation of the Affirmative Action Plan at the Somewhere District level.

II. Background

XYZDHT's Affirmative Action Plan was last approved by the FHWA on December 20, 1986. Approval of the plan expired on December 20, 1987. Since then, the Department has been submitting periodic employment reports to FHWA. This review is the first one conducted by the XYZDHT's Headquarters Affirmative Action Office at the District level.

III. Scope

The review will concentrate on the AAP only and be conducted at the Somewhere District's Headquarters Office. The time period to be covered will be January 1987 to May 1988.

IV. Objectives

The objectives of the review are to:

- A. Evaluate the adequacy of AAP implementation.
- B. Identify significant accomplishments.
- C. Identify problem areas.
- D. Provide recommendations if areas requiring improvement are identified.

V. Review Responsibilities

The review will be conducted by Mr. Jack Smith of the Headquarters Affirmative Action Office. Ms. Maxine Smith of the XYZDHT's Headquarters Human Resources Division will also participate in the review.

VI. Methodology

The review will consist of the following:

A. Preliminary Analysis (At the Headquarters Office)

1. Review current XYZDHT AAP and Somewhere District employment data.
2. Identify areas of minority and female underutilization.
3. Develop review guidelines.
4. Identify documentation to be collected.
5. Distribute review plan.

B. Data Collection and Interviews (On-Site)

1. Interview Somewhere District Engineer and EEO Coordinator using attached guidelines.
2. Interview selected supervisors and employees using attached interview forms. Interviews will be conducted by Mr. Smith of employees in the EEO-4 occupational categories; i.e., Officials/Administrators, Professionals, Technicians, Para-Professionals, Office/Clerical, Skilled Craft, and Service/Maintenance. As available, the following mixture of District personnel by occupational category and racial/gender groups will be interviewed. In addition, as feasible, 25% of the interviewees will be supervisors and 75% will be non-supervisors.

Arrangements for the interviews' scheduling and private office space should be made by the reviewer prior to the on-site visit. Sufficient time must be allowed to ensure that there is not a "hurry-up" atmosphere. One-half hour per interview should normally be sufficient.

Officials/Administrators - 1: White Male

Professionals - 6: 1 White Male, 1 White Female, 1 Black Male, 1 Black Female, 1 Hispanic Male, 1 Hispanic Female.

Technicians - 15: 2 White Males, 3 White Females, 2 Black Males, 3 Black Females, 2 Hispanic Males, 3 Hispanic Females.

Para-Professionals - 3: 1 White Female, 1 Black Male, 1 Hispanic Male.

Office/Clerical - 5: 1 White Male, 2 White Females, 1 Black Female, 1 Hispanic Female.

Skilled Craft - 12: 2 White Males, 2 White Females, 2 Black Males, 2 Black Females, 2 Hispanic Males, 2 Hispanic Females.

Service/Maintenance - 6: 1 White Male, 1 White Female, 1 Black Male, 1 Black Female, 1 Hispanic Male, 1 Hispanic Female.

Totals 48: 8 White Males, 10 White Females, 7 Black Males, 8 Black Females, 7 Hispanic Males, 8 Hispanic Females.

3. Obtain documentation of AAP implementation.

C. Analysis (At Headquarters Office)

1. Review data collected.
2. Develop findings, conclusions and recommendations, if necessary.
3. Circulate draft report to Somewhere District office for input.
4. Prepare final report.

VII. Schedule

May 3, 1988

8:30 a.m. to Noon Interview Somewhere District Engineer and EEO Coordinator on AAP implementation.

1:00 p.m. to 5:00 p.m. 16 Employee/Supervisor Interviews

May 4, 1988

8:00 a.m. to 5:00 p.m. 32 Employee/Supervisor Interviews

May 5, 1988

8:30 a.m. to Noon Review of records and documentation.

1:00 p.m. to 2:30 p.m. Analyze data collected and prepare preliminary findings, conclusions, and recommendations for close out conference

2:30 p.m. Close out conference with Somewhere District Engineer.

XYZ Department of Highways  
and Transportation  
Somewhere District  
AAP Review Guidelines

I. Publicizing of EEO Policy and AAP

- A. How has the District informed supervisors of the EEO Policy and AAP?
- B. How are employees informed of the EEO policy and AAP?

II. AAP Staffing and Organization

- A. Who has been assigned primary responsibility for AAP implementation within the District?
- B. What are the District EEO Coordinator's AAP responsibilities?
- C. What AAP responsibilities have been assigned to other District supervisors and managers?
- D. How does the District ensure accountability for AAP implementation?

III. AAP Implementation

A. Recruitment

- 1. What actions has the District taken to recruit minorities and women?
- 2. What efforts have been made to correct Black, Hispanic and female underutilization in the Professionals category?
- 3. What actions have been taken to correct Black, Hispanic and female underutilization in the Technicians category?
- 4. What efforts have been made to correct minority/female underutilization in the Para-Professionals category?
- 5. What efforts have been made to correct minority/female underutilization in the Office/Clerical category?
- 6. What actions have been taken to correct female underutilization in the Skilled Craft category?
- 7. Have minority and female organizations and colleges been contacted? If so, what has resulted?

8. Has the District analyzed its applicant flow? If so, what action has been taken as a result of the analysis?

B. Promotions

1. What are the District's promotion policies and practices?
2. What is done to make sure that all employees are aware of promotional opportunities?
3. Are promotion actions analyzed to determine the extent of minority and female representation?

C. Dismissals, Demotions and Disciplinary Actions

1. What are the District's policies and practices with regard to these types of actions?
2. How are such actions monitored to ensure that minorities and women are not adversely affected?
3. Are exit interviews conducted? If so, what action is taken based on exit interview information?

D. Training

1. What are the District's policies and practices with regard to training?
2. What kind of training is available to District employees?
3. What is done to ensure that training opportunities are provided fairly?
4. Has EEO training been provided to supervisors and managers? If so, describe.

E. Minority and Female Goals

1. Has the District established goals for correcting minority and female underutilization? If so, describe.
2. If goals have been established, are they assigned to supervisors and managers?
3. Have established minority and female goals been met?



F. Skills Bank

1. What does the District's skills bank consist of?
2. Has it been used to facilitate upward movement of minorities and women within the District?

G. Job Restructuring and Upward Mobility

1. Does the District have an active upward mobility program? If so, describe.
2. Has the program been used to enhance the upward movement of minorities and women within the District? If so, describe results in terms of minority and female participation rates.

H. EEO Meetings

1. Have EEO meetings been conducted?
2. If so, who conducts the meetings? How often are such meetings held?
3. What is covered through the EEO meetings?
4. Are EEO meetings documented?

I. Employee Orientation

1. How often are such orientations held?
2. What is covered during the orientation sessions?
3. Who conducts the orientation sessions?

J. AAP Advisory Committee

1. Does the District have an AAP Advisory Committee?
2. If so, what are the functions of the committee?
3. How often does the committee meet?
4. Describe the committee's AAP-related activities.
5. What is the committee's composition by race, sex and occupational category?

K. Discrimination Complaints

1. How are supervisors and employees informed of the discrimination complaint procedures?
2. Have any complaints of discrimination been filed in the District during the time period covered by this review? If so, how many, what were their bases (race, color, religion, sex, national origin, age, and handicap), how did the District deal with them and what is their current status?

IV. AAP Assessment and Evaluation

A. Minority and Female Hiring Goals

How does the District monitor these goals?

B. AAP Implementation

How does the District evaluate the effectiveness of its AAP implementation?

C. Problem Identification

Has the District identified any EEO or AAP related problems through its self-assessment? If so, what action has been taken to correct them?

D. Monitoring by the Headquarters Human Resources Division Office

What type of monitoring has this Headquarters office done of the District's AAP implementation?

E. EEO Reports

1. Has the District prepared these reports as described in the current AAP?
2. Describe the contents of these reports.
3. How have the reports been used by the District in implementing its AAP?

V. Documentation

Is documentation maintained by the District adequate to provide evidence of AAP implementation?

VI. Interviews

Conduct interviews in accordance with the attached interview guides.

EMPLOYEE INTERVIEW GUIDE

Date \_\_\_\_\_

Manager/Supervisor

1. Name, Title, Race and Sex
2. How long have you been employed by the XYZDHT?
3. How long have you been a manager/supervisor?
4. How many employees do you supervise? (# minority and female)
5. What types of positions do you supervise?
6. Have you had any EEO training?
7. What are your responsibilities regarding XYZDHT's AAP?
8. Have you been assigned any minority and female goals? If so, describe.
9. Do you have authority to hire, fire, or promote employees?
10. Have you taken any affirmative action to locate minorities or females (1) to fill vacancies? (2) for promotional opportunities? Describe efforts.
11. Have you terminated any employees? What were the reasons? Were any of them minority or female?
12. Do you recommend, authorize or approve training for your subordinates?
13. How are employees selected for training?
14. Have you attended or conducted EEO meetings?
15. Have any discrimination complaints been filed against you? If so, describe circumstances.

16. What does the term "sexual harassment" mean to you?
17. Are you aware of any major AAP accomplishments or problems?
18. Do you have any suggestions for improving the AAP?

EMPLOYEE INTERVIEW GUIDE

Date \_\_\_\_\_

Nonsupervisory Employee

1. Name, Title, Race and Sex.
2. Section employed in:
3. How long have you been employed by the XYZDHT?
4. How long have you been in your present position?
5. Do you know who the XYZDHT's Affirmative Action Officer is?
6. Have you seen a copy of the XYZDHT's AAP? Do you know where to find a copy?
7. Have you attended any meetings where XYZDHT's EEO Policy or Affirmative Action Plan were discussed?
8. What types of training have you received?
9. Have you discussed your career goals with your supervisor? What was the result of the discussion?
10. Have you filed any discrimination complaints? If so, describe particulars. Has anyone retaliated against you for filing a complaint?
11. Do you know what to do if you feel you've been discriminated against?
12. What does the term "sexual harassment" mean to you?
13. Are you aware of any problems with sexual harassment?

14. Are you aware of any other problems?
15. Do you have any suggestions for improving the XYZDHT's AAP and its implementation?

Attachment D  
Evaluation Report

Evaluation Report

Review of the XYZ Department of  
Highways and Transportation  
Affirmative Action Plan  
Somewhere District  
May 3 - 5, 1988

I. Introduction

The purpose of this review was to evaluate implementation of the XYZDHT Affirmative Action Plan at the Somewhere District level. The review was conducted by Mr. Jack Smith of the Headquarters Affirmative Action Office. He was accompanied by Ms. Maxine Smith of the Headquarters Human Resources Division. The time period covered by the review was January 1987 to May 1988.

The XYZDHT's AAP was approved on December 20, 1986. Since then, the Department had been submitting periodic employment reports to FHWA. This review was the first one conducted by the Affirmative Action Office at the District level.

Review findings and conclusions are based on information obtained through preliminary analysis of the AAP and Somewhere District employment data, interviews with the Somewhere District Engineer, District EEO Coordinator, and AAP Committee Chairman; interviews with District employees, and review of documentation maintained by the District on AAP activities.

A total of 49 employee interviews were conducted. Eleven or 22% were supervisors and 38 or 78% were non-supervisors. Women comprised 25 or 51% and minorities 29 or 58% of the interviewees. A complete breakdown of interviewees by racial/gender groups and supervisory/non-supervisory categories is set forth on Attachment 1.

The following persons were involved in this review:

Alex McAllen	District Engineer
J. Jones	Assistant District Engineer and EEO Coordinator
Jacob Messersmith	Director, Human Resources Division
Max Roberts	AAP Committee Chairman

Review findings and conclusions were discussed with District personnel and Mr. Messersmith at a close out conference held on May 5, 1988.



## II. Findings

### A. AAP Staffing and Organization

Mr. J. Jones is assigned primary responsibility for implementation of the AAP. He has held this responsibility since 1979. The following are his AAP responsibilities.

- o Overall monitoring of the District's implementation of the AAP.
- o Monitoring of the District's progress in meeting minority and female hiring goals.
- o Meeting with supervisors on AAP implementation. This includes informing supervisors whenever problem areas are encountered or identified.
- o Monitoring of the District's racial/gender composition.
- o Working with the AAP Committee Chairman.
- o Keeping the District Engineer informed on the AAP.

The District has a very active AAP Advisory Committee. The primary purpose of the committee is to recognize and remove any barriers to full employment opportunities. This is accomplished through periodic meetings between the committee and employees (2 to 4 per year). The committee is made up of 8 District employees and includes supervisors, non-supervisors, blacks, whites, Hispanics and women.

Mr. Max Roberts is the current chairperson of the committee. Mr. Roberts has served in this capacity for approximately 5-6 years.

All AAP committee meetings are documented. Minutes of the meetings are provided to the District Engineer and the Assistant District Engineer. They review discussion items and provide responses to concerns raised at the meetings. The AAP Committee meetings are a very effective method for providing AAP information to employees and identifying employee problems and concerns.

District supervisors and managers are also assigned AAP responsibilities. They are as follows:

- o Recruitment of minorities and women for underrepresented occupations.
- o Providing of training opportunities to employees.

- o Keeping their employees informed of the Department's EEO policy and AAP.
- o Keeping top District management informed of employees, particularly minorities and women, under their supervision who have potential to advance.

**B. Publicizing of EEO Policy and AAP**

The District publicizes the EEO policy and AAP through the following methods:

- o The AAP is discussed with supervisors at supervisor meetings held periodically. These are usually held 4-8 times per year.
- o The AAP committee chairman meets periodically with supervisors on the results of the committee's meetings with employees.
- o Supervisors are required to conduct EEO meetings with their employees at least quarterly. During employee interviews, it was learned that the EEO meetings are usually held more frequently than quarterly.
- o The AAP committee chairperson makes a presentation on the AAP at monthly orientation sessions held for new employees.
- o The Department's EEO policy and complaint procedures are posted on District bulletin boards.

Through the employee interviews conducted during this review, it was found that awareness of the AAP within the District is exceptionally high.

**C. Recruitment**

The District has made extensive efforts to recruit minorities and women. Examples of these efforts are set forth below:

- o Recruitment visits have been made to Glen View A&M, Jackson State University and the University of Decatur.
- o Career days held by local colleges have been attended.
- o Job vacancy listings are sent to minority and female recruitment sources. The current mailing list includes a total of 58 institutions, agencies, and individuals.
- o Periodic meetings with minority legislators.

The District's recruitment activities have been supplemented through establishment of a recruiting team at the Department's Headquarters level. The team was established in September of 1987 and has received training in recruitment techniques at State University. The team's primary objective is the recruitment of college graduates. The team is made up of employees from the Headquarters Office and various Districts. It includes a cross-section of men, women, and minorities. The team makes recruitment visits to colleges and universities in Georgia, South Carolina, Alabama, and Florida. Colleges and universities visited include minority colleges.

D. New Hires

From January 1987 through May of 1988, a total of 136 new hires were made in the District. Minorities represented 38 or 28% and women 29 or 21% of the new hires. A further breakdown of new hires reveals that blacks represented 19 or 14% and Hispanics 19 or 14% of the new hires. Attachment 2 to this report provides complete data on new hires by occupational categories and racial/gender groups.

E. Promotions

From January 1987 through May 1988, a total of 121 District employees were promoted. Minorities comprise 29 or 24% and women 38 or 31% of those promoted. A further breakdown of minority promotions reveals that blacks represented 21 or 17% and Hispanics 6 or 5% of all promotions. Attachment 3 to this report provides complete promotion data by occupational category and racial/gender groups.

F. Dismissals

From January 1987 through May 1988, a total of 7 District employees were dismissed. Minorities represented 1 or 14% of the dismissals. The one minority dismissal was a black male. Attachment 4 to this report provides complete data on dismissals by occupational categories and racial/gender groups.

G. Training

The District provides numerous training opportunities to its employees. Examples of training provided are:

- o College courses for which the District reimburses costs of tuition and books.
- o Right-of-way seminars.
- o Management training.
- o Auto mechanics.

District employees receiving training are coded by race, ethnic origin and sex to enable monitoring of minority and female participation rates. Twenty-eight percent (28%) of all employees receiving training have been minorities.

The District's EEO Coordinator and Personnel Officer have both received formal EEO training. Additionally, the District is planning to send its supervisors to an EEO training course sponsored by the Somewhere Council on Human Resources.

H. Skills Bank

The District maintains a skills bank on its employees. Employees are asked to inform the District Headquarters office of any new skills or training acquired.

Presently, the skills bank is updated manually. It is, therefore, quite difficult to maintain its currency and to retrieve information readily on district employees' skill levels. The district is planning to computerize the skills bank data to facilitate information retrieval.

I. Job Restructuring and Upward Mobility

Although the District does not have a "formal" upward mobility program, job restructuring in maintenance, technician, and right-of-way occupations has resulted in the advancement of minorities and women in these areas.

J. Discrimination Complaints

District employees are informed of the Department's discrimination complaint procedures through notices posted on bulletin boards and through the periodic EEO meetings held by every supervisor. The AAP committee also provides employees information on the complaint procedures.

Since 1982, a total of 12 discrimination complaints have been filed against the District. All but two have been resolved. Ten of the complainants alleged racial discrimination (black) and two of the complainants alleged sex discrimination. In two of the cases (1 alleging racial discrimination and the other alleging sex discrimination), the District recognized that there were some discriminatory practices and took corrective action.

One of the discrimination cases developed into a class action lawsuit alleging that the District was discriminating against blacks. The lawsuit has been tried, but a decision had not been rendered at the time of this review.

K. Minority and Female Goals

The District has established minority and female hiring goals to increase black, Hispanic and female representation in occupational categories where they are underrepresented. Supervisors are expected to take affirmative action to meet the goals. Most of the goals have been met or exceeded.

L. Minority and Female Representation

Civilian labor force (CLF) availability data indicates that minorities represent 27.2% and females 36.2% of the Somewhere Standard Metropolitan Statistical Area. A further breakdown of CLF data indicates that blacks represent 17.8%, Hispanics 9%, other minorities 0.4%, and minority females 10.9% of the Somewhere SMSA. As of May 1988, a total of 1,278 employees were employed in the Somewhere District. Minorities represented 349 or 27% and women 191 or 15% of the Somewhere District workforce. Blacks represented 185 or 14%, Hispanics 152 or 11%, and other minorities 12 or 1.1% of the District's total employment. Attachment 5 provides complete employment data of the Somewhere District by occupational categories and racial/gender groups.

As of December 1987, the District employed a total of 1,278 employees. Minorities represented 333 or 26% and women 153 or 12% of the District's workforce. Blacks represented 176 or 14%, Hispanics 145 or 11%, and other minorities 12 or 1.1% of the District's workforce at that time. Attachment 6 provides complete employment data on the District as of December 1987 by occupational categories and racial/gender groups.

Several significant changes occurred in the District's employment between December 1987 and May 1988:

- o Total minorities increased by 16 or 5%.
- o Total females increased by 38 or 25%.
- o Blacks increased by 9 or 31%.
- o Hispanics increased by 7 or 38%.
- o Actual numbers of females increased in the Professionals, Technicians, Para-Professionals and Skilled Craft occupational categories.
- o Actual numbers of blacks increased in the Professionals, Para-Professionals, and Skilled Craft categories.
- o Actual numbers of Hispanics increased in the Professionals, Para-Professionals, Office/Clerical, and Skilled Craft occupational categories.

- o Actual numbers of minority females increased in the Technicians, Office/Clerical, and Skilled Craft occupational categories.

Attachment 7 provides complete data on net changes in the District's employment from December 1987 to May 1988.

Although underutilization of blacks and minority females still exists in the District's total employment, considerable progress has been made by the District in increasing representation of these two groups in its workforce. Parity in total representation of Hispanics has been exceeded.

#### M. AAP Assessment and Evaluation

The District monitors minority and female hiring goals and AAP implementation through quarterly reports submitted by each District supervisor. The AAP is also monitored through the AAP committee meeting minutes.

The District has identified a couple of problems through its self-monitoring. One case, involving an allegation of racial discrimination (black), resulted in the removal of a white supervisor. In another case, a supervisor with an all white workforce was instructed not to fill any vacancies unless they were filled with minorities.

On the positive side, top District management has noticed a definite change in attitude toward the AAP within the District. This attitude change can be attributed to the direction Messrs. McAllen and Jones have given to District supervisors. In addition, communication between management and employees has improved as a result of the AAP.

#### N. Documentation

District documentation of AAP activities and implementation is adequate.

### III. Conclusions

As evidenced by the findings discussed above and increases in minority and female representation, this review revealed that the Somewhere District's implementation of the AAP has been very effective. No deficiencies were found and no instances of discrimination or sexual harassment were reported to the reviewers. In addition, employee awareness of the AAP was universal and supervisors' attitudes toward AAP implementation were very positive.

The effectiveness of the District's AAP implementation is attributable to the strong leadership which Messrs. McAllen and Jones have demonstrated.

XYZ Department of Highways and Transportation  
Somewhere District  
Interviewees

	Total		White		Black		Hispanic		Other Minority	
	M	F	M	F	M	F	M	F	M	F
Supervisors	11 22%	6 55%	5 45%	3 27%	2 18%	5 45%	1 9%	2 18%	7 18%	7 18%
Employees	38 78%	18 47%	20 53%	6 16%	5 13%	6 16%	7 18%	7 18%	7 18%	7 18%
Total	49	24 49%	25 51%	9 18%	7 14%	11 22%	8 16%	7 18%	7 18%	7 18%

Legend:

Top Figure = Actual Number

Bottom Figure = Percentage

M = Male

F = Female

XYZ Department of Highways and Transportation  
 Somewhere District  
 New Hires  
 January 1987 - May 1988

Job Categories	Total		White		Black		Hispanic		Other		Total
	M	F	M	F	M	F	M	F	M	F	
Officials/ Administrators	-	-	-	-	-	-	-	-	-	-	-
Professionals	4 67%	2 33%	3 50%	2 33%	1 17%	-	-	-	-	-	6
Technicians	16 100%	-	12 75%	-	1 6%	-	3 19%	-	-	-	16
Protective Service	-	-	-	-	-	-	-	-	-	-	-
Para- Professionals	-	-	-	-	-	-	-	-	-	-	-
Office/ Clerical	-	10 100%	-	8 80%	-	1 10%	-	-	-	-	10
Skilled Craft	66 88%	9 12%	49 65%	6 8%	8 11%	2 3%	9 12%	1 1%	-	-	75
Service/ Maintenance	21 72%	8 28%	12 41%	6 21%	5 17%	1 3%	4 14%	1 3%	-	-	29
Total	107 79%	29 21%	76 56%	22 16%	15 11%	4 3%	16 12%	3 2%	-	-	136

Total Minorities: 38 - 28%  
 Total Females: 29 - 21%

Legend:  
 Top Figure = Actual Number  
 Bottom Figure = Percentage  
 M = Male  
 F = Female



**XYZ Department of Highways and Transportation  
Somewhere District  
Promotions  
January 1987 - May 1988**

Job Categories	Total		White		Black		Hispanic		Other		Total
	M	F	M	F	M	F	M	F	M	F	
Officials/ Administrators	1 100%	-	1 100%	-	-	-	-	-	-	-	1
Professionals	11 69%	5 31%	7 44%	4 25%	2 13%	1 6%	-	-	2 13%	-	16
Technicians	40 83%	8 17%	34 71%	6 13%	5 10%	1 2%	1 2%	1 2%	-	-	48
Protective Service	-	-	-	-	-	-	-	-	-	-	-
Para- Professionals	-	-	-	-	-	-	-	-	-	-	-
Office/ Clerical	1 5%	18 95%	1 5%	14 74%	-	3 16%	-	1 5%	-	-	19
Skilled Craft	30 81%	7 19%	20 54%	5 14%	7 19%	2 5%	3 8%	-	-	-	37
Service/ Maintenance	-	-	-	-	-	-	-	-	-	-	-
<b>Total</b>	<b>83 69%</b>	<b>38 31%</b>	<b>63 52%</b>	<b>29 24%</b>	<b>14 12%</b>	<b>7 6%</b>	<b>4 3%</b>	<b>2 2%</b>	<b>2 2%</b>	<b>-</b>	<b>121</b>

**Total Minorities:** 29 - 24%  
**Total Females:** 38 - 31%

**Legend:**  
 Top Figure = Actual Number  
 Bottom Figure = Percentage  
 M = Male  
 F = Female

XYZ Department of Highways and Transportation  
 Somewhere District  
 Dismissals  
 January 1987 - May 1988

Job Categories	Total		White		Black		Hispanic		Other		Total
	M	F	M	F	M	F	M	F	M	F	
Officials/ Administrators	-	-	-	-	-	-	-	-	-	-	-
Professionals	-	-	-	-	-	-	-	-	-	-	-
Technicians	-	-	-	-	-	-	-	-	-	-	-
Protective Service	-	-	-	-	-	-	-	-	-	-	-
Para- Professionals	-	-	-	-	-	-	-	-	-	-	-
Office/ Clerical	-	-	-	-	-	-	-	-	-	-	-
Skilled Craft	3 75%	1 25%	3 75%	1 25%	-	-	-	-	-	-	4
Service/ Maintenance	3 100%	-	2 67%	-	1 33%	-	-	-	-	-	3
Total	6 66%	1 14%	5 71%	1 14%	1 14%	-	-	-	-	-	7

Total Minorities: 1 - 14%  
 Total Females: 1 - 14%

Legend:  
 Top Figure = Actual Number  
 Bottom Figure = Percentage  
 M = Male  
 F = Female

XYZ Department of Highways and Transportation  
Somewhere District  
Employment as of May 1988

Job Categories	Total		White		Black		Hispanic		Other		Total
	M	F	M	F	M	F	M	F	M	F	
Officials/ Administrators	3 100%	- -	3 100%	- -	- -	- -	- -	- -	- -	- -	3
Professionals	100 85%	18 15%	79 67%	17 14%	7 6%	1 1%	6 5%	- -	8 7%	- -	118
Technicians	238 87%	35 13%	195 7%	28 10%	21 8%	3 1%	19 7%	4 1%	3 1%	- -	273
Protective Service	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	-
Para- Professionals	5 42%	7 58%	2 17%	6 50%	2 17%	1 8%	1 8%	- -	- -	- -	12
Office/ Clerical	7 12%	51 88%	6 10%	39 67%	1 2%	7 12%	- -	4 7%	- -	1 2%	58
Skilled Craft	711 92%	64 8%	489 63%	42 5%	118 15%	15 2%	104 13%	7 1%	- -	- -	775
Service/ Maintenance	23 59%	16 41%	14 36%	9 23%	6 15%	3 8%	4 10%	- -	- -	- -	39
Total	1087 85%	191 15%	788 62%	141 11%	155 12%	30 2%	133 10%	19 1%	11 1%	1 0.1%	1278

Legend:  
Top Figure = Actual Number  
Bottom Figure = Percentage  
M = Male  
F = Female

Total Minorities: 349 - 27%  
Total Females: 191 - 15%

XYZ Department of Highways and Transportation  
Somewhere District  
Employment as of December 1987

Job Categories	Total		White		Black		Hispanic		Other		Total
	M	F	M	F	M	F	M	F	M	F	
Officials/ Administrators	1 100%	- -	1 100%	- -	- -	- -	- -	- -	- -	- -	1
Professionals	95 91%	9 9%	79 76%	8 8%	5 5%	- -	4 4%	1 1%	7 7%	- -	104
Technicians	251 90%	27 10%	203 73%	23 8%	23 8%	2 1%	22 8%	2 1%	3 1%	- -	278
Protective Service	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	-
Para- Professionals	4 67%	2 33%	3 50%	1 17%	1 17%	1 17%	- -	- -	- -	- -	6
Office/ Clerical	13 19%	54 81%	9 13%	46 69%	3 4%	5 7%	1 1%	2 3%	- -	1 1%	67
Skilled Craft	721 95%	38 5%	516 68%	27 4%	104 14%	6 1%	100 13%	5 1%	1 0.1%	- -	759
Service/ Maintenance	40 63%	23 37%	19 30%	10 16%	17 27%	9 14%	4 6%	4 6%	- -	- -	63
Total	1125 88%	153 12%	830 65%	115 9%	153 12%	23 2%	131 10%	14 1%	11 1%	1 0.1%	1278

Total Minorities: 333 - 26%  
Total Females: 153 - 12%

Legend:  
Top Figure = Actual Number  
Bottom Figure = Percentage  
M = Male  
F = Female

XYZ Department of Highways and Transportation  
Somewhere District  
Net Changes December 1987 to May 1988

Job Categories	Total		White		Black		Hispanic		Other		Total
	M	F	M	F	M	F	M	F	M	F	
Officials/ Administrators	+2 200%	- -	+2 200%	- -	- -	- -	- -	- -	- -	- -	+2 200%
Professionals	+5 5%	+9 100%	- -	+9 113%	+2 40%	+1 100%	+2 50%	-1 100%	+1 14%	- -	+14 13%
Technicians	-13 5%	+8 30%	-8 4%	+5 22%	-2 9%	+1 50%	-3 14%	+2 100%	- -	- -	-5 2%
Protective Service	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -
Para- Professionals	+1 25%	+5 250%	-1 33%	+5 500%	+1 100%	- -	+1 100%	- -	- -	- -	+6 100%
Office/ Clerical	-6 46%	-3 6%	-3 33%	-7 25%	-2 67%	+2 40%	-1 100%	+2 100%	- -	- -	-9 13%
Skilled Craft	-10 1%	+26 68%	-27 5%	+15 56%	+14 13%	+9 150%	+4 4%	+2 40%	-1 100%	- -	+16 2%
Service/ Maintenance	-17 43%	-7 30%	-5 26%	-1 10%	-11 65%	-6 67%	-1 25%	- -	- -	- -	-24 38%
Total	-38 3%	+38 +25%	-42 5%	+26 23%	+2 1%	+7 30%	+2 2%	+5 36%	- -	- -	- -

Legend:  
 Top Figure = Actual Number  
 Bottom Figure = Percentage  
 M = Male  
 F = Female  
 - = No Change

Total Minorities: +16 - 5%  
 Total Females: +38 - 25%  
 Total Nonminorities: -16 - 2%  
 Total Males: -38 - 3%

**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 10**

**FHWA State EEO Plan Update**

**STA EEO PLAN UPDATE CHECKLIST**

**STATE** \_\_\_\_\_  
**UPDATE DUE IN R/O** \_\_\_\_\_  
**TIME PERIOD COVERED BY PLAN** \_\_\_\_\_  
Plan/Update Received in R/O \_\_\_\_\_  
Plan/Update Returned to D/O for Revision \_\_\_\_\_  
Plan/Update Forwarded to W/O \_\_\_\_\_  
Date Approval Memo Can Be Sent to D/O \_\_\_\_\_

**CONTRACTOR COMPLIANCE**

# of Reviews Conducted: \_\_\_\_\_  
# of Contractors Reviewed: \_\_\_\_\_  
# In-Compliance: \_\_\_\_\_  
# In Non-Compliance: \_\_\_\_\_  
# Voluntary Corrective Action Plans: \_\_\_\_\_  
# Show Cause Notices Issued: \_\_\_\_\_

**Administrative Actions Taken to Obtain Compliance:**

Withholding progress payments: \_\_\_\_\_  
Reduction in bid ceiling: \_\_\_\_\_  
Other: \_\_\_\_\_

**External Training Programs:**

Goal: \_\_\_\_\_  
No. of Slots Assigned: \_\_\_\_\_  
Total Minority Starts: \_\_\_\_\_  
Total Female Starts: \_\_\_\_\_  
Total Minority Completions: \_\_\_\_\_  
Total Female Completions: \_\_\_\_\_

**AFFIRMATIVE ACTION PROGRAM**

Assessment Report: \_\_\_\_\_  
Accomplishment Report: \_\_\_\_\_  
Problem Identification: \_\_\_\_\_  
Action Items (Addressing problems): \_\_\_\_\_  
Goals and Timetables:  
    Long-Term: \_\_\_\_\_  
    Short-Term: \_\_\_\_\_  
EEO-4: \_\_\_\_\_  
Statistical Analyses:  
    Underrepresentation: \_\_\_\_\_  
    Adverse Impact: \_\_\_\_\_  
    Barrier: \_\_\_\_\_  
Previously cited deficiencies addressed: \_\_\_\_\_

**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 11**

**AAP/Contractor Compliance Program Document and  
Updates--Arkansas Highway and Transportation  
Department**





U.S. Department  
of Transportation  
**Federal Highway  
Administration**

# Memorandum

Subject: **STA EEO Programs: Arkansas State Highway and  
Transportation Department EEO Program Update**

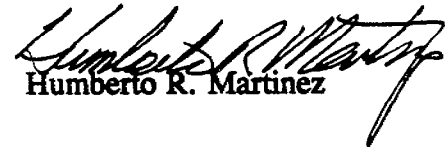
Date: **March 20, 1997**

From: **Director  
Office of Civil Rights  
Fort Worth, Texas**

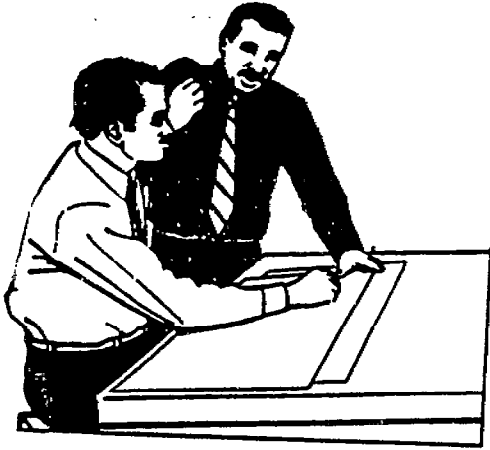
Reply to  
Attn. of: **HCR-06  
4721-1 AR**

To: **Mr. Edward W. Morris, Jr., Director  
Office of Civil Rights (HCR-10)  
Washington, D. C.**

Attached are two copies of the subject program update. If no comments are received from your office within 30 days, formal approval will be granted by this office.

  
Humberto R. Martinez

Attachments



**ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT**  
**AFFIRMATIVE ACTION PLAN**

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## I. POLICY STATEMENT

### A. Equal Employment Opportunity Policy

The Director has issued the following policy statement which has been furnished to all managers and supervisors throughout the Department:

"The Department executed a Certificate of Assurances with regard to the Equal Employment Opportunity Program and is therefore legally obligated to insure equal employment opportunities for all persons regardless of race, color, religion, sex, national origin, age or disability as a fundamental agency policy.

The Arkansas State Highway and Transportation Department's internal employment practices are an integral part of the agency's total commitment and support of its Equal Employment Opportunity Program.

For effective administration and implementation of the EEO Program, there must be involvement, commitment and support of executives, managers and supervisors. You have been advised by my office that responsibility for positive implementation of the Affirmative Action Plan will be expected of and shared by all management and supervisory personnel. You have been further advised that you will be held accountable for your actions in this area and will be evaluated in carrying out these responsibilities.

The major responsibility must be recognition and removal of any barriers to equal employment opportunity, identification of problem areas and of persons unfairly excluded or held back and action enabling them to compete for jobs on an equal basis.

This type of commitment not only benefits those who have been denied equal employment opportunity, but will also greatly benefit the organization by attaining maximum utilization of the great reservoir of untapped human resources and skills, especially among women, minorities and the disabled.

Therefore, each of you is assigned the specific responsibility for equal opportunity in all employment practices, including (but not limited to) recruitment, hiring, transfers, promotions, training, compensation, benefits, recognition, layoffs and other terminations within your area of authority."

### B. Publicizing the Affirmative Action Plan

1. Written communication from the Director receives Department-wide distribution.
2. The Affirmative Action Plan (AAP) is furnished to all Department Heads to be used as an operations manual. Publicity is given to the AAP in the Department's Magazine and Newsletter. It is distributed to each employee.

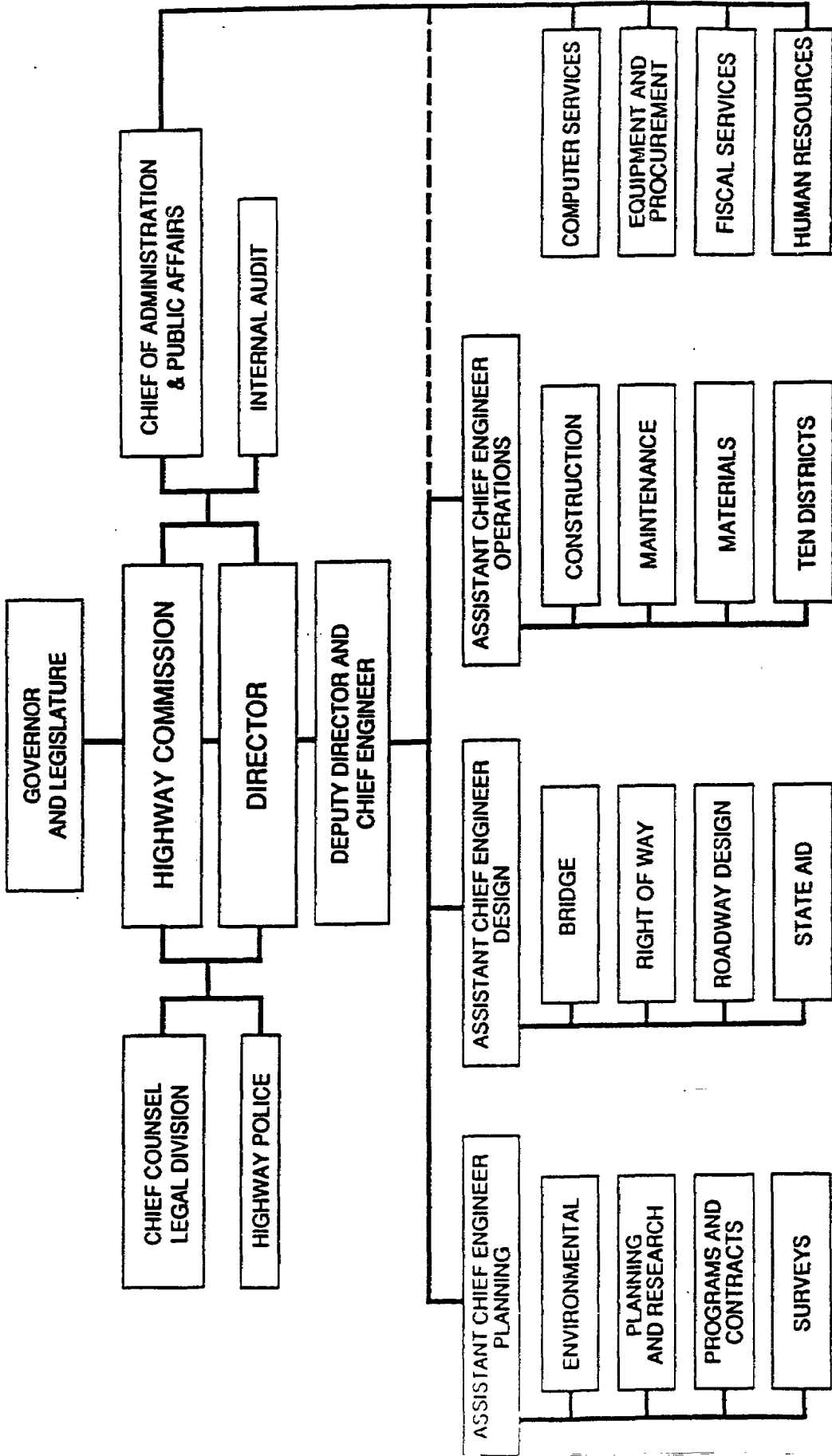
3. Periodic meetings are held with District and Central Office employees to make them aware of the basic elements of the AAP, avenues available for filing complaints, the illegality of reprisal actions and protection available against such actions.
4. The EEO Policy Statement is furnished to all Department Heads and is included in the Department's Newsletter and Employee Handbook.
5. The Supervisor's EEO Handbook is furnished to all supervisors to be used as an additional agency operations manual.
6. Periodic meetings are held with all managers and supervisors for the purpose of discussing the AAP and emphasizing the responsibilities they have assumed by virtue of their positions within the Department.
7. Employee orientation within the Central Office Complex is conducted by the Personnel Section. Districts are responsible for employee orientation in their areas of supervision. The AAP and available training programs are included in employee orientation.
8. The EEO Policy Statement and other EEO posters are displayed on work area bulletin boards. Information regarding complaint procedures and the appropriate person to contact has been distributed Department-wide with instructions to post on work area bulletin boards.
9. The AAP is distributed to minority groups, women's organizations, community action groups, State employment agencies and applicable professional organizations, along with a letter advising that the Department is an equal opportunity employer and encouraging referrals of minority and female applicants. Attached to this letter is a list of addresses of the various Department offices throughout the State.
10. Meetings are held between the Division Head of Human Resources and top management to discuss the AAP and assignment of responsibility for AAP implementation.

## II. STAFFING AND ORGANIZATION

### A. Organization Charts

#### 1. Department Organizational Chart

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT  
ORGANIZATION CHART

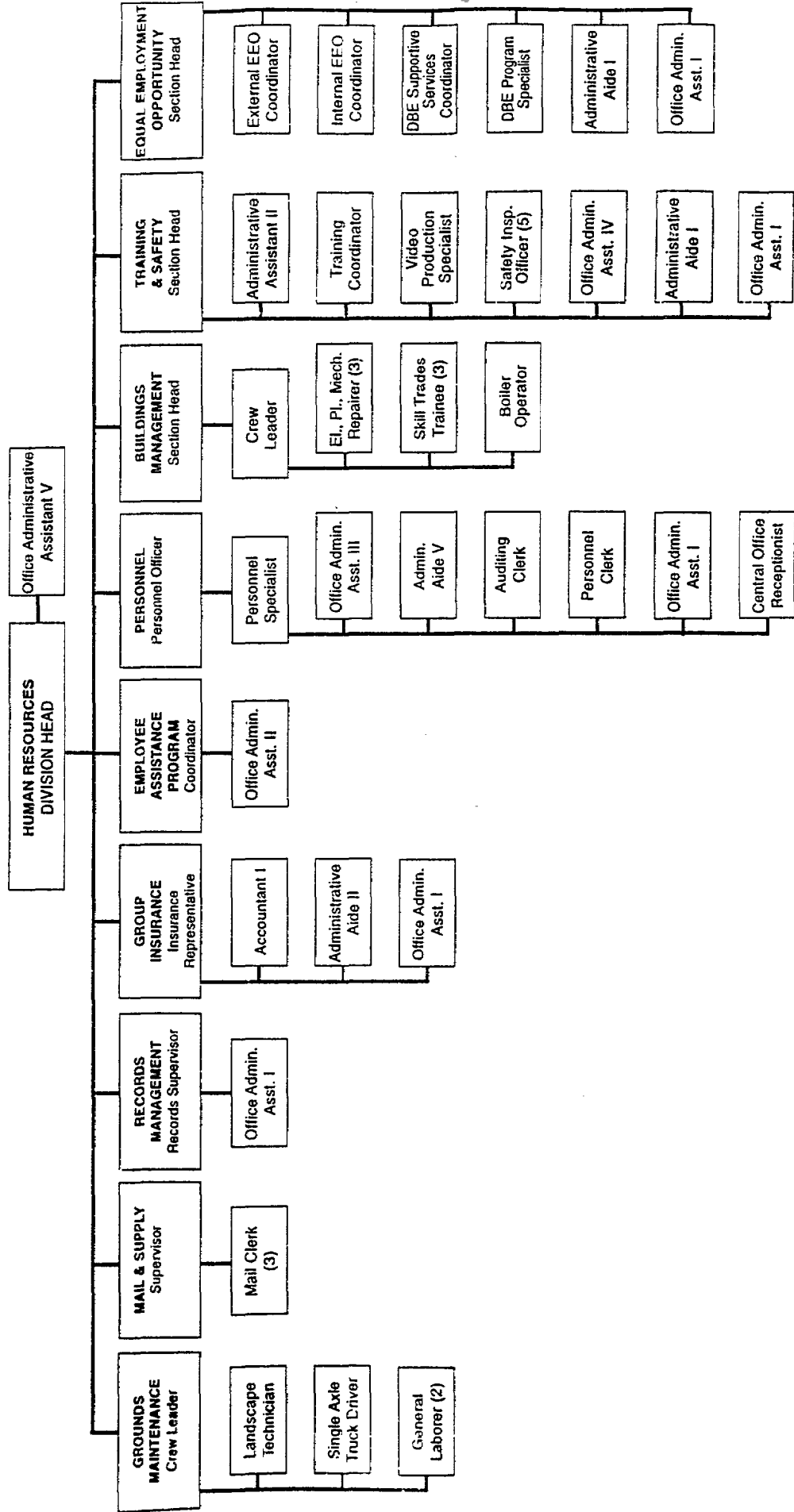


*[Signature]*  
 DATE: 5-16-94  
 DIRECTOR OF HIL AYS AND TRANSPORTATION



## 2. Human Resources Division Organizational Chart

# HUMAN RESOURCES DIVISION



B. Affirmative Action Program Resources

1. Staffing - The EEO Office is located in Room 103 of the Central Office Complex, 10324 Interstate 30, Little Rock, Arkansas. Section employees have direct access to the Office of the Director.
  - a. The Internal EEO Staff is composed of the EEO Section Head, the Internal EEO Coordinator and the Office Administrative Assistant. The EEO Section Head is responsible for managing and administering the Internal EEO function. The Internal EEO Coordinator devotes full time to the Department's Affirmative Action Program. Responsibilities include:
    - (1) Developing a written Affirmative Action Plan as an integral part of the Department's EEO Program, incorporating the basic elements identified in Part II, Paragraph B, FAPG, Volume 2, Chapter 2, Section 2.
    - (2) Ensuring the contents of the Affirmative Action Plan are publicized internally and externally.
    - (3) Providing advisory and consultative assistance to managers and supervisors in collecting and analyzing employment data, to identify problem areas, set goals and timetables and develop programs that will ensure the achievement of such goals. Assistance to managers and supervisors includes specific remedies to eliminate any discriminatory practices discovered in the Department's employment procedures.
    - (4) Advising and assisting in resolving complaints of alleged discriminatory acts submitted by employees.
    - (5) Monitoring placement of employees to ensure equitable assignment of work, equipment and work area.
    - (6) Monitoring the operation of the promotion program and reviewing promotion actions to assure that requirements, procedures and practices support the Affirmative Action Program objectives and do not have a discriminatory impact on the Department's overall operation.
    - (7) Evaluating promotion criteria, i.e., supervisory evaluation, qualification standards, etc., and their use by selecting officials to identify and eliminate any factors which may lead to "selection-out" of employees and applicants, particularly minorities, females and the disabled.

- (8) Scheduling meetings for participation by managers and supervisors to ensure they have an overall knowledge of the Department's Affirmative Action Program and advising them of their responsibilities in the administration of policies and procedures, to include a discussion of Federal, State and local laws pertaining to Equal Employment Opportunity.
- (9) Collecting and analyzing statistical data to the extent necessary to prepare meaningful reports for submission to the Director and FHWA, identifying the current status of minority and female utilization in the total Department workforce.
- (10) Establishing and maintaining constant liaison with managerial and supervisory personnel to assure a coordinated effort is being exerted to accomplish the goals defined in the Department's Affirmative Action Program.
- (11) Maintaining a cooperative relationship with all Divisions, Districts and Sections within the Department and groups, organizations and educational institutions in the public sector.
- (12) Reviewing actions whereby minorities, females and disabled employees have been disciplined, discharged or demoted prior to the action becoming final.
- (13) Providing AAP and career counseling for employees.
- (14) Conducting exit interviews, whenever possible, with individuals who terminate their employment with the Department.

b. Other Positions with AAP Responsibilities:

- (1) Every District Engineer, Division Head and Independent Section Head has been assigned responsibility for positive implementation of the Affirmative Action Plan in their specific areas of supervision. Duties and responsibilities include submission of required reports, posting of notices on work area bulletin boards, advising supervisors of pertinent AAP information, exerting efforts to attain assigned goals and other duties as defined in the Supervisor's EEO Handbook. Time devoted to AAP responsibilities - 10%.
- (2) The Office Administrative Assistant types and transmits correspondence to FHWA, AHTD personnel and outside organizations, does layout and typing of the Affirmative Action Plan and maintains the Internal EEO files. Time devoted to AAP responsibilities - 50%.

- (3) The Division Head of Human Resources provides career counseling and orientation for new employees, supervises recruiting activities, validates Forms 125 (approval to hire), maintains applicant flow data for new hires and promotions, conducts equal pay studies, is responsible for the Department's classification and compensation program and provides AAP counseling as need dictates. Time devoted to AAP responsibilities - 25%.
- (4) The Training Representative formulates training goals and policies, organizes and develops the training reference library, visual aids and other educational materials, disseminates internal and external training information within the Department, provides coordination as necessary for organizing training sessions, and maintains quarterly reports reflecting training activity. Time devoted to AAP responsibilities - 25%.

## 2. Budgetary

- a. The EEO Section has an adequate approved budget broken down as follows:

Salaries - 78%  
Payroll additives - 15%  
Other expenses  
(travel, supplies, etc.) - 7%

Training funds for AAP purposes are not assigned to the EEO budget. Expenses are assigned to the specific area utilizing training opportunities.

- b. The Director is responsible for development and control of the EEO budget. Recommendations from the EEO Section are considered when the EEO budget is developed.

## III. AFFIRMATIVE ACTION PROGRAM ASSESSMENT

### A. AAP Awareness

Employees are apprised of the AAP as described in I B 1 through 10 of this document. Additional methods follow:

1. Department Newsletter - Distributed with paycheck to all employees
2. Annual EEO performance evaluation of managers and supervisors

3. Oral and written communication from the Division Head of Human Resources, the EEO Section Head and the Internal EEO Coordinator
4. Quarterly publication of Department Magazine
5. On-site reviews

**B. Merit System Requirements**

Department personnel policies and practices are not governed by a State Civil Service System.

**C. Recruitment Procedures**

1. Active recruitment efforts will be exerted by managerial and supervisory personnel when filling existing vacancies by utilizing the known referral sources to obtain qualified employees on a nondiscriminatory basis. Results of these efforts are evident when analyzing applicant flow data.
2. Contacts will be maintained with organizations representing minority groups, women and other sources likely to refer candidates for technical, professional and management level positions.

These contacts include a program developed to inform students from junior high to college of the career opportunities available within the Department. This comprehensive program utilizes employees to encourage students to pursue courses of study that will prepare them for careers with the Department. This program has evolved to include presentations at various educational facilities, tours of Highway Department facilities and presentations to other academic groups.

3. Recruitment literature or brochures will be prepared in such a manner as to be relevant to all employees, including minorities, females and the disabled.
4. Supervisors and managers have been advised that recruitment, placement and assignment of work, will be accomplished on a nondiscriminatory basis. This item is addressed in the Supervisor's EEO Evaluation.
5. The Internal EEO Coordinator is furnished data which reflects the make-up of the workforce for each District, Division and Independent Section. As vacancies occur, contact will be made with the selecting official prior to verification of Forms 125 (Personnel Authorization to hire, promote, etc.) when underutilization of minorities or females exists. The EEO Section will determine what efforts were made to recruit qualified minorities or females and offer to assist selecting officials by recruitment or drawing from the applicant pool. Each Form 125 must have an attachment which reflects all applicants for the position vacancy, with a breakdown by race and sex.

#### D. New Hire Procedures

1. As vacancies occur, they are publicized throughout the Department by posting memorandums from the Personnel Office on work area bulletin boards. Vacancies are advertised for a minimum of two weeks. Closing dates for receiving applications appear at the bottom of the memorandums. A description of duties and qualifications is attached to the position vacancy announcement. Interested persons are instructed to contact the Personnel Office or the appropriate District office. Applications for specific advertised vacancies are not normally accepted after the specified closing date; however, if a qualified applicant is not found during this period, applications may still be accepted.
2. The Department's classification and compensation system contain entry level and trainee positions to facilitate progression within occupational areas. Efforts to increase entry level salaries to enhance the Department's attractiveness to minorities and females have been and will continue to be made. Salaries at all levels are controlled by the Legislature. Salary authorization is revised every two years.
3. Applicant flow as well as new hire data is maintained and analyzed through application of the "Four-Fifths Rule" in order to assess the impact of new hire procedures on the representation of minorities and females. Application of the "Four-Fifths Rule" is accomplished annually. The "Four-Fifths Rule" is a mathematical rule of thumb used to determine adverse impact. Evidence of adverse impact is indicated when any racial/ethnic or gender group has a selection rate of less than 80% of the group with the highest selection rate.

#### E. Promotion Procedures

1. As vacancies occur, they are publicized throughout the Department by memorandums from the Personnel Office. Vacancies are advertised for a minimum of two weeks. Advertisements are dated and vacancies are not filled until the two weeks have expired. The following are exceptions to the two week advertisement which must be approved by the Director:
  - a. Emergency situations when the two week advertisement would hamper the operation of a particular function within the Department.
  - b. Transfers to reduce forces and avoid layoff.
  - c. After transfers are made for the convenience of the Department, advertisements will be accomplished only for the vacancy created as a result of the transfers.

2. The Department participates with other State agencies to permit inter-agency transfers of personnel to positions that offer progression or promotional opportunities. Personnel involved in inter-agency transfers retain their accrued vacation and sick leave, membership to the credit union, if applicable, and the same eligibility for use of vacation and sick leave afforded other Departmental employees.
3. The Internal EEO Coordinator will monitor the promotion program and review promotion actions to assure that requirements, procedures and practices support AAP objectives and do not have a discriminatory impact on the Department's overall operation.
4. Applicant flow, as well as promotion data, is maintained and analyzed through application of the "Four-Fifths Rule" in order to assess the impact of promotion procedures on the representation of minorities and females. Application of the "Four-Fifths Rule" is accomplished annually.
5. Managers and supervisors are charged with the responsibility of encouraging minority and female employees to apply for positions that offer progression and promotional opportunities. Outside applicants are not considered until active employees have been given full consideration and their qualifications have been determined.

F. Termination Procedures

1. Lay-offs are nonexistent.
2. A record of terminations is maintained to include name, race, sex, date of termination, Division/District terminated from and reason for termination.
3. Termination data is analyzed through application of the "Four-Fifths Rule" in order to assess the impact of termination procedures on the representation of minorities and females. This is accomplished annually.

When application of the "Four-Fifths Rule" to new hires, promotions or terminations indicates evidence of adverse impact, a review of procedures will be accomplished to determine why. Corrective action will be taken.

G. Employee Development Programs

1. Training

Training opportunities are publicized throughout the Department and minority and female employees are encouraged to participate. Present ongoing programs follow:



Specialized courses and seminars are developed and taught by in-house personnel. Video tapes are designed and produced to supplement this training. These include Surveying, Basic Materials, CPR, Highway Maintenance, Construction and Safety. Specialized courses on Human Resource issues include a Sexual Harassment Program, a Drug Awareness Program, an AIDS Awareness Program, Basic Supervision and a Wellness and Fitness Program including an annual Health Screening Clinic.

Participation in cooperative education where-by a student is employed by the Department in a specialized field such as accounting, computer, engineering, and receives academic credit for this on-the-job training.

In cooperation with the Federal Highway Administration/National Highway Institute, various courses are conducted in specialized areas for selected personnel.

A two day Maintenance Conference is usually conducted annually for participation by all District Engineers, Maintenance Superintendents and Area Maintenance Supervisors.

Office Administration Workshops are conducted annually at the Central Office for appropriate personnel throughout the State.

In cooperation with the State Training Officer for the State Department of Education, clerical classes are periodically scheduled.

A Highway and Transportation Conference is conducted every two years for the benefit of all engineers.

In cooperation with the Pulaski Vo-Tech Training School, McClellan Community School and the University of Arkansas at Little Rock, personal development and skills development courses are made available to employees.

Employees are offered a variety of training opportunities through the Inter-Agency Training Program administered by the Department of Finance and Administration, Office of Personnel Management. Agendas are distributed quarterly to each employee and cover a wide range of topics. Approximately 23 different courses are offered on a quarterly basis. Courses not designed for managers and supervisors are provided on request.

Records are maintained on training activity participated in by Department personnel. These reports are submitted on a quarterly basis and include name of participant, title, grade, step, race, sex and type of training. A review of training activity reports reveals whether minority and female participation rates are equal to their representation of the workforce.

Managers and supervisors are charged with the responsibility of advising minority and female employees of available specialized courses and training programs that would better prepare them for positions that offer progression and promotion opportunities. This area of responsibility is defined in the Supervisor's EEO Handbook. Supervisors are instructed to advise employees to remit documentation of training received to the Personnel Section to be made a part of employees' permanent files.

## 2. Career Counseling Activities

Employees are furnished career counseling and guidance as it relates to their occupational area and career goals. Due to the diversity of career opportunities within the Department and the geographical location of all employees, career counseling is accomplished within the various Divisions, Districts and Sections of the Department. The Human Resources staff also provides individual career counseling through the Career Enhancement Program.

The Personnel Office and District offices maintain an open-door policy to all employees desiring career counseling. This item is addressed in the Supervisor's EEO Handbook and supervisors are evaluated on their compliance with this requirement when the annual Supervisor's EEO Evaluation is accomplished.

## H. Job Validation Procedures

A Classification Specifications Manual has been prepared by the Personnel Section and contains written job descriptions for each class title.

Periodic reviews of the classification plan are accomplished to insure classifications are appropriate for actual duties performed.

When duties and responsibilities alter, the written specifications are modified to more accurately reflect requirements of the job to insure standards for all positions are job related. This is a Personnel function accomplished with input received from the supervisor(s) in whose area of responsibility the class titles are utilized.

## I. AAP Monitoring and Evaluation Procedures

### 1. Information/Feedback System

- a. Monitoring of AAP action items, goals and timetables is the responsibility of the Internal EEO Coordinator.

Contact is maintained with the official responsible for action items to determine progress. When appropriate, documentation is submitted to the Internal EEO Coordinator.

When goals and timetables have been established, specific, numerical goals are assigned to the various areas of the Department. Monthly computer reports are transmitted to the Personnel and EEO Sections which reflect the make-up of the workforce for each District, Division and Independent Section by actual number, as well as percentages. This report alerts reviewing officials of areas where underutilization exists. As vacancies occur, the selecting official is advised to recruit qualified applicants in areas of underutilization.

Periodic status reports are transmitted to Central Office and District management personnel by the Internal EEO Coordinator which contain a breakdown of new hire, promotion and termination data and progress made to meet projected goals. Problem areas are identified and recommendations offered for corrective action.

- b. Statistical data on overall employment by race, sex and occupational categories is maintained by the Internal EEO Coordinator.
- c. Applicant flow data for new hires and promotions for all advertised vacancies is maintained by the Personnel Section. This data is furnished to the Internal EEO Coordinator on an annual basis for analytical and reporting purposes.

Statistical data on new hires, promotions and terminations by race, sex and occupational categories is maintained by the Internal EEO Coordinator. This information is automated and furnished on an annual basis.

Application of the "Four-Fifths Rule" is accomplished on an annual basis to determine if there is evidence of adverse impact. Should such be the case, a review of selection procedures will be made to determine why and corrective action will be taken in situations that cannot be validated.

Training activity is maintained in the Training and Safety Section by the Training Representative. This data is furnished on a quarterly basis for analytical and reporting purposes.

- d. Data regarding the availability of minorities and females to the civilian work force is obtained from U. S. Department of Commerce, Economics and Statistics Administration, Bureau of the Census and the Arkansas Employment Security Division.

Using this data, a comparison is made to analyze overall minority/female representation within the Department.

The Bureau of the Census includes health diagnosing occupations, health assessment and treating occupations, teachers, librarians and counselors in the Professional category. The Department does not utilize individuals in any of these occupations, therefore, data for those occupations is excluded. Likewise, data for health technologists and sales occupations is excluded from the data used in the Technicians category. To obtain the comparison data for the Protective Service occupations, a sub-category of the service occupations, private household and other service occupations is excluded. The Bureau of the Census combines the Para-Professional and Service categories, therefore, the comparison data is reflected accordingly.

Overall categories are aligned for comparison as follows:

<b>Arkansas Employment Security Division Labor Market Information</b>	<b>Department</b>
Executive, Administrative and Managerial Occupations	Officials/Administrators
Professional Specialty	Professionals
Technicians and Related Support	Technicians
* Service Occupations - Protective Service Occupations	Protective Services
Administrative Support, including Clerical	Para-Professionals/ Office Clerical
Precision Production, Craft and Repair Occupations/Machine Operators, Assemblers, Inspectors	Skilled Craft
Transportation and Material Moving/Handlers, Equipment Cleaners, Helpers, Laborers	Service Maintenance
* Reflects partial data from overall category	

## 2. Problem Identification and Resolution

The Department's information/feedback system allows for easy identification of problem areas. When this information is analyzed, problem areas are prioritized for corrective action.

#### IV. COMPLAINT PROCEDURES

##### A. Responsibility

Overall responsibility for execution of the discrimination complaint procedure rests with the EEO Section Head. Other Department officials are identified in the procedures which follow:

##### B. Grievance Procedures

It is the policy of the Arkansas State Highway Commission to provide a means for addressing any reasonable complaint an employee may have concerning employment with the Arkansas State Highway and Transportation Department through the formal grievance procedure provided that the matter of such grievance is not the subject of any pending litigation or the subject of any administrative review outside the agency grievance procedure.

Grievances are processed on an individual employee basis only and the Department has a policy which prohibits retaliation against employees who exercise their rights under the grievance procedure.

In the event an employee wishes to file a grievance, the grievance must be submitted, in writing, within thirty (30) calendar days of the event causing the grievance.

The following procedures shall be followed by the employee and Department management when a grievance is filed:

**Step 1**           The employee filing a grievance shall first take the matter up with his or her immediate supervisor. The grievance shall be stated in writing on Step 1 of the grievance form.

It is the duty of the immediate supervisor to make a fair review or investigation of the matter and, if possible, resolve the complaint.

The supervisor may respond to the grievance immediately or may postpone the response in order to study the situation and/or obtain more information. However, the response shall be given to the employee in writing, on the grievance form, within five (5) working days.

If the immediate supervisor's response does not resolve the grievance, the employee shall indicate in writing, at the bottom of Step 1 of the grievance form, his or her desire to refer the grievance to the Division Head or District Engineer. This desire for referral must be made within five (5) working days following the employee's receipt of the immediate supervisor's response.

Should the employee be satisfied with the immediate supervisor's decision, the employee should so indicate by signing the appropriate line on the grievance form under Step 1.

If the employee does not indicate his or her desire to proceed to Step 2 within the specified time, the Department will consider the grievance resolved.

**Step 2**

It shall be the responsibility of the immediate supervisor to notify the Division Head or District Engineer if the employee desires to advance to Step 2 of the grievance procedure. The immediate supervisor shall provide the Division Head or District Engineer with the original grievance form with the employee getting a copy of the same.

The Division Head or District Engineer shall consult with the immediate supervisor, the employee or others, if necessary, in an effort to acquire all pertinent facts relative to the grievance.

The decision of the Division Head or District Engineer on the matter shall be given to the employee in writing, on the grievance form, within five (5) working days following the date of receipt of the grievance from the employee's immediate supervisor.

If the Division Head's or District Engineer's decision does not resolve the grievance, the employee shall indicate in writing, at the bottom of Step 2 of the grievance form, his or her desire to refer the grievance to the Department's Grievance Hearing Officer. This desire for referral must be made within five (5) working days following the employee's receipt of the Division Head's or District Engineer's decision.

Should the employee be satisfied with the Division Head's or District Engineer's decision, the employee should indicate by signing the appropriate line on the grievance form under Step 2.

If the employee does not indicate his or her desire to proceed to Step 3 within the specified time, the Department will consider the grievance resolved.

**Step 3**

It shall be the responsibility of the Division Head or District Engineer to forward the original grievance form to the Department's Grievance Hearing Officer if the employee desires to advance to Step 3 of the grievance procedure. The employee shall be given a copy of the same.

The Department's Chief of Administration and Public Affairs will serve as the Grievance Hearing Officer.

The Grievance Hearing Officer may designate another official to hear a grievance.

The Grievance Hearing Officer will notify the employee, by certified mail, of a scheduled grievance hearing date, time and location.

In the interest of collecting accurate information for reference, this hearing will normally be tape-recorded unless circumstances dictate otherwise. The employee filing the grievance will receive a copy of the transcribed grievance hearing.

The Grievance Hearing Officer will review all available documentation and, if necessary, make or direct further investigations. After the facts have been considered, a report will be made to the Director.

The employee will be notified, in writing, of the Director's decision relative to the grievance. The written decision of the Director shall be the final phase of the grievance process.

### C. Discrimination Complaint Procedure

Complaints are processed on an individual basis only. The Department has a policy which prohibits retaliation against anyone who exercises their rights under the complaint procedure.

Persons who have cause to think they have been treated unfairly due to discrimination on their present job or as a result of application for a job within the Department shall follow the procedures below in processing and resolving their allegations of discrimination. The complainant is first encouraged to discuss the alleged discrimination with the immediate supervisor.

In the event the complainant feels it would not be in his or her best interest to approach the immediate supervisor with the problem, the complainant should contact the Internal EEO Coordinator for counseling. It will be the responsibility of the Internal EEO Coordinator to counsel with the complainant to determine if there is a legitimate discrimination complaint.

When a verbal complaint is filed, as a minimum, the following information will be recorded:

1. Date complaint received
2. Name, job title and telephone number of the complainant
3. Name(s) of alleged discriminating official(s)
4. Basis of the complaint (i.e. race, color, religion, sex, national origin, disability, age)
5. Date of alleged discriminatory act(s)
6. A statement of the complaint

When a written complaint is received, the complainant will be advised of the receipt of the complaint. The complaint will be reviewed with the complainant to ensure inclusion of all the information previously listed.

If it is determined there is a legitimate discrimination complaint, the Internal EEO Coordinator will immediately notify the Chief of Administration and Public Affairs and the appropriate supervisor and request a meeting.

The complainant will be notified within 15 working days from receipt of the complaint of the findings and the decision reached including proposed disposition of the matter. If the complaint cannot be processed within the designated time frame, the complainant will be apprised of the current status of the complaint periodically until a decision is reached.

Should the complainant not be satisfied with the determination, he or she will be advised that avenues of appeal include the internal grievance procedure or the Equal Employment Opportunity Commission.

If it is determined that the complaint is not a matter of discrimination, the Internal EEO Coordinator will explain the internal grievance procedure and offer to assist the complainant in processing an internal grievance.

- D. Complaint procedures are posted on all work area bulletin boards, discussed in EEO meetings, periodically published in the Department's Newsletter and appear in the Personnel Manual and Employee Handbook.

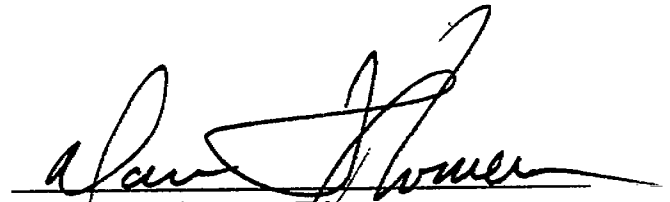


**ARKANSAS STATE  
HIGHWAY & TRANSPORTATION  
DEPARTMENT  
CONTRACTOR COMPLIANCE**

## CONTRACTOR COMPLIANCE

The Arkansas State Highway and Transportation Department is committed to equal opportunity in employment and will work cooperatively with highway construction contractors to ensure compliance with federal statutes, regulations and executive orders which require equality of opportunity in the highway construction industry.

The Contractor Compliance section of the Department's Affirmative Action Plan outlines programs and procedures developed to monitor contractor compliance. District Engineers must assure that the procedures for monitoring contractor compliance at the District level are consistent with those in the manual. Overall responsibility for the direction of the Contractor Compliance Program has been assigned to the EEO Section Head.



Dan Flowers, Director  
Arkansas State Highway and  
Transportation Department

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## I. Organization and Structure

### A. Chief of Administration and Public Affairs

The Chief of Administration and Public Affairs has been designated as the Civil Rights Officer and reports directly to the Director of the Arkansas State Highway and Transportation Department. The Civil Rights Officer directs all EEO and Title VI functions in the Department. The major programs included are Contract Compliance, Affirmative Action, On-the-Job Training and Supportive Services, Americans with Disabilities Act, and Title VI. Overall responsibility for program development, direction, and the day-to-day operation of the EEO programs lies with the Civil Rights Officer. This position is also responsible for implementation of civil rights policies, monitoring of the resulting programs, and compliance by Department and Contractor personnel.

The Civil Rights Officer is assisted in carrying out the Civil Rights programs by personnel in the Human Resources Division, Programs and Contracts Division, Construction Division, District and Resident Engineer offices. Any significant information relating to Civil Rights functions or activities is brought to the attention of the Civil Rights Officer for review and initiation of appropriate action through the responsible Department personnel.

### B. Contract Compliance Staff

1. The Human Resources Division (HRD) Head is responsible for oversight of EEO program activities within the HRD which is located in the Central Office, 10324 Interstate 30, Little Rock, AR 72209. The EEO Section of the HRD is charged with managing and administering the contract compliance function. The contract compliance staff is composed of the Section Head - EEO and an External EEO Coordinator. The principal accountabilities of the External EEO Coordinator are as follows:
  - a. Provide advisory and consultative assistance to Central Office and Field Office personnel in the interpretation and implementation of policies and procedures pertaining to the State's External EEO Program.
  - b. Provide assistance and guidance to all contractors involved in Federal-aid construction projects to ensure their compliance with the EEO, Training and Disadvantaged Business Enterprise Special Provisions which are an integral part of their construction contracts.
  - c. Conduct briefings regarding contract EEO, Training and Disadvantaged Business Enterprise Provisions at preconstruction conferences involving Federal-aid construction contracts.

- d. Conduct EEO Desk Audits, On-Site Reviews and On-Site Inspections to ensure EEO Program objectives are accomplished by the contractor.
  - e. Maintain local labor force data and other pertinent information to be used by the EEO Section to advise and assist contractors toward implementing their Affirmative Action Programs.
  - f. Establish liaison with minority oriented organizations, educational and vocational institutions and agencies performing similar or related duties.
  - g. Exercise administrative control of the State's External EEO Program.
  - h. Prepare reports and summaries to be forwarded to Federal Highway Administration (FHWA) as required.
2. The Section's Administrative Assistant's principal account-abilities to the external function are:
- a. Prepare necessary correspondence to contractors, FHWA and Department personnel involved in the EEO function.
  - b. Prepare and maintain project folders on Federal-aid construction contracts.
  - c. Prepare correspondence to contractors pertaining to the requirements and submission of necessary reports.
  - d. Maintain necessary logs to record receipt of forms and reports.
  - e. Advise contractors and project personnel on the preparation and submission of forms and reports.
  - f. Requisition and maintain a supply of forms and office supplies necessary to accomplish the EEO function.
3. The External EEO Coordinator performs EEO functions full-time Division, District and project personnel perform part-time EEO activities. The EEO compliance program is centralized.

### C. Division Personnel

1. The Programs and Contracts Division has the responsibility to include P.S. & E. documents in prime contracts for notification of EEO responsibilities by inclusion of FHWA-1273 and EEO Special Provisions required by FAPG, Title 23, Chapter I, Subchapter C, Part 230, as applicable.
2. Requests to sublet portions of the contract are reviewed, processed and approved by the Assistant Chief Engineer - Operations. All proposed subcontracts on Federal-aid projects are required to contain the following, or similar, statement: "All of the provisions of FHWA-1273 and Supplements, required Contract Provisions, Federal-aid Contracts, attached hereto, are made a part of this subcontract." The certification pertaining to EEO is also attached and must be completed by each subcontractor. Upon receipt and review of the proposal to sublet, everything being in order, one complete set of the above mentioned labor requirements is assembled and transmitted to the approved subcontractor with the letter of approval.

D. District Personnel

There are no District personnel with direct EEO responsibilities and duties in regard to contractor compliance. The District Engineer (DE), in exercising total responsibility for all maintenance and construction accomplished within the District, does possess a general knowledge of the contractor's EEO obligations. The DE has the responsibility of ensuring that preconstruction conferences are scheduled for each Federal-aid contract awarded within the District. The Resident Engineer (RE) serves as moderator during such conferences. The DE has no EEO reporting requirements regarding contractor compliance.

E. Project Personnel

1. The RE and the RE's staff are responsible for labor compliance and engineering. The RE administers the EEO Program as it applies to highway construction activities. The RE's responsibilities consist of the following:
  - a. Conduct preconstruction conferences.
  - b. Appoint an EEO Field Inspector.
  - c. Instruct the Field Inspector in the preparation of reports.
2. The responsibilities of the EEO Field Inspector consist of the following:
  - a. Ensure Field Reports are submitted as required on Federal-aid contracts including prime contractors and subcontractors.

- b. Review the project site bulletin board to ensure it contains necessary posters and notices for each contractor performing on the project.
- c. Conduct On-Site Inspections to make the following determinations:
  - (1) How often does the contractor's/subcontractor's EEO Officer or company representative visit the project?
  - (2) Does the contractor's supervisory personnel have sufficient knowledge of the company's EEO obligations?
  - (3) What kind of procedures are used in advertising? Do advertisements contain the notation "AA/EOE Women, Minority and Disabled People Encouraged to Apply"? (This notation is recommended, however, any notation which identifies the company as an Affirmative Action/Equal Opportunity Employer may be sufficient.)
  - (4) What methods are used by the contractor to inform employees of the company's EEO policy; i.e., letters, meetings, printed handouts, etc.
  - (5) Are facilities provided on a nonsegregated basis?
  - (6) Has any applicant for employment or employee registered a discrimination complaint?
  - (7) What positive efforts has the contractor exerted to place minority, female and disabled employees into on-the-job training (OJT).
  - (8) Are trainees being utilized in skill classifications identified on the company payroll?
  - (9) Are Disadvantaged Business Enterprise re-quirements being accomplished in accordance with the goal that has been established?
- d. On projects that have the Optional Training Proposal Special Provision (OTPSP), the following will be accomplished:
  - (1) Ensure the training proposed by the contractor is under an approved training program.

- (2) Ensure the receipt of a Registration Card for each trainee at the time of entry into training.
- (3) Prepare a Training Progress Record for each trainee employed under the contract special provision.
- (4) Transcribe hours of training indicated on contractor's weekly payroll to the Trainee Progress Record.
- (5) Prepare a Trainee Interview Form on each trainee enrolled on the project. This form will be prepared in duplicate. The original will be furnished to the EEO Section and one copy will be retained in the RE's file. The purpose of the interview is to determine whether the trainee:
  - (a) Is eligible for the training program.
  - (b) Is being trained in the craft in which enrolled.
  - (c) Has received a copy of the training program or training classification and a Fact Sheet on the Department's Supportive Services Program.
- (6) Prepare a Contractor Interview Form on the contractor or an appointed superintendent/foreman (woman) quarterly to evaluate their knowledge of the OJT Program. The distribution of this form is the same as the Trainee Interview Form.
- (7) Prepare a Trainee Termination Form as trainees terminate the training program. One copy is sent to each of the following: RE, EEO Section and the sponsoring agency of the training program. The EEO Field Inspector will review the form to ensure accuracy of the information provided.

#### F. Training

The EEO Staff has attended numerous seminars and training sessions in order to acquaint themselves with equal opportunity requirements. The EEO Staff will attend seminars and training sessions where the information disseminated is pertinent to the EEO function.

The External EEO Coordinator will conduct training sessions with District and project personnel to discuss the components of the External Program and the monitoring requirements on Federal-aid projects. These training sessions will be



conducted when revisions are made to the program and as need dictates. Internal and external resources will be used to assist in preparing and presenting these training sessions.

## II. Contract Compliance Procedures

### A. Implementation

1. The RE's EEO Field Inspector performs On-Site Inspections. The Field Inspector documents the inspection by completing an EEO Field Report. The original is sent to the EEO Section and a copy is retained by the RE.

The External EEO Coordinator utilizes "informal" and "formal" approaches to monitor contractor compliance with the EEO obligations as outlined in the Special Provisions. The "informal" type of review is an On-Site Inspection. Contractors are selected at random. These are "no notice" inspections. The "formal" types of reviews are the Desk Audit and the On-Site Review. The major difference between these procedures is the Desk Audit focuses on the contractor's EEO Program whereas the On-Site Review focuses on the project. The method for conducting Desk Audits, On-Site Reviews and On-Site Inspections is detailed in the Contract Compliance Review Guidelines.

2. The Desk Audit involves obtaining certain information from the contractor. The information requested is submitted by the contractor to the External EEO Coordinator. The information is analyzed and the results of the analysis are used to determine whether, and if, an On-Site Review is to be conducted.

Priority in scheduling Desk Audits is given to those contractors:

- a. Working on a significant number of contracts.
- b. Holding the greatest potential for employment and promotion of minorities and females (particularly in higher skilled crafts or occupations).
- c. Working in areas which have significant minority and female labor forces within a reasonable recruitment area.
- d. Working on projects that include special training provisions.
- e. Working on projects that have a Disadvantaged Business Enterprise goal.

- f. Whose compliance with equal opportunity requirements is questionable (based on review reports or other information available).
  - g. Who have not been reviewed or audited during the previous year.
3. When a contractor has been selected for a Desk Audit, a notification letter is sent to the contractor. The contractor is allowed at least three (3) weeks from the receipt of the notification letter to submit the requested information.

When the information is received, the External EEO Coordinator will:

- a. Review the information received from the contractor for completeness.
  - b. Review employment data for mathematical accuracy.
  - c. Review employment data for overall minority/female representation to ensure compliance with the employment goals outlined in 41 CFR 60-4, Appendixes A and B-80.
  - d. Identify specific classifications where minorities and females are underutilized.
  - e. Review previous compliance review reports on the contractor to identify serious deficiencies.
  - f. Review the remainder of the information received and identify any problem areas in order to apprise the contractor.
  - g. Review files for delinquent EEO reports.
4. Upon completion of a Desk Audit, the External EEO Coordinator will notify the contractor in writing of each deficiency identified and recommend specific actions to correct each deficiency. A decision on whether or not to perform an On-Site Review will be made; and, if so, when (based on peak employment period).

The letter to the contractor will advise the contractor of the opportunity to submit a voluntary corrective action plan including specific actions to correct each deficiency. The time limit for submitting a voluntary corrective action plan will be 20 calendar days from the date of the letter. The reviewing officer will also include in this letter the appropriate language that the contractor is required to incorporate in any voluntary corrective action plan submitted.

In the event additional information is needed, it will be solicited from the contractor.

Significant discrepancies in information submitted as a result of a Desk Audit will warrant the scheduling of an On-Site Review(s).

If, based on the information submitted by the contractor, it is determined that no further review is necessary, the reviewing officer will notify the contractor in writing of non-selection for review.

Desk Audit Reports will be prepared and submitted through appropriate channels within 15 calendar days following completion of the Desk Audit.

5. On-Site Reviews will be conducted:
  - a. When the External EEO Coordinator determines an On-Site Review is necessary to verify information submitted by the contractor for the Desk Audit.
  - b. When the information received indicates serious deficiencies or violations of EEO contract requirements.
  - c. When the contractor's amount of Federal-aid highway work and size of workforce warrant On-Site Reviews of randomly selected sites.
  - d. Instead of the Desk Audit.

At least a two (2) week written notification will be provided each contractor selected for an On-Site Review following a Desk Audit.

6. The On-Site Review can be conducted as a result of the Desk Audit or it can be the initial review. When the On-Site Review is the initial review, the prime contractor will receive at least a 30 day written notification. Included with the notification is a list of material which must be submitted to the External EEO Coordinator two (2) weeks before the scheduled review. The prime contractor is responsible for notifying active subcontractors that they must participate in the review.

Priority in scheduling On-Site Reviews is given to those projects:

- a. Which hold the greatest potential for employment and promotion of minorities and females (particularly in higher skilled crafts or occupations).

- b. Located in areas which have significant minority and female labor forces within a reasonable recruitment area.
  - c. That include special training provisions.
  - d. That have a Disadvantaged Business Enterprise goal.
  - e. Where compliance with equal opportunity requirements is questionable. (Based on review reports or other information available).
  - f. Where the prime contractor has not been reviewed or audited during the previous year.
7. On-Site Reviews will be conducted in two phases. Phase One will be a review of documentation submitted by the prime contractor and the subcontractors. Phase Two will be an On-Site Inspection to review the job site bulletin board, to ensure facilities are nonsegregated and to interview the project superintendent, minority and female employees and each trainee.

The Compliance Data Report will be used to summarize On-Site Reviews. Two copies of the review will be forwarded to the Federal Highway Administration Division Office within 15 days after completion of the review.

8. Home Office Reviews will be conducted using the Desk Audit Process. These reviews will include a review of the Federal-aid Highway construction projects that have been awarded the contractor. Home Office Reviews will not be conducted on contractors who have less than 15 employees in their home office workforces.

**B. District and Project Personnel Indoctrination**

As needed, the External EEO Coordinator will conduct meetings with District and Project Personnel for the purpose of discussing FHWA contract compliance directives and the Department's plan of action for compliance.

**C. Contractor Indoctrination**

1. The RE schedules a preconstruction conference for each Federal-aid project and furnishes a copy of the letter of notification to the EEO Section. The External EEO Coordinator participates in these conferences provided the contractor has not received an EEO briefing previously. The

procedures for advising contractors of their EEO contract requirements are as follows:

- a. The External EEO Coordinator gives a summary of the EEO provisions of the contract and furnishes contractors in attendance a pamphlet in which the following information is included:
  - (1) The name, address and telephone number of the External EEO Coordinator who conducts the EEO briefing.
  - (2) A notice informing contractors that subcontractors who have subcontracts in excess of \$10,000 are subject to the same obligations as the prime contractor. The contractor is reminded to exercise maximum efforts to utilize disadvantaged businesses.
  - (3) The goals and timetables for minority and female participation expressed in percentage terms for the contractor's aggregate workforce in each trade on all construction work in the covered area.
  - (4) A sample Purchase Order Agreement (POA) in which the appropriate EEO clauses have been incorporated. The contractor is informed that a POA must be accomplished for all material purchases and leases of equipment in the amount of \$10,000 or more. The EEO Clauses can not be made by reference only.
  - (5) A Documentation Schedule to be used by the contractor as a guide for documenting affirmative action steps taken to comply with the EEO Special Provisions.
  - (6) Lists of referral sources likely to yield minority and female applicants in the contractor's recruitment area. The lists include Employment Security Division Offices, Vocational-Technical Schools, Offices of Economic Opportunity, Technical Colleges and Technical Institutes, Minority Male and Minority Female Referral Sources, Female Referral Sources (Minority and Non-Minority), Disabled Referral Sources and Minority Oriented Radio Stations and Newspapers. Contractors are instructed to furnish the Resident Engineer a copy of advertisements placed in newspapers and broadcast on radio or television.

(7) A list of posters and notices that must be displayed on the job site and home office bulletin boards. Contractors are informed that the bulletin board must be located in an area readily accessible to all applicants for employment and employees. All of the posters, except the Workers' Compensation Notice, are provided to the contractor by the Department. The list of notices provides examples of a company EEO policy statement, a notice encouraging employees to refer minority and female applicants for employment, a notice informing employees of an available training program and the entrance requirements, complaint procedures, a notice identifying the company EEO officer by name and including the address and telephone number where the EEO officer can be reached, work environment statement, certification of nonsegregated facilities and a notice to unions disseminating EEO commitments and responsibilities and requesting their cooperation. Included with these lists is an information sheet entitled "How to Avoid Gripes Becoming Grievances (Complaints)". This sheet identifies considerations for improving employee-employer relations.

(8) Federal-aid construction reporting requirements. The External EEO Coordinator discusses the procedure for preparing and submitting Forms PR-1391 and EEO-1 as applicable.

b. On Federal-aid projects that contain the OTPSP, the following information is provided, as well as the information in Paragraphs (a) (1-8):

(1) The RE reviews the Optional Training Commitment Form (OTCF) to ensure that training shall be for the purpose of developing full journey level persons in crafts identified as "critical" by the Department in terms of minority and female underutilization statewide. Training in classifications not listed as "critical" will not be approved. The RE reviews the form to ensure there is adequate time to train employees to journeyman status in classifications selected by the contractor.

(2) Pamphlets distributed at these conferences contain this additional information:

A list of the On-the-Job Training Program Reporting Requirements. The list identifies each form (Registration Card, Weekly Progress Card, Termination Form), the submission frequency and the necessary distribution. The contractor is given a thorough explanation of each form.

2. An External EEO Coordinator will only attend Federal-aid project preconstruction conferences as stated in Contractor Indoctrination, Item C-1. The contractor will be advised of the supportive services that are available to the trainee and contractor.

The contractor is instructed to maintain records relative to the EEO/Affirmative Action Program for a period of at least three (3) years following project completion.

### III. Contract Sanctions

- A. The Arkansas State Highway and Transportation Department will take affirmative action to include the imposition of contract sanctions and the initiation of appropriate legal proceedings under applicable State or Federal law, if necessary, to achieve equal employment opportunity on all Federal-aid highway projects. The Department will actively cooperate with the Federal Highway Administration and the Office of Federal Contract Compliance Programs in all investigations and enforcement actions initiated by either agency. Sanctions imposed by the Department will be reviewed by the Legal Division, prior to issuance, to ensure legal sufficiency.
- B. The Department has a procedure for withholding a contractor's progress payments for failure to comply with EEO requirements.
- C. The following laws are applicable.
  1. Civil Rights Act of 1964
  2. EO 11246 as amended by EO 11375
  3. EO 11764
  4. Federal-aid Highway Act of 1968, 1970
  5. 49 CFR Part 23
  6. Americans with Disabilities Act of 1990

D. In the event of a contractor's noncompliance with the nondiscrimination provisions of the contract, the Department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:

1. Withholding of payments to the contractor under the contract until the contractor complies, and/or
2. Cancellation, termination or suspension of the contract, in whole or in part.

The contractor will be notified of the deficiency/violation and given a reasonable (preferably a mutually agreed upon) period of time for corrective action. If corrective action has not been initiated in the specified time period or it appears the contractor has not exerted a good faith effort to comply, sanctions will be imposed.

#### IV. Complaints

A. The investigation and processing of all alleged complaints of discrimination received by the Department will be accomplished by the External EEO Coordinator.

When an allegation of discrimination is filed directly with the Department or if the Department is notified that an allegation has been filed with other Federal, State or local authorities, the Department will:

1. Notify the appropriate agency (Federal Highway Administration, Federal Transit Administration, Federal Railroad Administration, etc.) within 10 working days of the allegation. As a minimum, the following information will be included in every notification:
  - a. Name, address and telephone number of the complainant.
  - b. Name(s) and address(es) of alleged discriminating official(s).
  - c. Basis of complaint (i.e., race, color, religion, sex, national origin, disability, age).
  - d. Date of alleged discriminatory act(s).
  - e. Date complaint was received by the Department.
  - f. A statement of the complaint.



- g. Other agencies (State, local or Federal) with which the complaint has been filed.
  - h. An explanation of the actions the Department has taken or proposes to resolve the issues raised in the complaint.
2. Acknowledge receipt of the allegation, informing the complainant of action taken or proposed to process the allegation and advising the complainant of other avenues of redress available within 10 working days.
  3. Investigate the allegation and based on the information obtained, determine whether or not discrimination occurred.
  4. Prepare a report of findings.
  5. Notify the complainant, within 45 days from receipt of the allegation, of the findings and the decision reached including proposed disposition of the matter. The notification will advise the complainant of avenues for appeal if dissatisfied with the decision. The proposed resolution will require action adequate to correct and prevent similar occurrences of discrimination.
  6. Provide the appropriate agency with the decision and a summary of the findings within 45 days after receipt of the allegation.
  7. Periodically inform the appropriate agency regarding the status of complaints.
  8. Make informal attempts to resolve the matters. These informal attempts and their results will be synopsized in the report of investigations.

The procedure outlined herein will not prohibit interagency agreements between the Department and State or local Federal Employment Practice (706) agencies.

The fact that an allegation has been filed directly with the Federal Highway Administration, Federal Transit Administration, Federal Railroad Administration, etc., will not relieve the Department, upon being informed of the allegation, of the responsibility for taking action, pursuant to its own internal procedures, to resolve the matter.

- B. The Department has developed a procedure for processing verbal complaints alleging discrimination. When a RE or an EEO Field Inspector receives a complaint of alleged discrimination, the contractor will be given an opportunity to resolve the complaint. The following steps will be taken:

1. Notify the contractor within five days of the alleged discriminatory act and schedule a meeting with the company's EEO officer or an authorized company representative and the complainant in order to discuss the complaint. This meeting will be documented thoroughly.
2. If the complainant is satisfied with the company's proposal to resolve the complaint, the Section Head - EEO will be furnished a copy of the minutes of the meeting. The minutes will be signed by the complainant and the company's EEO officer or authorized representative.

A report of complaints resolved in this manner will be prepared and submitted to the Division Office of FHWA on a quarterly basis.

3. If the complainant is dissatisfied with the company's proposal to resolve the complaint, the complainant will be instructed to submit the complaint in writing to the Section Head - EEO. The Section Head - EEO will be furnished a copy of the minutes of the meeting. The minutes will be signed by the complainant and the company's EEO officer or authorized representative. All written complaints will be investigated and processed in accordance with the procedure described in paragraphs A. (1-10) of this section.

- C. When a RE or an EEO Field Inspector is notified that a complaint alleging discrimination has been filed with other Federal, State or local agencies by employees or applicants for employment of contractors holding Federal-aid contracts, the EEO Section Head will be notified immediately.

In order to avoid duplication of effort, the EEO Section Head will maintain contact with the agency regarding the progress of its investigation and the final determination made on the issues in the case. The Division Office of FHWA will be apprised of the current status of external complaints in the annual EEO Program update.

## V. External Training Programs - Supportive Services

- A. An OTPSP is included in certain contracts. This provision identifies the procedure to follow in administering a training program.

The highway contractor, in order to have an approved Training Program, can decide on one of the following:

1. Become a member of the Arkansas Chapter Associated General Contractors. This training program has been approved by the U. S. Department of Labor, Manpower Administration, Bureau of

Apprenticeship and Training and is periodically reviewed by the Office of Federal Contract Compliance Programs.

2. Develop and submit a Training Program for the company to the Arkansas State Highway and Transportation Department for approval with the concurrence of the Federal Highway Administration.
  3. Submit documentation indicating affiliation with an agency that has an approved training program if the company is an out-of-state highway contractor.
- B. The Department is administering a Supportive Services Program. Supportive services are provided in connection with the approved on-the-job training program and are designed to increase the overall effectiveness of the training program in providing an equal opportunity for minority, female, disabled and disadvantaged workers.
- C. Semi-annually, the External EEO Coordinator furnishes FHWA a progress report which contains the following information:
1. Number of trainees enrolled, terminated and graduated. This information is broken down by race, sex and training classification.
  2. Number of graduates contacted for four (4) months to determine how their skills are being developed. This information is broken down by race and sex.

The progress report is sufficient to evaluate the status of the training program with regard to minority and female representation.

- D. The Programs & Contracts Division will select those highway projects where training can be provided. Projects selected will exceed an estimated cost of \$2,000,000. The OTPSP will be included in the bid proposal with an OTCF. The OTCF should be completed and included in the contractor's bid proposal if the contractor elects to provide training on the highway project. This form does not have to be completed if the contractor elects not to provide training.

If the contractor completes the OTCF, Programs & Contracts Division will provide a copy of the form to the Construction Division (CD), the EEO Section and the RE's office.

If the contractor does not complete an OTCF and later decides to enroll individuals in the training program, the contractor must submit a completed OTCF to the RE's office for approval. The RE will review this submission. If everything is satisfactory, a copy will be sent to the District Engineer and a copy to the CD

The contractor will be given the option to train until there is not enough time remaining on the project for completion of training or for an individual to accumulate enough hours to graduate.

When a contractor requests approval from the CD for subcontracts of \$250,000 or more, the CD will furnish the subcontractor a copy of the OTPSP which includes the OTCF. The RE will follow the same procedure as described for the contractor. The subcontractor will be given the option to train until there is not enough time on the project to complete training.

#### VI. Disadvantaged Business Enterprises

The EEO Section is responsible for monitoring contractor compliance with the Disadvantaged Business Enterprise Program at the project level. This is done through a review of the Project log, EEO Field Reports, Compliance Reviews, On-Site Inspections and Verification Reviews.

When Federal-aid construction contracts are awarded, the required percentage of Disadvantaged Business Enterprise utilization is posted in the project log. The log is annotated to show DBE firms which are to be used when subcontract approval is received by the staff. The EEO Section Head monitors the log until a work start notice has been received.

The EEO Field Inspector will conduct an On-Site Inspection at the start of work by Disadvantaged Business Enterprises. During this inspection, it will be determined if the workers are permanent employees of the firm and if the equipment is owned by the firm.

Irregularities noted during inspections will be investigated and resolved. Any arrangements which are not consistent with standard industry practice, which serve no commercially useful function or in which the firm has relinquished control of the work will be reported to the State Construction Engineer by memorandum. The prime contractor and DBE subcontractor will be advised of the suspected irregularity by letter. A copy of the letter will be sent to the EEO Section Head. The State Construction Engineer will review the issues in the memorandum and determine whether an investigation is necessary and, if so, which Division/Section should conduct the investigation.

Contractors' compliance with the Disadvantaged Business Enterprise Special Provision in the contract is evaluated by the External EEO Coordinator during Compliance Reviews and On-Site Inspections. Verification Reviews will be conducted to determine whether firms are eligible to participate in the program. The method for conducting reviews and inspections is detailed in the Contract Compliance Review Guidelines.

VII. Liaison

The EEO Section maintains continuing liaison by correspondence, personal and/or telephone contact with minority, female and disabled organizations, individuals, educational institutions, elected officials, contractor organizations and agencies performing similar or related duties. The information disseminated by the Section relates to the Department's policies and procedures to ensure contractor compliance with equal employment requirements.

VIII. Innovative Programs

EXTERNAL YOUTH OPPORTUNITY PROGRAM

Each summer the Department promotes an External Youth Opportunity Program (EYOP) designed to provide meaningful work experience in highway construction for the State's youths, ages 18-21.

The External EEO Coordinator reviews the Department's Construction Division Job Report and selects those Federal-aid Highway Construction Projects that may provide employment opportunities during the summer. The criteria for selecting projects is as follows:

1. Construction time is 150 days or more.
2. Job Completion and time used is 25% or less.
3. Estimated date of completion is September or later.

Other Federal-aid projects are reviewed and selected based on the size of the project (dollar amount and percent completed) and how active the project will be during the summer season.

The prime contractor is identified from this information. A contractor's list is developed by county and contains the name of the company's EEO Officer, address, and telephone number. A material supplier's list is also maintained by county. New suppliers are added to the list based on information obtained from Desk Audits and On-Site Reviews conducted the previous year.

Letters promoting the EYOP are sent to universities, colleges, technical institutions, minority and female referral sources, minority organizations, minority state legislative members and high schools near the projects. Enclosed with the letter is a list of prospective employers and/or a summary of the previous year's effort.

A letter is also mailed to each contractor and material supplier promoting the EYOP and requesting each to give consideration to hiring youths ages 18-21 during the summer season. Each contractor and material supplier is also requested to make a special effort to recruit and hire minorities and/or females. Enclosed with the letter is Form AHTD-EYOP which is used to report each firm's total youth employment broken down by race, sex, job classification, average wage rate, and educational data.

At the conclusion of each summer campaign, a letter will be sent to participating highway construction contractors and material suppliers expressing the Department's appreciation. The three companies employing the highest number of youths will be presented Certificates of Appreciation.

**PART I**  
**CONTRACTOR COMPLIANCE UPDATE**  
**1997**

## I. ACCOMPLISHMENTS

### A. Contract Compliance Review Activity

1. Reviews conducted
  - a. Desk audits - Three
  - b. On-site reviews - Two
  - c. Contractors reviewed - Eight
  - d. Contractors found in compliance - None
  - e. Contractors found in noncompliance. Eight contractors reviewed were found to be in noncompliance. Voluntary corrective action plans (VCAP) were negotiated with seven contractors and the contractors were required to submit progress reports quarterly. One contractor has not submitted the company's VCAP.
  - f. Show cause notices issued - None
  - g. Show cause notices rescinded - None
  - h. Show cause notices unresolved - None

The goal for contract compliance reviews was eight. Four contract compliance reviews were completed. One review is in progress.

In the 1996 Update, one On-Site Review was reported in progress because the contractor (DBE) had not provided requested payrolls to the Department in order for the review to be completed. A Verification Review of the contractor was scheduled after receiving information the contractor was not serving a commercially useful function on the project. Based on the review and appeal hearing, the contractor was determined to be ineligible to participate in the Department's DBE Program. The On-Site Review was not completed due to the prime contractor terminating the company's subcontract and the long delay before this office received the contractor payrolls.

2. On-Site Inspections Conducted
  - a. Number of inspections - Two
  - b. Number of contractors inspected - Four
  - c. Contractors found in compliance - None
  - d. Contractors found in noncompliance. Deficiencies were identified during each of the inspections conducted. Appropriate corrective actions were taken by the four contractors.
  - e. Show cause notices - None
  - f. Show cause notices rescinded - N/A
  - g. Show cause notices unresolved - N/A

The 1996 goal for on-site inspections was two.



## B. Verification Review Activity

1. In the 1996 Update, a contractor was close to declaring default on a project. The State Construction Engineer requested the EEO Staff determine if the DBE subcontractors were paid in full and the DBE goal was satisfied. The review revealed that two DBE contractors had not been paid in full and the DBE goal on the project would have a shortfall. The Department's agreement with the bonding company states that a good faith effort would be made to satisfy the DBE requirements by utilizing the two DBE subcontractors on the project. In order to determine if the DBE goal was satisfied on the project, the Department's Construction Division requested the bonding company submit a Certificate of Payment to DBEs. The document has not been received.

Also in the 1996 Update, Debbie's Construction, Inc. (DC) was requested to provide additional information to address concerns the Certification Committee had with the company. Based on that information and additional information received from the Missouri Highway and Transportation Department, the Committee upheld the determination that DC was eligible to participate in the Department's DBE Program.

2. The 1996 goal for Verification Reviews was four. Four companies were reviewed, two in response to U.S. Department of Transportation, Office of the Secretary of Transportation, Inspector General (OIG) hotline complaints. The companies examined in the other reviews were determined to be eligible for the DBE Program.

The Department received a hotline complaint on Aaron Trucking, Inc. (AT) from the OIG. The complaint indicated the company received DBE status falsely by misrepresenting the organizational structure of the company and the owner did not possess sufficient expertise or knowledge of the trucking business to run the company.

Based on the review of AT it appeared the company was a family-run business and ineligible to participate in the DBE Program and the Certification Committee decertified them.

A Verification Review of Beverly's Trucking, Inc. (BT) was in progress when the Department received a hotline complaint on BT from the OIG. The complaint indicated the company received DBE status falsely by misrepresenting the organizational structure of the company.

Based on the review of BT it appeared the company was a family-run business and ineligible to participate in the Department's DBE Program. The Certification Committee determined the company was not eligible for the program and issued a notice of intent to decertify.

BT appealed the decision. At the appeal hearing, the Certification Committee requested BT provide additional information before a determination could be made.

3. In addition to the Verification Reviews, the EEO Section conducted in-depth reviews of Greer Construction Company (GCC) and M.A.T. Enterprise (MAT).

Mr. Charlie Greer, owner of GCC, alleged nonpayment from Mitchener Excavation, Inc. (ME) and Howard Construction Company (HCC) for work performed. The Department's Certificate of Payment to DBEs from ME indicated GCC was paid for work performed on Job Number 110247.

On Job Number 5897, the Department's review indicated a commercially useful function was not performed. GCC and HCC did not have prior approval from the Department for HCC to pay GCC's suppliers. HCC filed a claim against the Department for work completed on the project. The Department is negotiating settlement of HCC's claim.

Ms. Minnie Tillman, President of MAT, contacted the Department's EEO office to determine if the prime contractor was paid for Stone Backfill which was an item in MAT's subcontract on Job Number 8895. Based on the review, it appeared that MAT did not perform a commercially useful function because the company did not approve the hauling of materials to the project by the prime contractor. A memo and a copy of the review were sent to the Department's Construction Division for review and determination.

A meeting was held at the Department between MAT and the prime contractor on Job Number 020127 concerning MAT returning to the project to complete the remaining work and paying the suppliers. The prime contractor wanted to cancel MAT's subcontract due to nonperformance; give the subcontract to another DBE, and develop a joint checking arrangement to pay MAT's suppliers. MAT would not approve the joint checking arrangement but agreed to another DBE contractor completing the remaining work. The contractor would be listed on MAT's payroll. The contractor would not agree to the payroll arrangement. MAT terminated the subcontract. The prime contractor requested and received approval from the Department to replace MAT with another DBE.

A memo was received from the Resident Engineer's office concerning MAT's failure to perform and pay material suppliers for material incorporated into the work on Job Number R70024. The Department approved a joint checking agreement between the prime contractor and MAT to pay material suppliers. The prime contractor wanted MAT to return to work and pay MAT's suppliers. After a review of federal DBE regulations and the project files, it was determined that MAT violated the joint checking agreement and the prime contractor was approved to pay MAT's suppliers and deduct the amounts paid from the amounts owed to

MAT for the work performed. A review is in progress to determine if MAT's subcontract should be canceled.

On Job Number R30081, the prime contractor requested the Department's approval to cancel MAT's subcontract because of nonperformance. Based on a review of the project, it was determined the prime contractor should be allowed to cancel MAT's subcontract. The prime contractor was requested to submit a plan of action to satisfy the DBE goal on the project.

On Job Number 080076, MAT indicated in a letter to the Department's Resident Engineer (RE) that the prime contractor had not paid the company for work performed. The RE has initiated a review of the project to determine the work performed by and payments made to MAT.

## II. CONTRACT SANCTIONS

The Department withheld payments to 45 contractors until Forms PR-1391 were submitted. All of the contractors reported.

## III. COMPLAINTS

In the 1996 Update, it was reported that Ms. Terri Sparks, white female, was planning to file a complaint with EEOC. Ms. Sparks filed the complaint and EEOC has advised the Department the case is closed.

Also in the 1996 Update, several employees filed a verbal complaint against The Hardaway Company alleging their salaries were reduced while other employees' salaries were increased; verbal abuse and harassment on the project; and failure to maintain a proper water supply for employees. A project meeting was held to review payrolls, compare job classifications and discuss why wage rates were reduced. The complainants were satisfied with the wage rate reduction after the discussion and review of the information provided. The company's EEO Officer held an EEO project on-site meeting to address the last two items. The EEO officer remained on the project all day for questions or comments by employees. The Department's EEO Field Inspector continued to monitor the project until completion. No additional complaints were filed and the case is closed.

## IV. EXTERNAL TRAINING PROGRAMS - SUPPORTIVE SERVICES

For the period January 1, 1996 through December 31, 1996, the training program did not have any enrollments, graduations or terminations.

V. ASSESSMENT

A. Employment Trends

The following charts reflect changes in Arkansas employment trends for July 1995 and July 1996.

In order to assess minority and female utilization, the minority availability in the civilian labor force statewide (14%) and the goals for female employment (6.9%) were used.

EMPLOYMENT TRENDS 1995 - 1996

	<u>1995</u>	<u>1996</u>	<u>CHANGE</u>
Total Projects	170	210	+40/23.5%
Total Dollar Value	\$558,762,542	\$752,367,024	+193,604,482/34.6%
Total Employment	2,720	3,239	+519/19.1%
Minority Employment	692/25.4%	1,032/31.9%	+340/49.1%
Female Employment	166/6.1%	177/5.5%)	+11/6.6%

Total, minority and female employment increased. Minority percentage representation increased and female percentage decreased.

CRITICAL TRADES

(Only trades with 30 or more employees listed)

The following trades are critical in terms of minority representation in Arkansas:

	<u>Total Employment</u>			<u>Minority Employment</u>		
	<u>1995</u>	<u>1996</u>	<u>CHANGE</u>	<u>1995</u>	<u>1996</u>	<u>CHANGE</u>
Mechanics	65	102	+37/56.9%	6	12	+6/100.0%
Supervisors	219	270	+51/23.3%	17	54	+37/217.6%
Foremen	155	156	+1/0.6%	18	19	+1/5.6%

The Mechanic, Supervisor and Foreman trades were the only critical areas identified in 1995 and employment increased in these trades. The Mechanic and Foreman trades were identified as critical in 1996.

The following trades have been identified as critical in terms of female representation in Arkansas:

<u>TRADE</u>	<u>Total Employment</u>			<u>Female Employment</u>		
	<u>1995</u>	<u>1996</u>	<u>CHANGE</u>	<u>1995</u>	<u>1996</u>	<u>CHANGE</u>
Supervisors	219	270	+51/23.3%	4	7	+3/75.0%
Foremen / Women	155	156	+1/0.6%	0	0	NONE
Equipment Operators	640	749	+109/17.0%	31	22	-9/29.0%
Mechanics	65	102	+37/56.9%	0	0	NONE
Truck Drivers	260	283	+23/8.8%	11	12	+1/9.1%
Ironworkers	39	35	-4/10.3%	2	3	+1/50.0%
Carpenters	184	231	+47/25.5%	5	3	-2/40.0%
Cement Masons	94	119	+25/26.6%	1	0	-1/100.0%
Semi-Skilled Laborers	474	589	+115/24.3%	23	26	+3/13.0%
Unskilled Laborers	474	553	+79/16.7%	40	35	-5/12.5%

All trades were identified as critical in 1995. Total employment decreased in one trade and increased in nine trades. Female employment increased in four trades, decreased in four trades and remained the same in two trades.

#### B. Problems Identified

There was a decrease in total female employment.

C. Accomplishments

The data which follows summarizes the results of the External Youth Opportunity Program for 1996:

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT																	
EXTERNAL YOUTH OPPORTUNITY PROGRAM																	
EMPLOYMENT RECORD																	
CONTRACTORS AND MATERIAL SUPPLIERS																	
1996																	
EMPLOYMENT DATA																	
	JOB CATEGORIES	AVG. HOURLY WAGE	ALL YOUTH EMPLOYED		BLACK Not of Hispanic Origin		HISPANIC		AMERICAN INDIAN OR ALASKAN NATIVE		ASIAN OR PACIFIC ISLANDER		WHITE Not of Hispanic Origin		TOTAL		
			M	F	M	F	M	F	M	F	M	F	M	F	M	F	
			A	ADMINISTRATIVE-CLERICAL	5.73	6	13			2		1					6
B	ENGINEERING AIDE	8.80	4	1										4	1	4	1
C	TECHNICAL AIDE	6.00	3											3		3	
D	DRIVER-OPERATOR	7.32	4		1									3		4	
E	LABORER-MAINTENANCE	6.21	126	4	11				1					114	4	126	4
F	OTHER	8.33	3		1									2		3	
G	TOTAL	6.29	46	18	13		2		1		1			132	15	146	18
EDUCATIONAL DATA																	
H	HIGH SCHOOL STUDENT		38	4	2		1							36	3	38	4
I	COLLEGE STUDENT		73	13	6		1		1					67	11	73	13
J	NON-STUDENT		35	1	5					1				29	1	35	1

The companies employing the highest number of youths and the number of youths hired were:

Lion Oil Company .....36  
 Forsgren, Inc. ....17  
 Southern Pavers, Inc.....14

VI. WORK PLAN

Contractor Compliance Program

Highway Construction

1997 Review/Audit Plan

<u>Calendar Quarter/1997</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>
Reviews/Audits	0	3	3	2
On-Site Inspections	0	1	1	0
Verification Reviews	1	1	1	1

Reviews and audits will be scheduled by the Section Head - EEO and External EEO Coordinator. On-site inspections will be scheduled and conducted by the External EEO Coordinator.

## VII. PROBLEM SOLVING

In Section V.A., trades are identified as critical in terms of minority and female representation. A memo was sent to Resident Engineers advising of the underutilization and requesting contractors be encouraged to make exerted efforts to hire minorities and females. During preconstruction conferences and compliance reviews, contractors will be furnished copies of referral sources likely to yield minority and female applicants. Emphasis will be placed on hiring females.

On selected projects, the Department encourages the establishment and use of a voluntary cohesive partnership agreement between the Department, the prime contractor and subcontractors. The objectives of the agreement are to have effective and efficient contract performance, to complete the project within budget and on schedule, and to construct the project in accordance with the contract. The External EEO Coordinator participates in partnering workshops.

## VIII. REVISIONS

The Civil Rights/EEO Contract Compliance Review Guidelines have been revised and are hereby transmitted. Information in the loose leaf binders previously furnished should be discarded and substituted with the enclosed pages.

The majority of the revisions are editorial in nature.

**PART II**

**AFFIRMATIVE ACTION PROGRAM UPDATE**

1997



I. ACCOMPLISHMENTS

A. As evidenced in Attachment #1, minority and female percentage remained constant at 15% and 18%, respectively.

B. Action Items

Attachment #2 identifies 1996 Action Items. Status by item follows:

Item #1 - Accomplished.

Item #2 - Accomplished.

Item #3 - Accomplished.

Item #4 - Not accomplished, however, females are considered when attrition occurs.

II. ASSESSMENT

A. All analyses are based on activity which transpired during Calendar Year 1996.

Attachments #1 and #1a reflect net change by category for the year 1996 and degree of underrepresentation. Minority representation increased in the Professional and Skilled Craft categories. Female representation increased in the Official/Administrator, Professional, Office/Clerical and Skilled Craft categories.

Attachments #3, #3a and #3b reflect the most current EEO-4 Report.

Attachment #4 reflects the make-up of the workforce as of January 1, 1997.

B. Results of application of the "Four-Fifths Rule" are as follows:

New Hires - Attachments #5, #5a, #5b, #5c, and #5d

Promotions - Attachments #6, #6a, #6b, #6c, and #6d

Terminations - Attachments #7 and #7a

1. New Hires - Minorities were hired at 88% the rate of non-minorities.

Areas where there was evidence of adverse impact follow:

Females were hired at 77% the rate of males, however, females were promoted at the same rate as males.

Professionals - Minorities and females were hired at rates lower than those of non-minorities and males, however, minorities and females were promoted at higher rates in this category.

Technicians - No minorities were hired in this category and females were hired at 59% the rate of males. This is an action item for 1997.

Protective Service - No minorities or females were hired in this category, however, recruitment has been curtailed due to downsizing.

Para-Professional - No minorities were hired in this category and females were hired at 20% the rate of males, however, the number of individuals hired was too small to warrant a determination of adverse impact.

Skilled Craft - No minorities were hired in this category, however, minorities were promoted at a higher rate than that of non-minorities.

2. Promotions - Minorities were promoted at a higher rate than non-minorities and females were promoted at the same rate as males.

Specific areas where there was evidence of adverse impact follow:

Officials/Administrators - No minorities were promoted in this category, however, it should be noted that the promotion of one additional minority would shift the results where there would be no adverse impact.

Technicians - Minorities were promoted at 72% the rate of non-minorities, however, it should be noted that the promotion of one additional minority would shift the results where there would be no adverse impact.

Para-Professionals - No minorities were promoted in this category, however, minority representation exceeds the availability to the workplace and Department representation in this category.

Skilled Craft - Females were promoted at 29% the rate of males. This is an action item for 1997.

3. Terminations - There was no evidence of adverse impact. When employees terminate their employment with the Department, the EEO Section conducts exit interviews to ensure appropriate implementation of Department policies and procedures.

C. Training

The Department sponsors internal and external employee development programs to enhance employee performance and increase employee promotability.

Employees are advised of available training programs. With the exception of required supervisory and sexual harassment courses, participation is voluntary.

The supervisory and non-supervisory Sexual Harassment Programs, which were developed to increase employee awareness of the Department's policies and procedures regarding sexual harassment, provide employees with practical steps for creating a workplace free from harassment.

The EEO Section conducts meetings as needed or upon request by Districts or Divisions.

Attachment #8 is a statistical breakdown, by category, of the number of employees who participated in training activities and the number of training hours.

III. WORK PLAN

A. Goals

No goals were established because recruiting has been curtailed due to downsizing, however, minorities and females will be considered in all areas where there is attrition.

B. Action Items

Attachment #9 reflects Action Items for 1997.

Note: Statistical data, with the exception of Form EEO-4, does not show minorities by individual race, sex and ethnic groups. According to the 1990 census data, U.S. Department of Commerce, Bureau of the Census, minorities other than blacks represent approximately 2% of the total population. A breakdown is as follows:

White	-	83%
Black	-	16%
American Indian	-	.54%
Asian	-	.53%
Hispanic Origin	-	.85%
Other	-	.29%

At the end of calendar year 1996, a breakdown of the Department's workforce was as follows:

White	-	84.85%
Black	-	13.38%
American Indian	-	.89%
Asian	-	.10%
Hispanic Origin	-	.78%
Other	-	0%

Therefore, the minority figures shown reflect 88.32% blacks.

**ATTACHMENT 1**  
**ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT**  
**NET CHANGES IN EMPLOYMENT**  
**1996**

Total employment increased from 3806 to 3842 or .95%. Minority employment increased from 576 to 582 or 1.04% Female employment increased from 690 to 706 or 2.32%. Minority percentage and female percentage remained constant at 15% and 18%, respectively. Net changes by occupational categories were as follows:

	<u>Total</u>	<u>Minority</u>	<u>Female</u>
	#	#	#
	%	%	%
Officials/Administrators	1	0	+1
Professionals	-7	+3	+4
Technicians	-12	-1	+1
Protective Service	-10	-2	-1
Para-Professionals	0	0	0
Office/Clerical	+7	0	+6
Skilled Craft	+32	+10	+17
Service Maintenance	+25	-4	-12
<b>Total</b>	<b>+36</b>	<b>+6</b>	<b>+16</b>
	<b>+3.13%</b>	<b>+1.04%</b>	<b>+2.32%</b>
	<b>-1.48%</b>	<b>+11.11%</b>	<b>+6.35%</b>
	<b>-1.83%</b>	<b>-1.72%</b>	<b>+9.3%</b>
	<b>-4.72%</b>	<b>-8.00%</b>	<b>-4.76%</b>
	<b>0%</b>	<b>0%</b>	<b>0%</b>
	<b>+2.06%</b>	<b>0%</b>	<b>+2.47%</b>
	<b>+2.53%</b>	<b>+5.63%</b>	<b>+29.82%</b>
	<b>+3.96%</b>	<b>-3.26%</b>	<b>-7.14%</b>
	<b>+9.5%</b>	<b>+1.04%</b>	<b>+2.32%</b>

## ATTACHMENT 1-A

### MINORITY UNDERREPRESENTATION

	<u>Available to the Workforce</u>	<u>Department Representation</u>
Officials/Administrators	7.9%	6.1% *
Professionals	11.4%	6.4% *
Technicians	12.0%	8.8% *
Protective Service	18.3%	11.4% *
Para-Professionals/Office Clerical	11.7%	12.4%
Skilled Craft	15.6%	17.9%
Service Maintenance	18.7%	26.4%

### FEMALE UNDERREPRESENTATION

	<u>Available to the Workforce</u>	<u>Department Representation</u>
Officials/Administrators	41.6%	6.1% *
Professionals	59.9%	14.3% *
Technicians	55.5%	16.8% *
Protective Service	15.5%	10.0% *
Para-Professionals/Office Clerical	78.9%	51.2% *
Skilled Craft	27.4%	5.8% *
Service Maintenance	17.3%	23.5%

\* Areas of Underrepresentation

**ATTACHMENT 2**

**1996 ACTION ITEMS**

GOAL/OBJECTIVE	RESPONSIBLE OFFICIAL	TARGET DATE	STATUS
1. Conduct at least 2 District on-site reviews.	Internal EEO Coordinator	12/96	Accomplished.
2. Maintain minority representation and increase female representation.	Internal EEO Coordinator	12/96	Accomplished.
3. Maintain and expand minority and female referral source lists.	External EEO Coordinator	12/96	Accomplished.
4. Increase female representation by 2 in the Para-Professional category.	Internal EEO Coordinator and Personnel Officer	12/96	Not accomplished, however, females are considered when attrition occurs.







ARKANSAS HWY DEPT  
CEO COORDINATOR  
P.O. BOX 2261  
LITTLE ROCK AR 72203  
FUNCTION 2 STREETS AND HIGHWAYS

CONTROL NUMBER STATEWIDE Attachment 3-B

2. OTHER THAN FULL-TIME EMPLOYEES

JOB CATEGORY	SALARIES	TOTAL	NEW HIRES DURING FISCAL YEAR -- PERMANENT FULL TIME ONLY											
			A	B	C	D	E	F	G	H	I	J	K	
OFFICIAL/ADM 66		74	30	9								18	17	
PROFESSIONALS 67														
TECHNICIANS 68														
PROTECT/SVC 69														
PARA-PROF 70														
OFFICE/CLERK 71														
SKILL/CRAFT 72														
SERV/MAINT 73														

TOTAL OTHER THAN F-T 74	74	30	9									18	17	
-------------------------	----	----	---	--	--	--	--	--	--	--	--	----	----	--

3. NEW HIRES DURING FISCAL YEAR -- PERMANENT FULL TIME ONLY

OFFICIAL/ADM 75	15	13												
PROFESSIONALS 76	12	10												
TECHNICIANS 77	2	2												
PROTECT/SVC 78	3	2												
PARA-PROF 79	25	5	1									16	2	1
OFFICE/CLERK 80	35	29	3									3		
SKILL/CRAFT 81	294	166	60	3	2	49	12							2
SERV/MAINT 82														
TOTAL	386	227	64	3	2	71	15	1	1	1	2			

CERTIFICATION. I CERTIFY THAT THE INFORMATION GIVEN IN THIS REPORT IS CORRECT AND TRUE TO THE BEST OF MY KNOWLEDGE AND WAS REPORTED IN ACCORDANCE WITH ACCOMPANYING INSTRUCTIONS. (WILLFULLY FALSE STATEMENTS ON THIS REPORT ARE PUNISHABLE BY LAW, U.S. CODE, TITLE 18, SECTION 1001).

NAME OF CONTACT PERSON: TITLE OF CONTACT PERSON:  
ADDRESS: P.O. BOX 2261 LITTLE ROCK AR 72203 TELEPHONE NUMBER:  
AUTHORIZED OFFICIAL: DIRECTOR  
NAME TYPED: DATE: 01/28/97  
SIGNATURE:

**ATTACHMENT 4**

**TOTAL EMPLOYEES**

**JANUARY 1, 1997**

**CLASSIFICATIONS:**

**OFFICIALS/ADMINISTRATORS**

**PROFESSIONALS**

**TECHNICIANS**

**PROTECTIVE SERVICE**

**PARA-PROFESSIONALS**

**OFFICE/CLERICAL**

**SKILLED CRAFT**

**SERVICE MAINTENANCE**

**TOTAL**

Total	CAUCASIAN		MINORITY		Minorities	TOTAL Females
	Male	Female	Male	Female		
33	29	2	2	0	2	2
467	382	55	18	12	30	67
643	488	98	47	10	57	108
202	162	17	20	3	23	20
198	155	27	13	3	16	30
347	92	204	6	45	51	249
1296	1016	55	206	19	225	74
656	367	111	133	45	178	156
3842	2691	569	445	137	582	706

**ATTACHMENT 5**

**1996 TOTALS**

**NEW HIRES**

	<b>APPLICANTS</b>	<b>HIRES</b>	<b>SELECTION RATE</b>	<b>PERCENT HIRED</b>	<b>4/5 Rule 80% of Base</b>
White	952	299	299/952	31.4	
Minority	320	88	88/320	27.5	87.6%+
Males	913	297	297/913	32.5	
Females	359	90	90/359	25.1	77.2%-

**ATTACHMENT 5-A  
NEW HIRES  
Officials/Administrators**

	APPLICANTS	HIRES	SELECTION RATE	PERCENT HIRED	4/5 Rule 80% of Base
White	0	0	0	0	0%
Minority	0	0	0	0	0%
Males	0	0	0	0	0%
Females	0	0	0	0	0%

**Professionals**

	APPLICANTS	HIRES	SELECTION RATE	PERCENT HIRED	4/5 Rule 80% of Base
White	41	13	13/41	31.7	
Minority	10	2	2/10	20.0	63.1%-
Males	34	13	13/34	38.2	
Females	17	2	2/17	11.8	30.9%-

**Technicians**

	APPLICANTS	HIRES	SELECTION RATE	PERCENT HIRED	4/5 Rule 80% of Base
White	31	11	11/31	35.5	
Minority	2	0	0/2	0.0	0%-
Males	24	9	9/24	37.5	
Females	9	2	2/9	22.2	59.2%-

**Protective Service**

	APPLICANTS	HIRES	SELECTION RATE	PERCENT HIRED	4/5 Rule 80% of Base
White	14	1	1/14	7.1	
Minority	3	0	0/3	0.0	0%-
Males	15	1	1/15	6.7	
Females	2	0	0/2	0.0	0%-

**ATTACHMENT 5-B  
NEW HIRES**

**Para-Professional**

	APPLICANTS	HIRES	SELECTION RATE	PERCENT HIRED	4/5 Rule 80% of Base
White	14	3	3/14	21.4	
Minority	0	0	0/0	0.0	0%-
Males	4	2	2/4	50.0	
Females	10	1	1/10	10.0	20.0%-

**Office/Clerical**

	APPLICANTS	HIRES	SELECTION RATE	PERCENT HIRED	4/5 Rule 80% of Base
White	123	15	15/123	12.2	82.4%+
Minority	27	4	4/27	14.8	
Males	23	3	3/23	13.0	
Females	127	16	16/127	12.6	96.9%+

**Skilled Craft**

	APPLICANTS	HIRES	SELECTION RATE	PERCENT HIRED	4/5 Rule 80% of Base
White	54	16	16/54	29.6	
Minority	6	0	0/6	0.0	0%-
Males	56	14	14/56	25.0	50.0%-
Females	4	2	2/4	50.0	

**Service Maintenance**

	APPLICANTS	HIRES	SELECTION RATE	PERCENT HIRED	4/5 Rule 80% of Base
White	675	240	240/675	35.6	
Minority	272	82	82/272	30.1	84.6%+
Males	757	255	255/757	33.7	95.5%+
Females	190	67	67/190	35.3	

**ATTACHMENT 5-C**

**NEW HIRES**

**APPLICANTS**

**CLASSIFICATIONS:**

**OFFICIALS/ADMINISTRATORS**

**PROFESSIONALS**

**TECHNICIANS**

**PROTECTIVE SERVICE**

**PARA-PROFESSIONALS**

**OFFICE/CLERICAL**

**SKILLED CRAFT**

**SERVICE MAINTENANCE**

**TOTAL**

Total	CAUCASIAN		MINORITY		TOTAL	
	Male	Female	Male	Female	Minorities	Females
0	0	0	0	0	0	0
51	32	9	2	8	10	17
33	23	8	1	1	2	9
17	14	0	1	2	3	2
14	4	10	0	0	0	10
150	19	104	4	23	27	127
60	51	3	5	1	6	4
947	540	135	217	55	272	190
1272	683	269	230	90	320	359

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT  
 EQUAL EMPLOYMENT OPPORTUNITY REPORT  
 PERIOD COVERED FROM 01/01/96 TO 12/31/96  
 NEW EMPLOYEES.

Attachment 5-D

OVERALL TOTALS

	TOTAL	CAUCASIAN		MINORITY		TOTAL		PERCENTAGE	
		MALE	FEMALE	MALE	FEMALE	MALES	FEMALES	MINORITY MALE	MINORITY FEMALE
OFFICIAL / ADMIN									
PROFESSIONALS	15	13		2		2	2	13	13
TECHNICIANS	11	9	2			2			
PROTECTIVE SERVICES	1	1							
PARAPROFESSIONALS	3	2	1			1			
OFFICE CLERICAL	19	2	13	1	3	16	4	21	84
SKILLED CRAFT	16	14	2			2			
SERVICE/MAINTENANCE	322	187	53	68	14	67	82	25	20
DISTRICT TOTALS	387	228	71	69	19	90	88	23	23



**ATTACHMENT 6-A  
PROMOTIONS**

**Officials/Administrators**

	APPLICANTS	PROMOTIONS	SELECTION RATE	PERCENT HIRED	4/5 Rule 80% of Base
White	8	3	3/8	37.5	
Minority	0	0	0/0	0.0	0%-
Males	6	2	2/6	33.3	66.6%-
Females	2	1	1/2	50.0	

**Professionals**

	APPLICANTS	PROMOTIONS	SELECTION RATE	PERCENT HIRED	4/5 Rule 80% of Base
White	191	49	49/191	25.7	
Minority	19	4	4/19	21.1	82.1%+
Males	177	44	44/177	24.9	91.2%+
Females	33	9	9/33	27.3	

**Technicians**

	APPLICANTS	PROMOTIONS	SELECTION RATE	PERCENT HIRED	4/5 Rule 80% of Base
White	266	63	63/266	23.7	
Minority	41	7	7/41	17.1	72.2%-
Males	224	54	54/224	24.1	
Females	83	16	16/83	19.3	80.1%+

**Protective Service**

	APPLICANTS	PROMOTIONS	SELECTION RATE	PERCENT HIRED	4/5 Rule 80% of Base
White	32	11	11/32	34.4	68.8%-
Minority	2	1	1/2	50.0	
Males	32	11	11/32	34.4	68.8%-
Females	2	1	1/2	50.0	

**ATTACHMENT 6-B  
PROMOTIONS**

**Para-Professionals**

	APPLICANTS	PROMOTIONS	SELECTION RATE	PERCENT HIRED	4/5 Rule 80% of Base
White	139	20	20/139	14.4	
Minority	11	0	0/11	0.0	0%-
Males	118	19	19/118	16.1	
Females	32	1	1/32	3.1	19.3%-

**Office/Clerical**

	APPLICANTS	PROMOTIONS	SELECTION RATE	PERCENT HIRED	4/5 Rule 80% of Base
White	177	39	39/177	22.0	
Minority	63	8	8/63	12.7	57.7%-
Males	56	10	10/56	17.9	89.1%+
Females	184	37	37/184	20.1	

**Skilled Craft**

	APPLICANTS	PROMOTIONS	SELECTION RATE	PERCENT HIRED	4/5 Rule 80% of Base
White	692	176	176/692	25.4	89.4%+
Minority	169	48	48/169	28.4	
Males	748	193	193/748	25.8	94.2%+
Females	113	31	31/113	27.4	

**Service Maintenance**

	APPLICANTS	PROMOTIONS	SELECTION RATE	PERCENT HIRED	4/5 Rule 80% of Base
White	135	114	114/135	84.4	95.4%+
Minority	52	46	46/52	88.5	
Males	132	108	108/132	81.8	86.6%+
Females	55	52	52/55	94.5	

**ATTACHMENT 6-C**

**PROMOTIONS**

**APPLICANTS**

**CLASSIFICATIONS:**  
**OFFICIALS/ADMINISTRATORS**  
**PROFESSIONALS**  
**TECHNICIANS**  
**PROTECTIVE SERVICE**  
**PARA-PROFESSIONALS**  
**OFFICE/CLERICAL**  
**SKILLED CRAFT**  
**SERVICE MAINTENANCE**  
**TOTAL**

Total	CAUCASIAN		MINORITY		Minorities	TOTAL Females
	Male	Female	Male	Female		
8	6	2	0	0	0	2
210	166	25	11	8	19	33
307	208	58	16	25	41	83
34	30	2	2	0	2	2
150	114	25	4	7	11	32
240	44	133	12	51	63	184
861	611	81	137	32	169	113
187	97	38	35	17	52	55
1997	1276	364	217	140	357	504

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT  
 EQUAL EMPLOYMENT OPPORTUNITY REPORT  
 PERIOD COVERED FROM 01/01/95 TO 01/02/96  
 PROMOTIONS

OVERALL TOTALS ATTACHMENT 6-D

	TOTAL		CAUCASIAN		MINORITY		TOTAL		PERCENTAGE	
	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	MINORITY	FEMALE
OFFICIAL / ADMIN	1	1	1	1	1	1	8	2	4	17
PROFESSIONALS	45	7	36	7	1	1	8	2	4	17
TECHNICIANS	86	12	64	12	10	12	12	10	11	13
PROTECTIVE SERVICES	42	5	34	5	3	5	5	3	7	11
PARAPROFESSIONALS	13	1	11	1	1	1	1	2	15	7
OFFICE CLERICAL	43	8	27	8	1	7	34	8	16	79
SKILLED CRAFT	196	11	139	11	39	7	18	46	23	9
SERVICE/MAINTENANCE	118	31	51	31	22	14	45	36	30	38
DISTRICT TOTALS	544	93	344	93	77	30	123	107	20	23

**ATTACHMENT 7**

**1996 TOTALS**

**TERMINATIONS**

	<b>BEGINNING TOTALS</b>	<b>TERMINATIONS</b>	<b>NUMBER RETAINED</b>	<b>RETENTION RATE</b>	<b>RATIO TO HIGHEST RATE</b>
<b>White</b>	3230	17	3213	99.5%	
<b>Minority</b>	576	23	553	96.0%	96.5%+
<b>Males</b>	3116	31	3085	99.0%	
<b>Females</b>	690	9	681	98.7%	99.7%+

Note: Terminations reflect discharged employees. There is no breakdown by category because the number of individuals terminated is too small to warrant a determination of adverse impact.

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT  
EQUAL EMPLOYMENT OPPORTUNITY REPORT  
PERIOD COVERED FROM 01/01/96 TO 12/31/96  
DISCHARGED

OVERALL TOTALS Attachment 7-A

	CAUCASIAN		MINORITY		TOTAL		PERCENTAGE	
	MALE	FEMALE	MALE	FEMALE	MALES	FEMALES	MINORITIES	MINORITY FEMALE
OFFICIAL / ADMIN								
PROFESSIONALS								
TECHNICIANS	1		1		1		1	100
PROTECTIVE SERVICES								
PARAPROFESSIONALS								
OFFICE CLERICAL	1		1		1		1	100
SKILLED CRAFT	10	1	5	1	5	1	5	10
SERVICE/MAINTENANCE	28	3	12	7	16	7	16	25
DISTRICT TOTALS	40	4	18	9	23	9	23	58

## ATTACHMENT 8

### 1996 TRAINING ACTIVITIES

#### Total Training Participants

	<u>CM</u>	<u>CF</u>	<u>MM</u>	<u>MF</u>	<u>TOTAL</u>
Officials/Administrators	20	0	0	0	20
Professionals	668	100	35	11	814
Technicians	488	135	53	11	687
Protective Service	13	4	4	1	22
Para-Professionals	231	31	27	2	291
Office/Clerical	112	231	4	52	399
Skilled Craft	1533	127	335	46	2041
Service Maintenance	879	398	313	154	1744
<b>Total</b>	<b>3944</b>	<b>1026</b>	<b>771</b>	<b>277</b>	<b>6018</b>
Total Minorities	=	1048	or	17.4%	
Total Females	=	1303	or	21.7%	

#### Total Training Hours

	<u>CM</u>	<u>CF</u>	<u>MM</u>	<u>MF</u>	<u>TOTAL</u>
Officials/Administrators	274	0	0	0	274
Professionals	4424	750	240	28	5442
Technicians	2578	660	330	59	3627
Protective Service	47	10	7	10	74
Para-Professionals	1291	168	181	8	1648
Office/Clerical	636	1229	23	357	2245
Skilled Craft	6572	800	1606	565	9543
Service Maintenance	3808	2644	2153	1061	9666
<b>Total</b>	<b>19630</b>	<b>6261</b>	<b>4540</b>	<b>2088</b>	<b>32519</b>
Total Minorities	=	6628	or	20.4%	
Total Females	=	8349	or	25.7%	

**ATTACHMENT 9**

**1997 ACTION ITEMS**

<b>GOAL/OBJECTIVE</b>	<b>RESPONSIBLE OFFICIAL</b>	<b>TARGET DATE</b>	<b>STATUS</b>
1. Conduct at least 2 District on-site reviews.	Internal EEO Coordinator	12/97	Areas have been identified.
2. Maintain overall minority representation and increase female representation.	Internal EEO Coordinator	12/97	Managers have been advised of these areas of concern.
3. Expand minority and female referral source lists	External EEO Coordinator and Internal EEO Coordinator	12/97	Ongoing
4. Increase minority and female representation by 2 in the Skilled Craft and Technicians categories.	Internal EEO Coordinator and Division Head of Human Resources	12/97	Ongoing



**CIVIL RIGHTS/EEO**

**CONTRACT COMPLIANCE REVIEW GUIDELINES**

**Arkansas State Highway and Transportation Department  
Little Rock, Arkansas**

**(Revised February 1997)**

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**PART I**

**DESK AUDIT PROCEDURE**

# ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT CIVIL RIGHTS/EEO CONTRACT COMPLIANCE REVIEW GUIDELINES

## I. Authority

These review guidelines have been developed pursuant to Executive Order 11246, as amended, 23 United States Code, 23 Code of Federal Regulations and Title VI of the Civil Rights Act of 1964 for use by FHWA and State Highway Agency Civil Rights personnel in conducting EEO contract compliance reviews throughout Region 6. As guidelines, they provide reviewing officials with a single compact document designed to ensure comprehensive coverage of Civil Rights/EEO contractual requirements. Except where attachments are provided, findings for each item should be documented in the space immediately following the item. Special emphasis on women demands that the terms minorities and/or women be used separately and distinctly. If compliance personnel ignore the issue, contractors will do the same.

## II. Background

In the past, contract compliance review activity involved On-Site Reviews of contractors' home offices and project sites. For the most part, the procedure followed included the selection of the contractor, notifying the contractor of the review and the information to have available for the On-Site Review. During the On-Site Review, a considerable amount of time was expended by the compliance officer in reviewing documentation submitted by the contractor while the contractor and/or representative looked on.

Often times the information presented by the contractor to the reviewing officer at the On-Site Review was sufficient in itself to warrant a finding of compliance, thus, obviating the need for an On-Site Review.

In the interest of increasing the efficiency and effectiveness of compliance procedures so that the amount of budgetary and manpower resources necessary is reduced both on the part of FHWA, the Department and industry, the contract compliance program has been amended to provide for compliance determinations based on reviews of contractors selected, scheduled and prioritized by the Desk Audit Process.

The Desk Audit involves obtaining certain basic information from the contractor. The difference from the On-Site Review procedure is that the information requested from the contractor is submitted to the reviewing officer's place of business. The information will be analyzed and the results of the analysis will be used to determine whether, and if so, when an On-Site Review should be conducted of the contractor. Refer to Page 5, Item V, Selection of Contractor for On-Site Review.

The results of a Desk Audit is used as a prioritizing instrument, allowing a more controlled, effective and reasonable application of resources.

Credit to the reviewing office for Desk Audits will be given in the same manner as for On-Site Reviews.

On-Site Reviews consider the total aggregate workforce of the contractor in the standard metropolitan statistical or economic area covered by the review.

### III. Pre-Audit/Review Information

The following information is to be secured by the compliance officer prior to a Desk Audit or an On-Site Review:

- A. The contractor(s) aggregate employment posture for each Federal-aid highway project in the covered area. This information will be obtained from State and federal contract compliance review files, EEO-1's, PR-1391's, certified payrolls or other sources.
- B. EEOC District Office forms EEO-3 filed by each labor union operating in the area, when unions are involved.
- C. Population and civilian labor force data broken down by race, ethnic origin, and sex. Sources for such data are: Bureau of the Census, Chamber of Commerce, Better Business Bureaus, minority and female organizations, State and federal employment agencies such as OFCCP, EEOC and Department of Justice.
- D. Trades for which there is a lack of skilled personnel in and around the project area. Sources for this information are labor unions, Bureau of Apprenticeship and Training, and State and federal employment agencies.

### IV. Selection of Contractor for Desk Audit

#### A. Priorities

Priority in scheduling Desk Audits will be given to those contractors:

- 1. Working on a significant number of contracts. What is determined to be a significant number of contracts will vary from state to state and will be determined by the compliance officer.
- 2. Who have the greatest potential for employment and promotion of minorities and women (particularly in higher skilled crafts or occupations)

3. Working in areas which have significant minority and female labor forces within a reasonable recruitment area.
4. Working on projects that include special training provisions.
5. Working on projects that have Disadvantaged Business Enterprise goals.
6. Whose compliance with equal opportunity requirements is questionable (based on review reports or other information available).
7. Who have not been reviewed or audited during the previous year.

**B. Scheduling**

1. Once a contractor is selected for a Desk Audit, a notification letter will be sent to the contractor. Attachment A, "Notification of scheduled EEO Desk Audit", will be used for this purpose.
2. The contractor will be allowed at least two weeks from receipt of the notification letter to submit the requested information.

**C. Desk Audit Procedure**

1. Review information received from the contractor for completeness. In the event that additional information is needed, it will be solicited from the contractor by telephone, fax or by certified mail at the discretion of the compliance officer.
2. Review employment data for mathematical accuracy.
3. Review employment data for overall minority/female representation.
4. Identify specific classifications where minorities and females are underutilized when compared to the data listed in Section III of these guidelines.
5. Review previous compliance review reports on the contractor. Identify serious deficiencies.
6. Review the remainder of the information received and identify any problem areas in order to apprise the contractor.



7. Contact each Resident Engineer prior to writing the letter of findings. The purpose of this contact will be to ascertain if the Resident Engineer has received the required reports from the contractor. Reports that have not been received which are of an EEO nature will be addressed in the letter of findings.

**D. Contractor Letter of Findings**

1. Upon completion of a Desk Audit, the reviewing officer will notify the contractor in writing of each deficiency identified, provide specific recommended actions to correct each deficiency and decide whether or not an On-Site Review would be appropriate, and if so, when (based on peak employment period).
2. The letter will advise the contractor of the opportunity to submit a voluntary corrective action plan including specific actions to correct each deficiency uncovered. The time limit for submitting a voluntary corrective action plan will be 20 calendar days from the day the letter is typed. (See Attachment B for sample letter.) The reviewing officer will also include in this letter the appropriate language that the contractor is required to incorporate in any voluntary corrective action plan submitted. (See Regional Administrator's Policy Memorandum of October 18, 1977.)
3. In the event that additional information is needed, it will be solicited from the contractor by telephone, fax or certified mail.
4. Significant discrepancies in information submitted as a result of a Desk Audit will warrant the scheduling of an On-Site Review(s).
5. If, based on the information submitted by the contractor, it is determined that no further review is necessary, the reviewing officer will notify the contractor in writing of nonselection for review (See Attachment C.)

**E. Preparation of Desk Audit Report**

1. Reports of Desk Audits will be prepared in the format of Attachment D.
2. While all of the documentation submitted by the contractor for the Desk Audit is not to be included in the Desk Audit Report, the following information will be attached as appropriate:
  - (a) Letter of findings issued to the contractor,
  - (b) Voluntary corrective action plan submitted by the contractor,

- (c) Letter advising contractor of the corrective action plan acceptance or unacceptance,
  - (d) Show cause notice,
  - (e) Corrective action plan submitted pursuant to show cause notice.
3. Desk Audit Reports will be prepared and submitted through appropriate channels within 15 calendar days following completion of the Desk Audit.
  4. In the event of a Department conducted Desk Audit, two copies of the Desk Audit Report will be submitted to the FHWA Division Office.
  5. In the event of an FHWA conducted Desk Audit, two copies of the Desk Audit Report will be submitted to the FHWA Regional Office and one copy to the Department.
  6. Documentation submitted by the contractor for the Desk Audit and the reviewing officer's notes will be retained by the reviewing agency.

V. Selection of Contractor for On-Site Review

A. On-Site Reviews will be conducted:

1. When the reviewing officer determines an On-Site Review is necessary to verify information submitted by the contractor for the Desk Audit.
2. When the information received indicates serious deficiencies or violations of EEO contract requirements.
3. When the contractor's amount of Federal-aid highway work and size of workforce warrant On-Site Reviews of randomly selected sites.
4. Instead of the Desk Audit.

B. Scheduling

1. When, upon completion of a Desk Audit, a contractor is selected for an On-Site Review, the contractor will be notified. Attachment E, "Notification of EEO On-Site Review", will be used for this purpose.
2. At least a two week written notification will be provided to the contractor.

C. Contractor Letter of Findings

1. Upon completion of an On-Site Review, the reviewing officer will notify the contractor in writing identifying each deficiency and providing specific recommended actions to correct each deficiency.
2. The letter to the contractor will advise the contractor of the opportunity to submit a voluntary corrective action plan including specific actions to correct each deficiency identified. The time limit for submitting a voluntary corrective action plan will be 20 calendar days from the day the letter is typed. (See Attachment B for sample letter.) The reviewing officer will also include in this letter the appropriate language that the contractor is required to incorporate in any voluntary corrective action plan submitted. (See Regional Administrator's Policy Memorandum of October 18, 1977.)
3. In the event that additional information is needed, it will be solicited from the contractor by telephone, fax or certified mail.

VI. Selection of Project for On-Site Inspection

A. Priorities

On-Site Inspections will be conducted on projects:

1. That have less than 150 work days
2. That have Disadvantaged Business Enterprise goals
3. When the prime contractor is reporting quarterly as a result of a Desk Audit or On-Site Review
4. Where scheduling a Desk Audit or On-Site Review is not feasible.

B. Physical Inspection

The reviewing officer will inspect the bulletin board, inspect employee facilities, make a visual survey of the extent of minority/female representation in the contractor's workforce and interview the project superintendent and at least one minority, one nonminority and one female employee.

A summary of the inspection will be prepared and made a part of the project file. Any discrepancies noted will be brought to the contractor's attention by letter (See Attachment J.)

**PART II**

**ON-SITE REVIEW PROCEDURE**

**CIVIL RIGHTS/EEO  
ON-SITE REVIEW PROCEDURE**



**PROJECT SUMMARY SHEET**

Date of Review \_\_\_\_\_

1. Contractor \_\_\_\_\_

2. Address \_\_\_\_\_

(Circle appropriate term for Items 3, 4, and 5)

3. Prime or Subcontractor

4. Black, Hispanic, American Indian, Alaskan Native, Asian or Pacific Islander, or White

5. Male                  Female

6. Project Address if Different \_\_\_\_\_

\_\_\_\_\_

7. Amount of Contract \_\_\_\_\_

8. Date of Award of Contract \_\_\_\_\_

9. Project Beginning Date \_\_\_\_\_

10. Peak Activity Date \_\_\_\_\_

11. Estimated Completion Date \_\_\_\_\_

12. Percent Completed \_\_\_\_\_

13. Type of Work (Bridge, Concrete, Dirt Work) \_\_\_\_\_

14. Policy Officer \_\_\_\_\_

15. Title \_\_\_\_\_

16. Address \_\_\_\_\_

\_\_\_\_\_

17. Phone Number (AC) ( ) \_\_\_\_\_

18. Project Officer \_\_\_\_\_

19. Title \_\_\_\_\_

20. EEO Officer \_\_\_\_\_

21. Title \_\_\_\_\_

22. Address \_\_\_\_\_

\_\_\_\_\_



**ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT  
ON-SITE REVIEW PROCEDURE**

**I. On-Site Review Procedure**

**A. Introduction**

Discuss the following with contractor:

1. Objectives of the review
2. Procedure to be followed
3. Material submitted by the contractor
4. Arrangements for on-site inspections and employee interviews

**B. Documentation**

1. Review documentation provided for completeness.
2. Review payrolls to determine whether discrimination in rates of compensation exists. Note discrepancies, if any. (Consider length of time on the job, experience and pay rates recorded -vs- actual work being done.)
3. Review payrolls to identify critical trades regarding minority/female underutilization in contractor's workforce. List each trade or occupational classification where underutilization occurs.
4. Review list of new hires for past six months to determine if hires took place in trades or classifications with low minority/female representation. Determine what efforts contractor made to recruit minorities and women in these trades.

## C. Review Questionnaire

### EEO Policy

1. How does the contractor disseminate his EEO policy to all employees? (Meetings, employee handbooks, etc.)
2. How are supervisory and personnel office employees informed of the contractor's EEO policy and its requirements? Are meetings held at least once every six months? How are they informed and by whom?
3. Determine how and when new supervisory or personnel office employees are indoctrinated on all major aspects of the contractor's EEO obligations. (Must be done within thirty days following their reporting for duty.)
4. What instruction is provided to personnel who are involved in direct recruitment with regard to the contractor's procedures for locating and hiring minority/female employees?

### Equal Employment Opportunity Officer

5. Determine if EEO requirements were discussed at the pre-construction conference. (With whom, by whom and to what extent?)
6. How was the Department notified of the appointment of the contractor's EEO Officer?

7. What experience does the person appointed as EEO Officer have which would qualify as EEO related?
8. What authority does the EEO Officer have to accomplish program objectives?
9. What duties other than EEO does the EEO Officer have?
10. How are employees informed of the EEO Officer's name and place where the EEO Officer can be contacted by employees with concerns, complaints or grievances?
11. Determine the awareness and knowledge of the EEO Officer regarding EEO matters. (Give short summary.)

#### Recruitment

12. How does the contractor advertise for employees? Do advertisements contain reference to the EEO policy of the contractor?
13. How does the contractor ensure that advertisements for employees are published in newspapers or other publications having a large circulation among minority and female groups in the area from which the project workforce is derived?

14. **How has the contractor conducted systematic and direct recruitment?**
  
15. **List sources with which systematic and direct recruitment procedures have been established for the site being reviewed. Obtain names of organizations or individuals, addresses and telephone numbers.**
  
16. **Does the above list indicate that the contractor has contacted organizations representing the various minority and female groups found in the area? If not, list the minority and female groups which the contractor has failed to contact and the reasons.**
  
17. **How does the contractor encourage present employees to refer minority and female group applicants for employment? Have referral procedures for referring minority and female group employees been discussed with employees?**
  
18. **Does the contractor maintain a file of the names, addresses and telephone numbers of each minority and female applicant and of the action taken with respect to each applicant?**
  
19. **Has the contractor posted appropriate notices on bulletin boards encouraging employees to refer other minority and female applicants?**
  
20. **Are applications for employment accepted and are selections made without regard to race, color, religion, sex, national origin, age or disability?**

Personnel Actions

21. How has the contractor monitored the following to ensure nondiscrimination in:
- a. Wages?
  - b. Working conditions?
  - c. Employee benefits?
  - d. Hiring?
  - e. Upgrading?
  - f. Promotions?
  - g. Transfers?
  - h. Demotions?
  - i. Layoffs?
  - j. Terminations?
22. What is the frequency of the contractor's inspections of the project site to ensure nondiscriminatory treatment of project site personnel in terms of working conditions and employee facilities? (Look for assignments to equipment, where minorities or women may be assigned to older, unsafe or inferior equipment. Determine whether minorities or women are assigned the more undesirable tasks on the basis of their race, sex, or ethnic origin.)

23. In cases where the contractor has found discriminatory actions, what corrective action was taken?

### Training and Promotion

24. Determine if contractor submitted an Optional Training Commitment Form (OTCF). If yes, compare actual enrollments to assignments. Could contractor be reasonably expected to provide training before completion of contract?
25. How has the contractor advised employees and applicants for employment of available training programs and entrance requirements for each?
26. How has the contractor utilized training programs to increase minority/female representation in trades where they are being underutilized?
27. Are trainees being trained in trades for which there is an underutilization of minorities and females?
28. How has the contractor periodically reviewed the training and promotion potential of minority/female employees?
29. List specific examples of instances where the contractor has encouraged employees to apply for training and promotion.

30. To what extent are persons being utilized in crafts in which training has been completed?
  
31. Determine whether trainees are being provided instruction in a craft or skill for which they are already qualified.
  
32. How are persons selected for training?
  
33. What procedures are in effect to ensure that each trainee is provided with a copy of the training program that the trainee is to follow?
  
34. What procedure is in effect to ensure that each trainee receives a copy of the Department's Supportive Services Fact Sheet and a report of the number of hours accumulated in the training program monthly?

Unions

35. Determine with what unions the contractor has bargaining agreements.

	<u>Union</u>	<u>Local No.</u>	<u>Address</u>
1.			
2.			
3.			

4.

5.

36. Ascertain if these agreements have exclusive referral rights by placing an asterisk (\*) beside name of union in the preceding table.

37. Review agreements to identify whether or not they are blanket agreements covering all contractors in that state or whether it is an individual agreement between the particular contractor and the union.

38. Review agreements to verify if an acceptable EEO clause has been incorporated. If not, why not? (What efforts has the contractor taken to ensure their inclusion?)

39. Determine what efforts the contractor has made to obtain the cooperation of these unions to increase their minority/female representation and their minority/female referrals.

Determine what efforts the contractor has made (if any) in selection of any apprentices.

40. Inquire as to whether or not the contractor, under an exclusive bargaining agreement, has made full efforts to obtain referrals directly, in the event the union with whom he/she has said agreement failed to, or could not provide applicants within the specified time limit.



41. Determine what efforts the contractor has made in assisting non-union applicants and employees in obtaining union membership in areas where such membership is a prerequisite for retaining employees.
42. Determine if the contractor has sent notices to unions with whom the company has collective bargaining agreements or other contracts or understandings, making the union aware of contractor's EEO commitments and responsibilities. Verify if these notices have been posted on contractor's bulletin board.
43. Determine the efforts the contractor has made toward developing, in cooperation with unions, joint training programs aimed toward qualifying more minorities and females for union membership and increasing the skills of presently employed minorities and females.
44. What efforts has the contractor made to obtain information regarding the referral practices and policies of labor unions? What were the results?

#### SUBCONTRACTING

45. What efforts has the contractor exerted to solicit bids from and to utilize disadvantaged firms? What were the results?
46. Does the contractor have a list of disadvantaged firms? What efforts has the contractor exerted to solicit bids from or to negotiate with disadvantaged firms listed by the State?
47. What procedure does the contractor follow to secure subcontractors? Are the procedures standardized? Formal? Informal? Nondiscriminatory?

48. How are the procedures applied? Is their application discriminatory?
  
49. List the liaison officer named by the contractor to administer the contractor's Disadvantaged Business Enterprise Program.
  
50. What efforts has the contractor made to ensure subcontractor compliance with equal employment opportunity obligations?
  
51. How does the contractor ensure the incorporation of appropriate EEO clauses in subcontracts and purchase orders?

**Records and Reports**

52. Are the records maintained by the contractor sufficient to indicate efforts made?
  
53. What provision has the contractor made to retain EEO records for at least three years following completion of the contract work?

## II. Physical Inspection

### A. Walk-Around

1. Inspect bulletin board and determine its accessibility, inclusion of EEO poster, EEO policy statement, notice encouraging employees to refer minority and female applicants for employment, notice informing employees of an available training program and the entrance requirements, notice identifying company EEO Officer by name including address and telephone number where EEO Officer can be located, work environment statement, certification of nonsegregated facilities, complaint procedures, notice to unions disseminating EEO commitments and responsibilities and requesting their cooperation (if applicable).
2. Determine what contractor has done to preclude segregated employee used facilities, such as restrooms, drinking fountains, eating and recreational areas. (List any viewed.)
3. Make a visual survey of the extent of minority/female representation in contractor's workforce.

### B. Employee Interviews

1. The compliance officer will interview at least: one minority, one non-minority, and one woman in each trade or classification and, where feasible, as many trainees (active and graduates) as possible. (Attachments G and H will be used.)
2. The compliance officer will also interview the project superintendent or home office manager as appropriate. (Attachment I will be used.)

### III. Exit Conference

At the exit conference, the reviewing official will inform the contractor:

1. Of any preliminary findings that if not corrected within 15 days following the review, would result in a determination of noncompliance.
2. That voluntary corrective action plans may be negotiated at the exit conference, so that within 15 days following receipt of the voluntary corrective action plan, the reviewing official will prepare the review report and make a determination of either:
  - a. Compliance, and so notify the contractor; or
  - b. Noncompliance and issue a 30 day show cause notice.

### IV. Report of Findings

- A. The Compliance Data Report (CDR), Attachment K, will be used to summarize all on-site compliance reviews conducted. Two copies of the review report will be forwarded to the Federal Highway Administration Division Office.
- B. The reviewing official will determine and the review report will indicate the following:
  1. Whether there is reasonable representation and utilization of minorities and women in each trade or occupational classification. Such a determination will be made based on the availability of minorities and women in the civilian labor force in the geographical area covered by the review. Such data will be included in the review report.
  2. What the contractor has done to increase recruitment, hiring, upgrading and training of minorities and women.
  3. The effectiveness of the contractor's efforts to provide equal opportunity.
  4. Whether there is impartial treatment of employees.
  5. Whether affirmative action efforts are of an isolated or continuing nature.
- C. In findings of noncompliance or where deficiencies uncovered at the time of the review are corrected prior to the preparation of the review report, information supportive of the compliance determination will either be included within the CDR or as an attachment to the review report. Attachments will be referenced in the CDR.

In findings of noncompliance, a copy of the show cause notice issued to the contractor will be attached to the CDR. Additionally and where applicable, show cause rescission letters and corrective action plans will be attached.

Procedures for issuing show cause notices can be found in Chapter I Part 230, Subpart D of the Federal-aid Policy Guide.

Show cause notices will advise the contractor of the appropriate language to be inserted in any corrective action plan submitted (See Regional Administrator's Policy Memorandum of October 18, 1977).

- D. Two copies of the final review report will be transmitted to the FHWA Division Office within 15 days after completion of the review. The Division Office will review and evaluate the report and forward two copies to the Regional Office of Civil Rights within 10 days.
- E. The reviewing officer will determine the status of the contractor's correction of any discrepancies noted in previous reviews. Recurring discrepancies which affect the provision of equal opportunity will be sufficient justification for a finding of noncompliance and the issuance of a show cause notice or the imposition of sanctions pursuant to contract requirements.

## **RECOMMENDATIONS**

A List of all recommendations will be compiled and numbered to correspond with item found deficient.

**PART III**

**DISADVANTAGED BUSINESS ENTERPRISE  
VERIFICATION REVIEW PROCEDURE**

# DISADVANTAGED BUSINESS ENTERPRISE VERIFICATION REVIEW PROCEDURE

## I. Purpose

The purpose of the Verification Review Procedure is to ensure the Disadvantaged Business Enterprise Program of the Arkansas State Highway and Transportation Department benefits those firms meeting U.S. DOT eligibility standards.

## II. Pre-Review Information

Prior to conducting the review, the External EEO Coordinator will review the contractor's Schedule A or B, as appropriate. Contacts will be made with agencies involved in disadvantaged business development or disadvantaged business supportive services in order to review files or other information available on the firm selected.

The External EEO Coordinator will identify each Federal-aid prime contract and subcontract awarded to the DBE. Each Resident Engineer will be contacted to obtain general information about the DBE's method of operating at the project site and to ascertain if the Resident Engineer has any concerns or suspects there may be some irregularities. Any information obtained will be used to the extent necessary in order to conduct a comprehensive review. It may be necessary to contact Resident Engineers after the review has been completed to ensure accuracy of the review report.

## III. Selection of Contractor for Review

### A. Priorities

The Arkansas State Highway and Transportation Department will utilize on-site and desk audit techniques to conduct Verification Reviews. Each calendar quarter one On-Site Review or one Desk Audit will be conducted on firms randomly selected from the Department's Disadvantaged Business Enterprise Directory. Businesses which have home offices in the state will be selected for On-Site Reviews. Businesses which have home offices outside the state will be primary candidates for Desk Audits. The DBE selected will be required to submit detailed documentation and verification information to the External EEO Coordinator. The information will be analyzed to determine whether the eligibility standards for participation in the program are met.



Once a contractor is selected for an On-Site Review or a Desk Audit, a notification letter will be sent. The letters found at Attachment L will be used for this purpose. The contractor will be given at least a two week notice.

Answers to the information requested in Attachment M "Verification Review Procedure", will be obtained during the review. The External EEO Coordinator will also interview the owner and as many employees as possible. Attachments N and O will be used.

IV. Exit Conference

At the exit conference, the External EEO Coordinator will advise the contractor of the determination reached and the basis for the determination. If the External EEO Coordinator determines the contractor is ineligible, the contractor will be advised of his/her right to appeal.

V. Report of Findings

Upon completion of the On-Site Review or Desk Audit, the External EEO Coordinator will submit a written report to the Certification Committee. The report will reflect the coordinator's findings during the review. The Certification Committee will review the report to determine what action should be taken. The contractor will be notified of the committee's determination by letter within 15 days.

When the Verification Review has been completed, if decertification action is taken by the Arkansas State Highway and Transportation Department, two (2) copies of the review report and a copy of the decertification letter to the contractor will be forwarded to the Division Office of FHWA.

**PART IV**  
**ATTACHMENTS**

## **ATTACHMENT A**

### **NOTIFICATION OF SCHEDULED EEO DESK AUDIT**

- 1. Projects Only**
- 2. Home Office and Projects**

ARKANSAS STATE HIGHWAY  
AND  
TRANSPORTATION DEPARTMENT

Dan Flowers  
Director  
Telephone (501) 569-2000



P. O. Box 2261  
Little Rock, Arkansas 72203-2261  
Telefax (501) 569-2400

Re: Desk Audit Notification

Dear :

Equal employment opportunity is a national policy and all nonexempt direct Federal or Federal-aid contracts contain clauses which require affirmative action to achieve this goal.

Responsibility for monitoring implementation of the equal opportunity requirements of your contract(s) has been assigned to the Arkansas State Highway and Transportation Department. Accordingly, has been selected for an equal opportunity Desk Audit.

This audit will not require your presence. However, it will require submission of the information requested in the attached forms to the following address not later than

Arkansas State Highway and  
Transportation Department  
EEO Section  
P. O. Box 2261  
Little Rock, Arkansas 72203

The purpose of this audit is to examine indicators of the firm's equal employment opportunity program and its effectiveness in fulfilling the EEO requirements of your contract(s). This information will be used to determine whether an On-Site Review of the firm is necessary.

Failure to submit the requested information within the time limits specified can be grounds for the initiation of formal administrative proceedings.

In the interest of expediting this process, a prompt and complete response will be sincerely appreciated. Should you have any questions regarding the information requested, please call \_\_\_\_\_ at (501) 569-\_\_\_\_\_.

If circumstances indicate that the company's EEO program warrants a review, you will be so notified within 15 days of receipt of your response.

Data submitted may be validated by random site inspections. Submission of false or misleading information is a violation of 18 U.S.C. 1020. Such instances will be prosecuted.

Your cooperation is appreciated.

Yours truly,

Kay Crutchfield  
Section Head - EEO

KC:lc

Attachments

ARKANSAS STATE HIGHWAY  
AND  
TRANSPORTATION DEPARTMENT

Dan Flowers  
Director  
Telephone (501) 569-2000



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Arkansas State Highway and  
Transportation Department  
EEO Section  
P. O. Box 2261  
Little Rock, Arkansas 72203

This will be an audit of the firm's office and each Federal-aid highway project that the firm has under contract during the review period. Except where home office data is requested only, your responses should address home office and project site activity.

The purpose of this audit is to examine indicators of the firm's equal employment opportunity program and determine its effectiveness in fulfilling the EEO requirements of the contract(s). This information will be used to determine whether an On-Site Review of the firm is necessary.

Failure to submit the requested information within the time limits specified can be grounds for the initiation of formal administrative proceedings.

In the interest of expediting this process, a prompt and complete response will be sincerely appreciated. Should you have any questions regarding the information requested, please call  
at (501) 569-

If circumstances indicate that the company's EEO program warrants a review, you will be so notified within 15 days of our receipt of your response.

Data submitted may be validated by random site inspections. Submission of false or misleading information is a violation of 18 U.S.C. 1020. Such instances will be prosecuted.

Your cooperation is appreciated.

Yours truly,

Kay Crutchfield  
Section Head - EEO

KC:lc

Attachments

**DESK AUDIT INFORMATION**

1. Contractor \_\_\_\_\_  
 a. Address \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 b. Telephone \_\_\_\_\_  
 \_\_\_\_\_

2. Name and Title of Policy Officer \_\_\_\_\_  
 \_\_\_\_\_

3. List all Federal-aid highway construction projects under contract in Arkansas during the period \_\_\_\_\_ to \_\_\_\_\_

Covered Project(s)			
Job Number/ County	Amount (Approximate)	Date of Award	Estimated Peak Employment (Month, Year)

4. Attach project site certified payrolls covering the period \_\_\_\_\_ to \_\_\_\_\_ for each Federal-aid highway contract presently held in Arkansas. Annotate to show job classification, race or national origin and sex of each employee.



a. Statewide Employment Data. For payroll period ending (Federal-aid highway projects only.)

JOB CATEGORIES	TABLE A												TABLE B						
	TOTAL EMPLOYERS		TOTAL MINORITIES		BLACK Not of Hispanic Origin		HISPANIC		AMERICAN INDIAN OR ALASKAN NATIVE		ASIAN OR PACIFIC ISLANDER		WHITE Not of Hispanic Origin		APPRENTICES		ON THE JOB TRAINERS		
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	
OFFICIALS (MANAGERS)																			
SUPERVISORS																			
FOREMEN/WOMEN																			
CLERICAL																			
EQUIPMENT OPERATORS																			
MECHANICS																			
TRUCK DRIVERS																			
IRONWORKERS																			
CARPENTERS																			
CEMENT MASONS																			
ELECTRICIANS																			
PIPEFITTERS, PLUMBERS																			
PAINTERS																			
LABORERS, SEMI-SKILLED																			
LABORERS, UNSKILLED																			
TOTAL																			
APPRENTICES																			
ON-THE-JOB-TRAINERS																			

b. Home Office Employment Data. For payroll period ending  
(Submit only if your firm has a home office located in this State.)

OCCUPATIONS	MALE EMPLOYEES					FEMALE EMPLOYEES					TOTAL ALL EMPLOYEES	
	TOTAL MALES	MINORITY GROUPS				TOTAL FEMALES	MINORITY GROUPS					
		BLACK	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE	HISPANIC		BLACK	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE	HISPANIC		
OFFICIALS & MANAGERS												
PROFESSIONALS												
TECHNICIANS												
SALES WORKERS												
OFFICE & CLERICAL												
SUB-TOTAL (WHITE COLLAR)												
CRAPTSMEN (SKILLED)												
OPERATIVES (SEMI-SKILLED)												
LABORERS (UNSKILLED)												
SERVICE WORKERS												
SUB-TOTAL (BLUE COLLAR)												
TOTAL												
TOTAL EMPLOYMENT FROM PREVIOUS REPORT (IF ANY)												
THE DATA BELOW SHALL ALSO BE INCLUDED IN THE FIGURES FOR THE APPROPRIATE OCCUPATIONAL CATEGORIES ABOVE												
ON-THE-JOB TRAINERS	WHITE COLLAR											
	PRO-DUCTION											

c. Attach Current Standard Form 100 (EEO-1).

6. Submit any documentation your firm maintains regarding solicitation of offers for subcontracts from disadvantaged business enterprise construction contractors and/or suppliers. Include responses to such solicitations. Submit for each Federal-aid highway project.

7. Name the liaison officer appointed to administer your Disadvantaged Business Enterprise Program.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Briefly list his/her duties.

8. List all subcontractors with whom you presently have an agreement in excess of \$10,000 to provide services on all your Federal-aid highway projects.

Job No.	Subcontractor and Address	DBE or Nonminority

Job No.	Subcontractor and Address	DBE or Nonminority

9. List all vendors or suppliers with whom you presently have an agreement in excess of \$10,000 to provide equipment, materials or supplies on all your Federal-aid highway projects.

Job No.	Vendor or Supplier and Address	DBE or Nonminority

Job No.	Vendor or Supplier and Address	DBE or Nonminority

10. Union Affiliations (If Applicable)

Union Title or Identification	Union Local Number	Does union have exclusive referrals rights?		Does union sponsor or participate in pre-apprentice, apprentice or post-apprentice training programs?		Does contractor sponsor or participate in pre-employment apprentice, or post employment training programs?	
		Yes	No	Yes	No	Yes	No



11. Attach a copy of your firm's equal employment opportunity notices posted on project site bulletin boards. Describe below how this information is disseminated to all employees.

12. Name your company EEO officer.

Name \_\_\_\_\_

Title \_\_\_\_\_

Briefly list his/her duties.

13. Submit any documentation your firm maintains regarding meetings held with supervisory personnel and employees where your firm's EEO policy, training and promotional opportunities are discussed.

Who conducts these meetings?

How often are these meetings held?

14. Provide a list of employee referral sources which your firm has contacted in efforts to secure minority/female employees.

Job No.	Name of Individual Organization or Agency	Address & Telephone No.	Date Contacted	Individual Contacted	Results

Job No.	Name of Individual Organization or Agency	Address & Telephone No.	Date Contacted	Individual Contacted	Results

15. Attach a blank copy of your firm's employment application form. If no formal application is used, describe procedure for screening candidates for employment.
  
16. Summarize total employment applications received during the period \_\_\_\_\_ to \_\_\_\_\_ . Include a copy of the Minority and Female Applicant Roster. Submit for each Federal-aid highway project.

Job No.													
Total Applicants		Total Minorities		Black Not of Hispanic Origin		Hispanic		American Indian or Alaskan Native		Asian or Pacific Islander		White Not of Hispanic Origin	
M	F	M	F	M	F	M	F	M	F	M	F	M	F

Job No.													
Total Applicants		Total Minorities		Black Not of Hispanic Origin		Hispanic		American Indian or Alaskan Native		Asian or Pacific Islander		White Not of Hispanic Origin	
M	F	M	F	M	F	M	F	M	F	M	F	M	F

Job No.													
Total Applicants		Total Minorities		Black Not of Hispanic Origin		Hispanic		American Indian or Alaskan Native		Asian or Pacific Islander		White Not of Hispanic Origin	
M	F	M	F	M	F	M	F	M	F	M	F	M	F

Job No.													
Total Applicants		Total Minorities		Black Not of Hispanic Origin		Hispanic		American Indian or Alaskan Native		Asian or Pacific Islander		White Not of Hispanic Origin	
M	F	M	F	M	F	M	F	M	F	M	F	M	F

Job No.													
Total Applicants		Total Minorities		Black Not of Hispanic Origin		Hispanic		American Indian or Alaskan Native		Asian or Pacific Islander		White Not of Hispanic Origin	
M	F	M	F	M	F	M	F	M	F	M	F	M	F

Job No.													
Total Applicants		Total Minorities		Black Not of Hispanic Origin		Hispanic		American Indian or Alaskan Native		Asian or Pacific Islander		White Not of Hispanic Origin	
M	F	M	F	M	F	M	F	M	F	M	F	M	F

Job No.													
Total Applicants		Total Minorities		Black Not of Hispanic Origin		Hispanic		American Indian or Alaskan Native		Asian or Pacific Islander		White Not of Hispanic Origin	
M	F	M	F	M	F	M	F	M	F	M	F	M	F

17. Summarize total new hires during the period \_\_\_\_\_ to \_\_\_\_\_  
 Submit for each Federal-aid highway project.

Job No.	Source of Referral	Classification	Total Hired	Sex	Race or National Origin

Job No.	Source of Referral	Classification	Total Hired	Sex	Race or National Origin

Job No.	Source of Referral	Classification	Total Hired	Sex	Race or National Origin

Job No.	Source of Referral	Classification	Total Hired	Sex	Race or National Origin

Job No.	Source of Referral	Classification	Total Hired	Sex	Race or National Origin

Job No.	Source of Referral	Classification	Total Hired	Sex	Race or National Origin

18. List all home office hires during the period . Submit only if your firm has a home office located in this State.

Total Employees		Total Minorities		Black Not of Hispanic Origin		Hispanic		American Indian or Alaskan Native		Asian or Pacific Islander		White Not of Hispanic Origin	
M	F	M	F	M	F	M	F	M	F	M	F	M	F



19. Submit a list of promotions effective during the period \_\_\_\_\_ to \_\_\_\_\_ . PROMOTIONS involve an increase in salary and responsibility. Submit for each Federal-aid highway project.

Job No.	Name	Race or Ethnic Origin	Sex	Classification Promoted To	Previous Classification	Salary	
						Previous	Present

Job No.	Name	Race or Ethnic Origin	Sex	Classification Promoted To	Previous Classification	Salary	
						Previous	Present

20. Submit a list of upgrades during the period \_\_\_\_\_ to \_\_\_\_\_  
 UPGRADES involve a salary increase only. Submit for each Federal-aid highway project.

Job No.	Name	Race or Ethnic Origin	Sex	Salary	
				Previous	Present

Job No.	Name	Race or Ethnic Origin	Sex	Salary	
				Previous	Present

21. Provide data on terminations and layoffs during the period \_\_\_\_\_ through \_\_\_\_\_  
 Submit for each Federal-aid highway project.

Job No.	Total	Sex	Race or Ethnic Origin	Reason

Job No.	Total	Sex	Race or Ethnic Origin	Reason

Job No.	Classification	Total	Sex	Race or Ethnic Origin	Reason

Job No.	Classification	Total	Sex	Race or Ethnic Origin	Reason

Job No.	Total	Sex	Race or Ethnic Origin	Reason
Classification				

Job No.	Total	Sex	Race or Ethnic Origin	Reason
Classification				

22. Submit the following information on complaints alleging discrimination filed against your firm during the period \_\_\_\_\_ to \_\_\_\_\_

Job No.	Name of Complainant	Basis for Complaint (Race, Sex, National Origin, Religion, Color, Age or Disability)	Agency filed with (FHWA, State, EEOC OFCCP or your firm)	Outcome (Resolved, Pending Under Investigation, Cause, No Cause, Corrective Action Order)



23. List your firm's employee benefit plans. (Profit sharing, insurance, retirement, etc.). List requirements for participation in each plan.

Plan	Total Employees Participating		Total Minorities Participating	
	M	F	M	F

24. List all on-the-job training or apprenticeship programs your firm participates in.

25. For each Federal-aid highway project, provide the following information for all trainees enrolled in the aforementioned program(s).

Job No.	Name of Trainee	Race or Ethnic Origin	Sex	Classification	Current Status: 1-Graduated 2-Terminated (Reason) 3-In-training

Job No.	Name of Trainee	Race or Ethnic Origin	Sex	Classification	Current Status: 1-Graduated 2-Terminated (Reason) 3-In-training

26. Attach information documenting the method used by your firm to apprise trainees of the number of hours accumulated in the training program.
27. Do you anticipate enrolling individual(s) in the training program on any projects listed in Item 3?

If so, indicate the job number, number of individual(s) to be enrolled, job classification(s) and estimated date of enrollment.

28. Attach copies of bargaining agreements between your firm and labor organizations.
- a. Attach any documentation demonstrating your efforts to work with labor unions in implementing your EEO contractual requirements.
  - b. Attach any records your firm maintains regarding union referral practices. (An example would be a record of total referrals broken down by race or national origin and sex.)
29. Attach a copy of at least one actual purchase order in excess of \$10,000 on each Federal-aid highway project.
30. Provide the name, official title, and address of the person primarily responsible for preparation of the foregoing data. Include a telephone number where this person can be reached by the reviewing officer, if necessary.

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Telephone \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

## **ATTACHMENT B**

### **CONTRACTOR LETTER OF FINDINGS**

- 1. Desk Audit**
  - a. No Show Cause**
  - b. Show Cause**
  
- 2. On-Site Review**
  - a. No Show Cause**
  - b. Show Cause**

**DESK AUDIT  
NO SHOW CAUSE**

ARKANSAS STATE HIGHWAY  
AND  
TRANSPORTATION DEPARTMENT

Dan Flowers  
Director  
Telephone (501) 569-2000



P. O. Box 2261  
Little Rock, Arkansas 72203-2261  
Telefax (501) 569-2400

Re: Desk Audit

Dear :

As a result of the Desk Audit conducted by the Arkansas State Highway and Transportation Department on , the following areas were identified as deficient and recommendations for improvement are offered:

1. The goal established by the Department of Labor for minority utilization for each trade in County is % and 6.9% for females statewide. Project site payrolls for the period to revealed the following:

**Job No.**

**Job Classification**

**Total Hours  
Worked**

**Hours As A  
% of Total**  
**Minority**      **Female**



Based on the above information, there is an underutilization of minorities as \_\_\_\_\_ and an underutilization of females in all classifications except \_\_\_\_\_ and \_\_\_\_\_

The goal established by the Department of Labor for minority utilization for each trade in \_\_\_\_\_ County is \_\_\_\_\_ % and 6.9% for females statewide. Project site payrolls for the period \_\_\_\_\_ to \_\_\_\_\_ revealed the following:

**Job No.**

<b><u>Job Classification</u></b>	<b><u>Total Hours Worked</u></b>	<b><u>Hours As A % of Total</u></b>	
		<b><u>Minority</u></b>	<b><u>Female</u></b>

Based on the above information, there is an underutilization of minorities as \_\_\_\_\_ and an underutilization of females in all classifications.

The goal established by the Department of Labor for minority utilization for each trade in \_\_\_\_\_ County is \_\_\_\_\_ % and 6.9% for females statewide. Project site payrolls for the period \_\_\_\_\_ to \_\_\_\_\_ revealed the following:

**Job No.**

<b><u>Job Classification</u></b>	<b><u>Total Hours Worked</u></b>	<b><u>Hours As A % of Total</u></b>	
		<b><u>Minority</u></b>	<b><u>Female</u></b>

Based on the above information, there is an underutilization of minorities in all classifications and an underutilization of females in all classifications except \_\_\_\_\_ and \_\_\_\_\_

During the period \_\_\_\_\_ to \_\_\_\_\_, a total of 62 individuals including 18 minority males, two minority females and one nonminority female was hired. A good faith effort was made by your company to recruit minorities and/or females by contacting minority and female referral sources.

It is recommended that follow-up contacts be made, oral and/or written, with minority and female recruitment organizations servicing the company's recruitment area (25 mile radius of the project) when job opportunities are available or you are trying to build-up the company's applicant pool. A record of the contacts and the organizations' responses should be maintained. Refer to Attachment One.

2. A minority and female applicant roster was not maintained on Job Numbers \_\_\_\_\_ and \_\_\_\_\_

A current file of the name, address and telephone number of each minority and female off-the street applicant, and a list of minority or female referrals from a recruitment source, community organization or applicants who seek employment by telephone, should be maintained on each of the above Job Numbers. The file should reflect the action taken with respect to each individual. Refer to Attachment \_\_\_\_\_

3. An EEO meeting has not been held on Job Numbers \_\_\_\_\_ and \_\_\_\_\_ with \_\_\_\_\_ on-site employees at which the company's EEO policy and affirmative action obligations were discussed.

An EEO meeting should be held on the above Job Numbers as soon as possible, with supervisory personnel and employees at which the company's EEO policy, training and promotional opportunities are discussed. A written record should be made and maintained concerning each meeting. This record should identify the time and place of the meeting, persons attending, subject matter discussed and disposition of the subject matter. Refer to Attachment \_\_\_\_\_. EEO meetings should be held not less often than once every six months after the initial meeting.

Identified items may be addressed through submittal to this office of a voluntary corrective action plan in writing not later than \_\_\_\_\_. Enclosed is a sample corrective action plan with the appropriate language that can be used to prepare the written commitment. Please follow the format in submitting your plan. Should an acceptable voluntary corrective action plan be submitted within the specified time limit, the firm will be considered in compliance contingent upon satisfactory implementation of the plan.

Quarterly status reports should be submitted to the EEO Section of the Arkansas State Highway and Transportation Department regarding each action taken to improve the program. The initial report should cover the period \_\_\_\_\_ through \_\_\_\_\_. Subsequent reports should correspond to calendar year quarters. Submission dates should be on the 15th day of the month following the end of each quarter until construction on Job Numbers \_\_\_\_\_ and \_\_\_\_\_ is completed.

The corrective action plan should be accompanied by a cover letter which addresses the following items:

1. Purchase Order Agreements (POA) to record purchases of material in excess of \$10,000 for Job Numbers \_\_\_\_\_ and \_\_\_\_\_ were not utilized. POAs should be used to record purchases of materials in excess of \$10,000 for the above Job Numbers. Refer to Attachment \_\_\_\_\_.
2. The company's application form requests information relative to an applicant's date of birth. Refer to Attachment \_\_\_\_\_ for information which can be used as a guide to revise the employment application and to provide some insight on the types of questions which can be asked during interviews.

The EEO Staff is anxious to assist you in achieving compliance. Any questions concerning this matter should be addressed to: \_\_\_\_\_, Arkansas State Highway and Transportation Department, Human Resources Division, P. O. Box 2261, Little Rock, AR 72203, (501) 569-\_\_\_\_\_.

Yours truly,

James Moore, Jr.  
External EEO Coordinator

JMJ:lc

Enclosure

## **SAMPLE CORRECTIVE ACTION PLAN**

**Deficiency 1:** Payrolls revealed an underutilization of minorities as Superintendents, Heavy Equipment Operators and Laborers and an underutilization of females in all classifications. No documentation of contacts with minority and female referral sources.

**Commitment:** Minority and female referral sources provided by the Arkansas State Highway and Transportation Department will be contacted by letter on (Date) to solicit applicants for employment consideration. We will direct our efforts to hire individuals in job classifications where there is underutilization. If necessary, follow-up telephone calls will be made to each organization to request their assistance in locating qualified applicants for employment consideration. All contacts made by this company and all responses by referral sources will be documented on the Minority and Female Recruitment Source List. We will try to identify other organizations that may assist our company in locating applicants for employment consideration.

**Deficiency 2:** Failure to document meetings held with supervisory personnel and on-site employees where the company's EEO policy and affirmative action obligations were discussed.

**Commitment:** An EEO meeting will be held on (Date) with supervisory personnel and on-site employees where the company's EEO policy and affirmative action obligations will be discussed. A written record will be maintained identifying the time and place of the meeting, subject matter discussed and disposition of the subject matter. The record will be signed by each individual attending the meeting. Additional meetings will be held not less often than once every six months.

**Deficiency 3:** Very little effort to assure subcontractors have meaningful minority and female representation among their employees.

**Commitment:** We have scheduled a meeting with all subcontractors currently working on our contracts. This meeting will be held to inform the subcontractors of our intention to monitor their reports and require meaningful minority and female representation. This meeting will be held on (Date) and we will provide you with a summary of the discussions and current posture of each subcontractor.

**We will submit quarterly reports until construction on this project is completed.**

**The following appropriate language is included in our corrective action plan:**

If, at any time in the future, the Office of Federal Contract Compliance Programs or the Federal Highway Administration or the Arkansas State Highway Commission or their successor(s) believe that \_\_\_\_\_ has violated any portion of this agreement,

\_\_\_\_\_ shall be promptly notified of the fact in writing. This notification shall include a statement of the facts and circumstances relied upon in forming that belief. In addition, the notification shall provide \_\_\_\_\_ with 15 days to respond in writing to the notification except where the Office of Federal Contract Compliance Programs, the Federal Highway Administration or the Arkansas State Highway Commission alleges that such delay would result in irreparable injury. It is understood that enforcement proceedings for violation of this agreement may be initiated at any time after the 15 day period has elapsed (or sooner if irreparable injury is alleged) without issuance of a show cause notice.

It is recognized that where the Office of Federal Contract Compliance Programs and/or the Federal Highway Administration and/or the Arkansas State Highway Commission believes that \_\_\_\_\_ has breached this agreement, evidence regarding the entire scope of \_\_\_\_\_'s alleged non-compliance from which this agreement resulted, in addition to evidence regarding \_\_\_\_\_'s alleged violation of this agreement, may be introduced at the enforcement proceeding.

Violation of this agreement may subject \_\_\_\_\_ to sanctions pursuant to the Arkansas State Highway Commission contract administration procedures. It is further recognized that liability for violation of this agreement may also subject \_\_\_\_\_ to sanctions set forth in Section 209 of Executive Order 11246 as amended and/or appropriate relief.

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Signature of Authorized Contractor Representative

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Title

---

Date

---

Signature of AHTD External EEO Coordinator

---

Date

**DESK AUDIT  
SHOW CAUSE**

ARKANSAS STATE HIGHWAY  
AND  
TRANSPORTATION DEPARTMENT

Dan Flowers  
Director  
Telephone (501) 569-2000



P. O. Box 2261  
Little Rock, Arkansas 72203-2261  
Telefax (501) 569-2400

Re: Desk Audit

Dear :

As a result of the Desk Audit conducted on \_\_\_\_\_ by the Arkansas State Highway and Transportation Department (AHTD), it was determined that \_\_\_\_\_ is not in compliance with the equal opportunity requirements and that good faith efforts have not been made in the following areas:

1. The goal established by the Department of Labor for minority utilization for each trade in \_\_\_\_\_ and \_\_\_\_\_ Counties is \_\_\_\_\_ % and 6.9% for females statewide. Project payrolls by job for the period \_\_\_\_\_ to \_\_\_\_\_ revealed the following:

**Job No.**

**Job Classifications**

**Total Hours  
Worked**

**Hours As A  
% of Total**  
**Minority      Female**

Based on this information, there is an underutilization of minorities in all classifications. There is an underutilization of females as \_\_\_\_\_ and \_\_\_\_\_.

**Job No.**

<b><u>Job Classifications</u></b>	<b><u>Total Hours Worked</u></b>	<b><u>Hours As A % of Total</u></b>	
		<b><u>Minority</u></b>	<b><u>Female</u></b>

Based on this information, there is an underutilization of minorities as \_\_\_\_\_ and \_\_\_\_\_. There is an under-utilization of females in all classifications.

During the period \_\_\_\_\_ to \_\_\_\_\_, four minority males, one minority female, and one nonminority female were hired. Besides the Employment Security Division Offices and the NAACP, contacts were not made with other minority and female referral sources when job opportunities were available. It is recommended that oral and/or written contacts be made with minority and female recruitment organizations serving the company's recruitment area (25 mile radius of the project) when job opportunities are available or you are trying to build-up the company's applicant pool. A record of the contacts and the organizations' responses should be maintained.

A review conducted by the Department on \_\_\_\_\_ revealed an underutilization of minorities and females in the workforce. The company has not established systematic and direct recruitment procedures with referral sources nor demonstrated that EEO is a vital management function.

2. Combined EEO and safety meetings were held with supervisory personnel and on-site employees where the company's EEO policy and affirmative action obligations were discussed. However, you did not document the time and place of the meetings, persons attending, the subject matter discussed and disposition of the subject matter, for Job Numbers \_\_\_\_\_ and \_\_\_\_\_.
3. Purchase Order Agreements to record purchases of materials in excess of \$10,000 for Job Numbers \_\_\_\_\_ and \_\_\_\_\_ were not utilized.
4. The employment application form has the word handicap instead of disability.
5. The Disadvantaged Business Enterprise goals for Job Numbers \_\_\_\_\_ and \_\_\_\_\_ have not been satisfied.



When equal opportunity deficiencies exist, it is necessary that a commitment to correct such deficiencies be made in writing before the company can be found in compliance. The commitment must include the specific actions proposed to correct each deficiency and the projected date of completion. The time period allotted shall be no longer than the minimum period necessary to effect the necessary correction. The written commitment must also provide for the submission of quarterly progress reports. The initial report will cover the period through . Subsequent reports should correspond to calendar year quarters. Submission dates should be on the 15th day of the month following the end of each quarter until construction on Job Numbers and is completed. Enclosed is a sample corrective action plan and the appropriate language which can be used to prepare the written commitment.

In order to assist you in developing the written commitment for submission by , a meeting will be held at the Arkansas State Highway and Transportation Department on at a.m. in room . This office should be notified in writing by if the time and date are convenient.

The EEO Staff is anxious to assist you in achieving compliance. Any questions concerning this matter should be addressed to: , Arkansas State Highway and Transportation Department, Human Resources Division, P. O. Box 2261, Little Rock, AR 72203, 501-569-

Yours truly,

James Moore, Jr.  
External EEO Coordinator

JMJ:ic  
Enclosure

cc: Ms. Wilson  
Mr. Hall  
Mr. Wilson  
Mr. Holmes

## **SAMPLE CORRECTIVE ACTION PLAN**

**Deficiency 1:** Payrolls revealed an underutilization of minorities as Superintendents, Heavy Equipment Operators and Laborers and an underutilization of females in all classifications. No documentation of contacts with minority and female referral sources.

**Commitment:** Minority and female referral sources provided by the Arkansas State Highway and Transportation Department will be contacted by letter on (Date) to solicit applicants for employment consideration. We will direct our efforts to hire individuals in job classifications where there is underutilization. If necessary, follow-up telephone calls will be made to each organization to request their assistance in locating qualified applicants for employment consideration. All contacts made by this company and all responses by referral sources will be documented on the Minority and Female Recruitment Source List. We will try to identify other organizations that may assist our company in locating applicants for employment consideration.

**Deficiency 2:** Failure to document meetings held with supervisory personnel and on-site employees where the company's EEO policy and affirmative action obligations were discussed.

**Commitment:** An EEO meeting will be held on (Date) with supervisory personnel and on-site employees where the company's EEO policy and affirmative action obligations will be discussed. A written record will be maintained identifying the time and place of the meeting, subject matter discussed and disposition of the subject matter. The record will be signed by each individual attending the meeting. Additional meetings will be held not less often than once every six months.

**Deficiency 3:** Very little effort to assure subcontractors have meaningful minority and female representation among their employees.

**Commitment:** We have scheduled a meeting with all subcontractors currently working on our contracts. This meeting will be held to inform the subcontractors of our intention to monitor their reports and require meaningful minority and female representation. This meeting will be held on (Date) and we will provide you with a summary of the discussions and current posture of each subcontractor.

**We will submit quarterly reports until construction on this project is completed.**

**The following appropriate language is included in our corrective action plan:**

If, at any time in the future, the Office of Federal Contract Compliance Programs or the Federal Highway Administration or the Arkansas State Highway Commission or their successor(s) believe that \_\_\_\_\_ has violated any portion of this agreement,

\_\_\_\_\_ shall be promptly notified of the fact in writing. This notification shall include a statement of the facts and circumstances relied upon in forming that belief. In addition, the notification shall provide \_\_\_\_\_ with 15 days to respond in writing to the notification except where the Office of Federal Contract Compliance Programs, the Federal Highway Administration or the Arkansas State Highway Commission alleges that such delay would result in irreparable injury. It is understood that enforcement proceedings for violation of this agreement may be initiated at any time after the 15 day period has elapsed (or sooner if irreparable injury is alleged) without issuance of a show cause notice.

It is recognized that where the Office of Federal Contract Compliance Programs and/or the Federal Highway Administration and/or the Arkansas State Highway Commission believes that \_\_\_\_\_ has breached this agreement, evidence regarding the entire scope of \_\_\_\_\_'s alleged non-compliance which gave rise to the show cause notice from which this agreement resulted, in addition to evidence regarding \_\_\_\_\_'s alleged violation of this agreement, may be introduced at the enforcement proceeding.

Violation of this agreement may subject \_\_\_\_\_ to sanctions pursuant to the Arkansas State Highway Commission contract administration procedures. It is further recognized that liability for violation of this agreement may also subject \_\_\_\_\_ to sanctions set forth in Section 209 of Executive Order 11246 as amended and/or appropriate relief.

---

Signature of Authorized Contractor Representative

---

Title

---

Date

---

Signature of AHTD External EEO Coordinator

---

Date

**ON-SITE REVIEW  
NO SHOW CAUSE**

ARKANSAS STATE HIGHWAY  
AND  
TRANSPORTATION DEPARTMENT

Dan Flowers  
Director  
Telephone (501) 569-2000



P. O. Box 2261  
Little Rock, Arkansas 72203-2261  
Telefax (501) 569-2400

Re: On-Site Review  
Job No.  
FAP No.

Dear :

As a result of the On-Site Review conducted by the Arkansas State Highway and Transportation Department on \_\_\_\_\_ of your firm's equal opportunity program, the following areas were identified as deficient and recommendations for improvement are offered:

1. The goal established by the Department of Labor for minority utilization for each trade in \_\_\_\_\_ County is \_\_\_\_\_ % and 6.9% for females statewide. Project site payrolls for the period \_\_\_\_\_ to \_\_\_\_\_ revealed the following:

<u>Job Classification</u>	<u>Total Hours Worked</u>	<u>Hours As A % of Total</u>	
		<u>Minority</u>	<u>Female</u>

Based on the above information, there is an underutilization of minorities as \_\_\_\_\_ and an underutilization of females in all classifications except \_\_\_\_\_ and

During the period \_\_\_\_\_ to \_\_\_\_\_, a total of 70 individuals including four minority males and six females were hired. According to documentation submitted, contacts with minority and female referral sources have not been made when job opportunities were available since \_\_\_\_\_

Minority newspapers were not used when the company advertised for construction workers. It is recommended that contacts be made, oral and/or written, with minority and female recruitment organizations serving the company's recruitment area (25 mile radius of the project) when job opportunities are available or you are trying to build-up your company's applicant pool. A record of the organizations' responses should be maintained. Refer to Attachment \_\_\_\_\_. If the company advertises by newspaper, the minority newspapers listed on the above Attachment and within the job site area should be utilized.

2. A minority and female applicant roster was not maintained on the project.

A current file of the name, address and telephone number of each minority and female off-the-street applicant, and a list of minority or female referrals from a recruitment source, community organization, or applicants who seek employment by telephone, should be maintained. The file should reflect the action taken with respect to each individual. Refer to Attachment \_\_\_\_\_.

3. An EEO meeting has not been held with on-site employees at which the company's EEO policy and affirmative action obligations are discussed.

An EEO meeting should be held, as soon as possible, with supervisory personnel and employees where the company's EEO policy, training and promotional opportunities are discussed. A written record should identify the time and place of the meeting, persons attending, subject matter discussed and disposition of the subject matter. Refer to Attachment \_\_\_\_\_. Meetings should be held not less often than once every six months after the initial meeting.

Identified items may be addressed through submittal to this office of a voluntary corrective action plan in writing not later than \_\_\_\_\_. Enclosed is a sample corrective action plan with the appropriate language that can be used to prepare the written commitment. Please follow the format in submitting your plan. Should an acceptable voluntary corrective action plan be submitted within the specified time limit, the firm will be considered in compliance contingent upon satisfactory implementation of the plan.

Quarterly status reports should be submitted to the EEO Section of the Arkansas State Highway and Transportation Department regarding each action taken to improve the program. The initial report should cover the period \_\_\_\_\_ through \_\_\_\_\_. Subsequent reports should correspond to calendar year quarters. Submission dates should be on the 15th day of the month following the end of each quarter until construction on Job Number \_\_\_\_\_ is completed.

A commitment to correct the following items should be addressed in your cover letter:

1. Purchase Order Agreements (POA) to record purchases of material in excess of \$10,000 were not utilized. POAs should be used to record purchases of materials in excess of \$10,000. Refer to Attachment \_\_\_\_\_.
2. The company's application form requests information relative to an applicant's date of birth. Refer to Attachment \_\_\_\_\_ for information which can be used as a guide to revise the application and to provide some insight on the types of questions which can be asked during interviews.

A review of the project site bulletin board revealed the following corrective action should be taken by \_\_\_\_\_:

1. The company's EEO Policy Statement did not include a prohibition of discrimination on the basis of age and the word handicap was used instead of disability.

The EEO Staff is anxious to assist you in achieving compliance. Any questions concerning this matter should be addressed to: \_\_\_\_\_, Arkansas State Highway and Transportation Department, Human Resources Division, P. O. Box 2261, Little Rock, AR 72203, (501) 569-\_\_\_\_\_.

Yours truly,

James Moore, Jr.  
External EEO Coordinator

JMJ:lc

Enclosures

cc: District Engineer  
Resident Engineer

## **SAMPLE CORRECTIVE ACTION PLAN**

**Deficiency 1:** Payrolls revealed an underutilization of minorities as Superintendents, Heavy Equipment Operators and Laborers and an underutilization of females in all classifications. No documentation of contacts with minority and female referral sources.

**Commitment:** Minority and female referral sources provided by the Arkansas State Highway and Transportation Department will be contacted by letter on (Date) to solicit applicants for employment consideration. We will direct our efforts to hire individuals in job classifications where there is underutilization. If necessary, follow-up telephone calls will be made to each organization to request their assistance in locating qualified applicants for employment consideration. All contacts made by this company and all responses by referral sources will be documented on the Minority and Female Recruitment Source List. We will try to identify other organizations that may assist our company in locating applicants for employment consideration.

**Deficiency 2:** Failure to document meetings held with supervisory personnel and on-site employees where the company's EEO policy and affirmative action obligations were discussed.

**Commitment:** An EEO meeting will be held on (Date) with supervisory personnel and on-site employees where the company's EEO policy and affirmative action obligations will be discussed. A written record will be maintained identifying the time and place of the meeting, subject matter discussed and disposition of the subject matter. The record will be signed by each individual attending the meeting. Additional meetings will be held not less often than once every six months.

**Deficiency 3:** Very little effort to assure subcontractors have meaningful minority and female representation among their employees.

**Commitment:** We have scheduled a meeting with all subcontractors currently working on our contracts. This meeting will be held to inform the subcontractors of our intention to monitor their reports and require meaningful minority and female representation. This meeting will be held on (Date) and we will provide you with a summary of the discussions and current posture of each subcontractor.

We will submit quarterly reports until construction on this project is completed.

The following appropriate language is included in our corrective action plan:



If, at any time in the future, the Office of Federal Contract Compliance Programs or the Federal Highway Administration or the Arkansas State Highway Commission or their successor(s) believe that \_\_\_\_\_ has violated any portion of this agreement,

\_\_\_\_\_ shall be promptly notified of the fact in writing. This notification shall include a statement of the facts and circumstances relied upon in forming that belief. In addition, the notification shall provide \_\_\_\_\_ with 15 days to respond in writing to the notification except where the Office of Federal Contract Compliance Programs, the Federal Highway Administration or the Arkansas State Highway Commission alleges that such delay would result in irreparable injury. It is understood that enforcement proceedings for violation of this agreement may be initiated at any time after the 15 day period has elapsed (or sooner if irreparable injury is alleged) without issuance of a show cause notice.

It is recognized that where the Office of Federal Contract Compliance Programs and/or the Federal Highway Administration and/or the Arkansas State Highway Commission believes that \_\_\_\_\_ has breached this agreement, evidence regarding the entire scope of \_\_\_\_\_'s alleged non-compliance from which this agreement resulted, in addition to evidence regarding \_\_\_\_\_'s alleged violation of this agreement, may be introduced at the enforcement proceeding.

Violation of this agreement may subject \_\_\_\_\_ to sanctions pursuant to the Arkansas State Highway Commission contract administration procedures. It is further recognized that liability for violation of this agreement may also subject \_\_\_\_\_ to sanctions set forth in Section 209 of Executive Order 11246 as amended and/or appropriate relief.

---

Signature of Authorized Contractor Representative

---

Title

---

Date

---

Signature of AHTD External EEO Coordinator

---

Date

**ON-SITE REVIEW  
SHOW CAUSE**

ARKANSAS STATE HIGHWAY  
AND  
TRANSPORTATION DEPARTMENT

Dan Flowers  
Director  
Telephone (501) 569-2000



P. O. Box 2261  
Little Rock, Arkansas 72203-2261  
Telefax (501) 569-2400

Re: On-Site Review  
Job No.  
FAP No.

Dear :

As a result of the On-Site Review conducted on \_\_\_\_\_ by the Arkansas State Highway and Transportation Department (AHTD), it is our determination that \_\_\_\_\_ is not in compliance with the equal opportunity requirements and that good faith efforts have not been made to meet your equal opportunity requirements in the following areas:

1. The goal established by the Department of Labor for minority utilization for each trade in \_\_\_\_\_ County is \_\_\_\_\_ % and 6.9% for females statewide. Project payrolls for the period \_\_\_\_\_ to \_\_\_\_\_ revealed the following:

<u>Job Classification</u>	<u>Total Hours Worked</u>	<u>Hours As A % of Total</u>	
		<u>Minority</u>	<u>Females</u>

Based on the above information, there is an underutilization of minorities as  
. There is an underutilization of females in all classifications except

During the period \_\_\_\_\_ to \_\_\_\_\_, a total of 16 individuals including one minority male and one non-minority female were hired. Contacts were not made by letter or telephone to minority and female referral sources when job opportunities were available. It is recommended that contacts be made, oral and/or written, with minority and female recruitment organizations serving the company's recruitment area (25 mile radius of the project) when job opportunities are available or you are trying to build-up your company's applicant pool. A record of the organizations' responses should be maintained.

2. Six employees were interviewed to determine if they have attended an on-site EEO meeting when the company's EEO policy and affirmative action obligations were discussed. Two of the six employees indicated that an EEO meeting was held.

A written record should be made and maintained concerning meetings with supervisory personnel and on-site employees where the company's EEO policy, training and promotional opportunities are discussed. The record should identify the time and place of the meeting, persons attending, the subject matter discussed and disposition of the subject matter. Meetings should be held not less often than once every six months.

3. A minority and female applicant roster was not maintained on the project.

A current file to include name, address and telephone number of each minority and female off-the-street applicant, and a list of minority or female referrals from a recruitment source, community organization, or applicants who seek employment by telephone, should be maintained. The file should reflect the action taken with respect to each individual.

A review conducted by the Department on \_\_\_\_\_ revealed an underutilization of females in your workforce, failure to discuss the company's EEO Policy and promotional and training opportunities with on-site employees, and failure to maintain a minority and female applicant roster on the project. The company has not established systematic and direct recruitment procedures with referral sources nor demonstrated that EEO is a vital management function of the company.

4. The Disadvantaged Business Enterprise (DBE) goal has not been satisfied.
5. The employment application form requests information relative to an applicant's date of birth, marital status, military history and personal illnesses.

When equal opportunity deficiencies exist, it is necessary that you make a commitment in writing to correct such deficiencies before you may be found in compliance. The commitment must include specific actions proposed to correct each deficiency and the projected date of completion. The time period allotted shall be no longer than the minimum period necessary to effect the necessary correction. The written commitment must also provide for the submission of quarterly progress reports.

The initial report will cover the period \_\_\_\_\_ through \_\_\_\_\_. Subsequent reports should correspond to calendar year quarters. Submission dates should be on the 15th day of the month following the end of each quarter until construction on Job Number \_\_\_\_\_ is completed. Enclosed is a sample corrective action plan and the appropriate language which can be used to prepare your written commitment.

In order to assist you in developing your written commitment for submission by \_\_\_\_\_, a meeting will be held at the Arkansas State Highway and Transportation Department on \_\_\_\_\_ at \_\_\_\_\_ a.m. in Room \_\_\_\_\_. This office should be notified in writing by \_\_\_\_\_ if the time and date for the meeting are convenient.

The corrective action plan should be accompanied by a cover letter which addresses the following items:

A review of the project site bulletin board revealed that the following corrective action should be taken by \_\_\_\_\_:

1. The word disability should be used instead of handicap in your company's EEO Policy Statement.
2. The Notice Informing Employees of an available Training Program and the Entrance Requirements should be posted.
3. Notices and posters should not overlap.
4. Notice to Employees (WH 1321) poster was faded and should be replaced.
5. Workers' Compensation Commission (WCC) Form A-6 and WCC Form A-26-SID should be replaced with WCC Form AR-P and the label that has the Insurer's Name, Claim Office Address and Phone Number. If the company is self-insured, contact the administrator of the self-insured group for the necessary posting materials.

The EEO Staff is anxious to assist you in achieving compliance. Any questions concerning this matter should be addressed to: Arkansas State Highway and Transportation Department, Human Resources Division, P. O. Box 2261, Little Rock, AR 72203, 569-

Yours truly,

James Moore, Jr.  
External EEO Coordinator

JMJ:lc  
Enclosure

cc: Ms. Wilson  
Mr. Hall  
Mr. Wilson  
Mr. Holmes

## **SAMPLE CORRECTIVE ACTION PLAN**

**Deficiency 1:** Payrolls revealed an underutilization of minorities as Superintendents, Heavy Equipment Operators and Laborers and an underutilization of females in all classifications. No documentation of contacts with minority and female referral sources.

**Commitment:** Minority and female referral sources provided by the Arkansas State Highway and Transportation Department will be contacted by letter on (Date) to solicit applicants for employment consideration. We will direct our efforts to hire individuals in job classifications where there is underutilization. If necessary, follow-up telephone calls will be made to each organization to request their assistance in locating qualified applicants for employment consideration. All contacts made by this company and all responses by referral sources will be documented on the Minority and Female Recruitment Source List. We will try to identify other organizations that may assist our company in locating applicants for employment consideration.

**Deficiency 2:** Failure to document meetings held with supervisory personnel and on-site employees where the company's EEO policy and affirmative action obligations were discussed.

**Commitment:** An EEO meeting will be held on (Date) with supervisory personnel and on-site employees where the company's EEO policy and affirmative action obligations will be discussed. A written record will be maintained identifying the time and place of the meeting, subject matter discussed and disposition of the subject matter. The record will be signed by each individual attending the meeting. Additional meetings will be held not less often than once every six months.

**Deficiency 3:** Very little effort to assure subcontractors have meaningful minority and female representation among their employees.

**Commitment:** We have scheduled a meeting with all subcontractors currently working on our contracts. This meeting will be held to inform the subcontractors of our intention to monitor their reports and require meaningful minority and female representation. This meeting will be held on (Date) and we will provide you with a summary of the discussions and current posture of each subcontractor.

We will submit quarterly reports until construction on this project is completed.

The following appropriate language is included in our corrective action plan:

If, at any time in the future, the Office of Federal Contract Compliance Programs or the Federal Highway Administration or the Arkansas State Highway Commission or their successor(s) believe that \_\_\_\_\_ has violated any portion of this agreement,

\_\_\_\_\_ shall be promptly notified of the fact in writing. This notification shall include a statement of the facts and circumstances relied upon in forming that belief. In addition, the notification shall provide \_\_\_\_\_ with 15 days to respond in writing to the notification except where the Office of Federal Contract Compliance Programs, the Federal Highway Administration or the Arkansas State Highway Commission alleges that such delay would result in irreparable injury. It is understood that enforcement proceedings for violation of this agreement may be initiated at any time after the 15 day period has elapsed (or sooner if irreparable injury is alleged) without issuance of a show cause notice.

It is recognized that where the Office of Federal Contract Compliance Programs and/or the Federal Highway Administration and/or the Arkansas State Highway Commission believes that \_\_\_\_\_ has breached this agreement, evidence regarding the entire scope of \_\_\_\_\_'s alleged non-compliance which gave rise to the show cause notice from which this agreement resulted, in addition to evidence regarding \_\_\_\_\_'s alleged violation of this agreement, may be introduced at the enforcement proceeding.

Violation of this agreement may subject \_\_\_\_\_ to sanctions pursuant to the Arkansas State Highway Commission contract administration procedures. It is further recognized that liability for violation of this agreement may also subject \_\_\_\_\_ to sanctions set forth in Section 209 of Executive Order 11246 as amended and/or appropriate relief.

---

Signature of Authorized Contractor Representative

---

Title

---

Date

---

Signature of AHTD External EEO Coordinator

---

Date



**ATTACHMENT C**

**Notification of Nonselection for Review**

ARKANSAS STATE HIGHWAY  
AND  
TRANSPORTATION DEPARTMENT

Dan Flowers  
Director  
Telephone (501) 569-2000



P. O. Box 2261  
Little Rock, Arkansas 72203-2261  
Telefax (501) 569-2400

Re: Desk Audit

Dear :

Documentation submitted by your organization in response to our letter dated has been reviewed and is acceptable to the Arkansas State Highway and Transportation Department. The audit is considered closed pending final determination by the Federal Highway Administration.

Your cooperation during the review is appreciated.

Yours truly,

James Moore, Jr.  
External EEO Coordinator

JMJ:lc

cc: OFCCP

**ATTACHMENT D**

**Desk Audit Report**

DESK AUDIT REPORT

1. State Arkansas

2. Review Report Number \_\_\_\_\_ (For Regional Office Use)

3. Review Authority: \_\_\_\_\_ 23 USC 140  
\_\_\_\_\_ Civil Rights Act of 1964, Title VI  
\_\_\_\_\_ 49 CFR Part 23  
\_\_\_\_\_ Other (Specify)

4. Date Audit Completed \_\_\_\_\_

5. Geographical Area Covered \_\_\_\_\_  
\_\_\_\_\_  
(SMSA, EA)

6. Time Period Covered: From \_\_\_\_\_ Through \_\_\_\_\_  
(mo., day, year) (mo., day, year)

7. Name and Address of Contractor \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. Name and Title of Policy Officer \_\_\_\_\_  
\_\_\_\_\_

9. Name and Title of EEO Officer \_\_\_\_\_  
\_\_\_\_\_

10. Decision: \_\_\_\_\_ Acceptable patterns and practices indicated;  
no deficiencies found. No review scheduled.  
\_\_\_\_\_ Deficiencies identified; properly addressed in  
voluntary corrective action plan.  
\_\_\_\_\_ Deficiencies found; not adequately addressed.  
On-Site Review scheduled \_\_\_\_\_  
Compliance Data Report attached.  
Job Number(s) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



12. Subcontractors

Name and Address	DBE or Nonminority	Dollar Value of Contract Agreement

13. Purchase Order Agreements in excess of \$10,000.

Name and Address (Vendors, Suppliers, etc.)	DBE or Nonminority

14. Union Affiliations

Union	Local Number	Does Union have exclusive referral rights?		Does Union sponsor or participate in apprentice training programs?	
		Yes	No	Yes	No









16. Statewide Employment Data (Federal-aid Highway Projects Only).

JOB CATEGORIES	TABLE A														TABLE B	
	TOTAL EMPLOYEES		TOTAL MINORITIES		BLACK No of Hispanic Origin		HISPANIC		AMERICAN INDIAN OR ALASKAN NATIVE		ASIAN OR PACIFIC ISLANDER		WHITE No of Hispanic Origin		APPRENTICES ON THE JOB TRAINERS	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
OFFICIALS(MANAGERS)																
SUPERVISORS																
FOREMEN/WOMEN																
CLERICAL																
EQUIPMENT OPERATORS																
MECHANICS																
TRUCK DRIVERS																
IRONWORKERS																
CARPENTERS																
CEMENT MASONS																
ELECTRICIANS																
PIPEFITTERS, PLUMBERS																
PAINTERS																
LABORERS, SEMI-SKILLED																
LABORERS, UNSKILLED																
TOTAL																
APPRENTICES																
ON-THE-JOB TRAINERS																

17. Home Office Employment Data.

Home Office Address \_\_\_\_\_

OCCUPATIONS	MALE EMPLOYEES					FEMALE EMPLOYEES					TOTAL ALL EMPLOYEES	
	TOTAL MALES	MINORITY GROUPS				TOTAL FEMALES	MINORITY GROUPS					
		BLACK	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE	HISPANIC		BLACK	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE	HISPANIC		
OFFICIALS & MANAGERS												
PROFESSIONALS												
TECHNICIANS												
SALES WORKERS												
OFFICE & CLERICAL												
SUB-TOTAL (WHITE COLLAR)												
CRAFTSMEN (SKILLED)												
OPERATIVES (SEMI-SKILLED)												
LABORERS (UNSKILLED)												
SERVICE WORKERS												
SUB-TOTAL (BLUE COLLAR)												
TOTAL												
TOTAL EMPLOYMENT FROM PREVIOUS REPORT (IF ANY)												
THE DATA BELOW SHALL ALSO BE INCLUDED IN THE FIGURES FOR THE APPROPRIATE OCCUPATIONAL CATEGORIES ABOVE												
ON-THE-JOB TRAINERS												
WHITE COLLAR PRODUCTION												

18. Summarize new hires on the contractor's Federal-aid projects covered by the audit.

JOB CATEGORIES	TOTAL EMPLOYEES		TOTAL MINORITIES		BLACK No. of Hispanic Origin		HISPANIC		AMERICAN INDIAN OR ALASKAN NATIVE		ASIAN OR PACIFIC ISLANDER		WHITE No. of Hispanic Origin	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F
OFFICIAL(S/MANAGERS)														
SUPERVISORS														
FOREMEN/WOMEN														
CLERICAL														
EQUIPMENT OPERATORS														
MECHANICS														
TRUCK DRIVERS														
IRONWORKERS														
CARPENTERS														
CEMENT MASONS														
ENGINEERS														
WELDERS														
PAINTERS														
LABORERS, SEMI-SKILLED														
LABORERS, UNSKILLED														
TOTAL														

19. Home office hires covered by the Audit.

Total Employees		Total Minorities		Black Not of Hispanic Origin		Hispanic		American Indian or Alaskan Native		Asian or Pacific Islander		White Not of Hispanic Origin	
M	F	M	F	M	F	M	F	M	F	M	F	M	F

20. Summary Analysis of Employment Data.

21. List training programs contractor participates in. Discuss adequacy of training.





ARKANSAS STATE HIGHWAY  
AND  
TRANSPORTATION DEPARTMENT

Dan Flowers  
Director  
Telephone (501) 569-2000



P. O. Box 2261  
Little Rock, Arkansas 72203-2261  
Telefax (501) 569-2400

Mr. Kenneth A. Perret  
Division Administrator  
Federal Highway Administration  
3128 Federal Office Building  
Little Rock, AR 72201

Re: Desk Audit

Dear Mr. Perret:

Transmitted herewith are two copies of the Desk Audit of

A review of the report has been accomplished and the Department recommends that it be favorably accepted and that be considered in compliance with the Equal Employment Opportunity Program.

Yours truly,

Kay Crutchfield  
Section Head - EEO

KC:lc

Enclosure

cc: OFCCP

**ATTACHMENT E**

**Notification of EEO On-Site Review  
Following Desk Audit**

ARKANSAS STATE HIGHWAY  
AND  
TRANSPORTATION DEPARTMENT

Dan Flowers  
Director  
Telephone (501) 569-2000



P.O. Box 2261  
Little Rock, Arkansas 72203-2261  
Telefax (501) 569-2400

Re: On-Site Review  
Notification

Dear :

This office has recently completed a Desk Audit of documentation the firm submitted in response to the letter of . As a result, it necessary to conduct an on-site review(s) of the firm as indicated on the attached list.

The on-site review(s) has/have been scheduled for . The initial meeting has been set for at a place provided by your firm. Notify this office of the selected location not later than . The name(s), title(s), address(es), telephone number(s) and agency(ies) of the reviewing official(s) are provided below:

<b>Name 1:</b>	_____	<b>Name 2:</b>	_____
<b>Title</b>	_____		_____
<b>Agency</b>	_____		_____
<b>Address</b>	_____		_____
	_____		_____
	_____		_____
<b>Telephone</b>	_____		_____

In the interest of expediting the review(s), it would be appreciated if you provide the following items at the time of the review for each of the sites to be reviewed.

**SCOPE OF REVIEW**

\_\_\_\_\_ 1. The following project site(s) will be reviewed.

Project Number

Location

a.

b.

c.

d.

e.

\_\_\_\_\_ 2. Your home office workforce will be reviewed along with the project site(s) indicated above.

**Information**

\_\_\_\_\_ 3. Name, title and telephone number of each person representing your firm at this/these review(s).

\_\_\_\_\_ 4. Project site certified payrolls covering the period \_\_\_\_\_ to \_\_\_\_\_ for each project in Item 1. Annotate to show job classification, race or national origin and sex of each employee, at least once.

\_\_\_\_\_ 5. Prepare a Home Office Data Report based upon the last payroll period immediately preceding this review.

\_\_\_\_\_ 6. Appropriate certified payrolls used in preparing the Home Office Data Report required by Item 5. Annotate to show job classification, race or national origin, and sex of each employee.

\_\_\_\_\_ 7. Documentation of affirmative action steps taken to implement the specifications in paragraphs 7a through p of the Equal Employment Opportunity - Federal Standards Special Provision of your contract(s). Submit for each project in Item 1.

- \_\_\_\_\_ 8. List of all home office hires for the period \_\_\_\_\_ to \_\_\_\_\_ . Include a breakdown by source of referral, classification, total hired, sex and race or national origin. Submit for each project in Item 1.
- \_\_\_\_\_ 9. List of all new hires for the period \_\_\_\_\_ to \_\_\_\_\_ . Include a breakdown by source of referral, classification, total hired, sex and race or national origin. Submit for each project in Item 1.
- \_\_\_\_\_ 10. List of all persons enrolled in training programs on each of the projects in Item 1. Identify by name, race or national origin, sex and training status (i.e., Graduated, Terminated, In training).
- \_\_\_\_\_ 11. Provide information documenting the method used by your firm to apprise trainees of the number of hours accumulated in the training program.

The first phase of the on-site review will consist of an evaluation by the reviewing officer of the above listed material. Following the evaluation, questions relating to the material will be asked of the company's representative.

The second phase of the review consists of a physical inspection where the reviewing officer will interview selected employees and view employee facilities.

Cooperation and thoroughness in providing the above requested items will expedite the review. Should the date of the review not be convenient, or should you have questions in regard to the pending review, please advise.

Yours truly,

Kay Crutchfield  
Section Head - EEO

KC:lc

cc: District Engineer  
Resident Engineer

**ATTACHMENT F**

**Notification of EEO On-Site Review**

ARKANSAS STATE HIGHWAY  
AND  
TRANSPORTATION DEPARTMENT

Dan Flowers  
Director  
Telephone (501) 569-2000



P. O. Box 2261  
Little Rock, Arkansas 72203-2261  
Telefax (501) 569-2400

Re: On-Site Review  
Job No.  
FAP No.

Dear :

Equal employment opportunity is a national policy and all non-exempt direct Federal-aid contracts contain clauses which require affirmative action to achieve this goal.

Responsibility for monitoring implementation of the equal opportunity requirements of your contract has been assigned to the Arkansas State Highway and Transportation Department. Accordingly, your company has been selected for an equal opportunity on-site review.

The purpose of the review is to examine all phases of the Equal Employment Opportunity Program of the firm and all approved subcontractors performing on the subject project(s) at the time of this review, in keeping with the requirements of the applicable provisions of direct Federal or Federal-aid contract clauses, rules and regulations.

The On-Site Review will be conducted by \_\_\_\_\_ at \_\_\_\_\_ a.m. on \_\_\_\_\_ at a place designated by your company. It will be your responsibility to furnish adequate meeting space in order for the reviewing officer to meet with representatives of the company and its subcontractors. Notify this office by letter of the selected location not later than \_\_\_\_\_.

In the interest of expediting the review, prepare and submit the attached list of material to reach this office not later than . A prompt and complete response by you and your active subcontractors will be sincerely appreciated. It will be the responsibility of your organization to notify subcontractors of this requirement and request their attendance at this review.

The first phase of the On-Site Review will consist of an evaluation by the reviewing officer of the material submitted by the prime contractor and each active subcontractor. Questions relating to the material and to each company's Equal Employment Opportunity Program will be developed for discussion during the review.

The second phase of the review will consist of a physical inspection where the reviewing officer will interview selected employees and view employee facilities.

Should the date of the review not be convenient or should you have any questions in regard to the pending review, call at (501) 569- .

Yours truly,

Kay Crutchfield  
Section Head - EEO

KC:lc

Enclosure

cc: Construction - B File  
District Engineer  
Resident Engineer



## SCOPE OF REVIEW

1. The following project site(s) will be reviewed.

Project Number

Location

- a.
  - b.
  - c.
  - d.
  - e.
2. Name, title and telephone number of each person representing your firm at this/these review(s).
  3. Project site certified payrolls covering the period                      to                      for each project in Item 1. Annotate to show job classification, race or national origin and sex of each employee, at least once.
  4. Documentation of affirmative action steps taken to implement the specifications in paragraphs 7a through p of the Equal Employment Opportunity - Federal Standards Special Provision of your contract(s). Submit for each project in Item 1.
  5. List of all new hires for the period                      to                      . Include a breakdown by source of referral, classification, total hired, sex and race or national origin. Submit for each project in Item 1.
  6. Current Standard Form 100 (EEO-1), where applicable.
  7. A copy of your firm's equal opportunity policy.
  8. A copy of the letter appointing the EEO officer for your company's Equal Employment Opportunity Program.
  9. Documentation of employee referral sources which your firm has contacted in efforts to secure minority/female employees. Include name, contact person, date(s) of contact(s), addresses and telephone numbers.
  10. Blank copy of application for employment.

11. A summary of total applications for employment received during the period to on each project in Item 1. Include a breakdown by classification, sex and race or national origin.
12. A list of promotions, upgrades, transfers, demotions, layoffs and terminations effective during the period to on each project in Item 1. Include race or ethnic origin, sex, previous job held, job promoted into and wage rates of each employee.
13. A list of your company's employee benefit plans. Provide requirements for enrollment in each plan. List employee participation by race or ethnic origin and sex.
14. Documentation regarding any complaints alleging discrimination filed against your firm during the period to
15. Identify all on-site job training apprenticeship training programs. List all persons enrolled in training programs on each of the projects in Item 1 by name, race or national origin, sex and training status (i.e., Graduated, Terminated, In Training).
16. Provide information documenting the method used by your firm to apprise trainees of the number of hours accumulated in the training program.
17. Copies of bargaining agreements, if applicable.
18. List all subcontractors with whom you presently have an agreement in excess of \$10,000 to provide services on each project in Item 1.
19. List all vendors or suppliers with whom you presently have an agreement in excess of \$10,000 to provide equipment, materials or supplies on each project in Item 1. Attach at least one actual purchase order for each project.
20. A copy of the letter appointing the liaison officer for your company's Disadvantaged Business Enterprise Program.
21. List all Federal-aid contracts presently held in Arkansas. Include project number, location, dollar amount and estimated peak employment period for each contract.
22. Copies of EEO, Affirmative Action and/or DBE compliance determinations made by other agencies during the last two years.

**ATTACHMENT G**  
**Employee Interview Form**

**EMPLOYEE INTERVIEW FORM**

**Date:** \_\_\_\_\_

1. Contractor \_\_\_\_\_

2. Name of Employee \_\_\_\_\_

3. Address \_\_\_\_\_  
\_\_\_\_\_

4. Telephone (AC) (     ) \_\_\_\_\_

5. Race or Ethnic Origin \_\_\_\_\_  
(Determine Visually)

6. Sex \_\_\_\_\_

7. Classification \_\_\_\_\_

8. Salary \_\_\_\_\_

9. Length of Time in Current Classification \_\_\_\_\_

10. Length of Time with Contractor \_\_\_\_\_

11. Are you a union member? \_\_\_\_\_

12. What union do you belong to? \_\_\_\_\_

13. How did you obtain this job? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. Have you attended meetings where the company's EEO policy and promotional and training opportunities were discussed?

\_\_\_\_\_

To what extent was EEO discussed? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Who conducted the meetings? \_\_\_\_\_  
\_\_\_\_\_

15. Who is your firm's EEO officer? \_\_\_\_\_

16. How often does the EEO officer visit the job site?  
\_\_\_\_\_

17. If you had a complaint or grievance, to whom would you take it? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

18. Do you feel tasks are assigned on a nondiscriminatory basis?  
\_\_\_\_\_  
If no, explain. \_\_\_\_\_  
\_\_\_\_\_

19. Do you feel the equipment assigned to you is in as good a condition as equipment assigned to others? \_\_\_\_\_  
If no, explain. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

20. Are employee facilities such as restrooms, eating facilities, etc., provided in a nondiscriminatory manner?  
\_\_\_\_\_  
If no, explain. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ATTACHMENT H**

**Highway Construction Trainee Interview Form**

**HIGHWAY CONSTRUCTION  
TRAINEE INTERVIEW FORM**

Date: \_\_\_\_\_

1. Name \_\_\_\_\_ Race \_\_\_\_\_ Sex \_\_\_\_\_
2. Position/Classification \_\_\_\_\_
3. Employer \_\_\_\_\_
4. Training Status - In Training \_\_\_\_\_ Graduated \_\_\_\_\_
5. Present Salary \_\_\_\_\_ Journeyman Salary \_\_\_\_\_
6. Length of Time in Present Position \_\_\_\_\_
7. Previous Position \_\_\_\_\_  
Length of Time in Previous Position \_\_\_\_\_ Salary \_\_\_\_\_
8. Length of Time with Current Employer \_\_\_\_\_  
With Previous Employer \_\_\_\_\_  
Classification with Previous Employer \_\_\_\_\_
9. How did you obtain your present job? \_\_\_\_\_
10. How did you get into the training program?  

\_\_\_\_\_ New Hire  
\_\_\_\_\_ Upgrade
11. What other training have you received? Source?  
\_\_\_\_\_  
\_\_\_\_\_
12. What training courses have you completed?  
\_\_\_\_\_  
\_\_\_\_\_

13. Have you been trained by other employers? \_\_\_\_\_

If so, in what classifications? \_\_\_\_\_

\_\_\_\_\_

14. Who is primarily responsible for your training? \_\_\_\_\_

\_\_\_\_\_

15. Have you received any counseling or assistance on the job?

\_\_\_\_\_

If so, from whom? \_\_\_\_\_

\_\_\_\_\_

Was it helpful? \_\_\_\_\_

If so, how? \_\_\_\_\_

\_\_\_\_\_

16. Are you receiving adequate training? \_\_\_\_\_

If no, explain.

\_\_\_\_\_

\_\_\_\_\_



**ATTACHMENT I**

**Superintendent Interview Form**

**SUPERINTENDENT INTERVIEW FORM**

Date: \_\_\_\_\_

1. Contractor \_\_\_\_\_ (Prime or Sub)
2. Name \_\_\_\_\_
3. Address \_\_\_\_\_  
\_\_\_\_\_
4. Telephone (AC) ( ) \_\_\_\_\_
5. Race or Ethnic Group \_\_\_\_\_ (Determine Visually)
6. Sex \_\_\_\_\_
7. Discuss your knowledge of contract EEO requirements.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
8. Discuss your knowledge of company's EEO Plan of Action.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. Who is the company EEO officer? \_\_\_\_\_
10. How often does the EEO officer visit the job site?  
\_\_\_\_\_
11. How are employees hired? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
12. How are employees promoted? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. What is your involvement in training programs?

---

---

---

14. Who handles training, if any? \_\_\_\_\_

---

15. Have you had any complaints of discrimination?

---

16. How were they handled? \_\_\_\_\_

---

---

17. Have you held meetings where EEO, promotional and training opportunities were discussed? \_\_\_\_\_

If yes, how often? \_\_\_\_\_

---

**ATTACHMENT J**

**Sample On-Site Inspection  
Letter of Findings**

ARKANSAS STATE HIGHWAY  
AND  
TRANSPORTATION DEPARTMENT

Dan Flowers  
Director  
Telephone (501) 569-2000



P. O. Box 2261  
Little Rock, Arkansas 72203-2261  
Telefax (501) 569-2400

Re: On-Site Inspection  
Job No.  
FAP No.

Dear :

On , an On-Site Inspection was conducted on the captioned project. The following areas were identified as deficient and recommendations for improvement are offered:

1. Based on interviews with the employees, an EEO meeting on the project has not been held at which the company's EEO policy and affirmative action obligations were discussed. The employees did not know that you are the company's EEO officer or how often you have visited the project.

EEO meetings should be held not less often than once every six months after the initial meeting. A written record should be made and maintained concerning meetings held with supervisory personnel and employees where the company's EEO policy, training and promotional opportunities are discussed. This record should identify the time and place of the meetings, persons attending, the subject matter discussed and disposition of the subject matter. Refer to Attachment .

Mr./Ms. was also interviewed to determine his/her knowledge of the company's affirmative action program and the contract EEO requirements. Based on the responses, he/she should receive an orientation of the company's affirmative action program and contract EEO requirements.

2. A minority and female applicant roster was not maintained on the project. A current file to include name, address and telephone number of each minority and female off-the street applicant, and a list of minority or female referrals from a recruitment source, community organization or applicants who seek employment by telephone, should be maintained. The file should reflect the action taken with respect to each individual. Refer to Attachment

A review of the project site bulletin board revealed that the following corrective action should be taken by :

1. The company's EEO Policy Statement should include a prohibition of discrimination on the basis of disability instead of handicap. Refer to Attachment . The company's EEO Policy Statement and notices should be typed on company letterhead.
2. Workers' Compensation Commission (WCC) Form A-6 should be replaced with WCC Form AR-P. The company's insurance carrier should provide Form AR-P and the label that has the Insurer's Name, Claim Office Address and Phone Number. If the company is self-insured, contact the administrator of the self-insured group for the necessary posting materials.

The goal established by the Department of Labor for minority utilization for each trade in

County is % and 6.9% for females statewide. One minority male and one nonminority male were working the day of the On-Site Inspection. No females were working. It is recommended that contact be made, oral and/or written, with female recruitment organizations serving the company's recruitment area (25 mile radius of the project when job opportunities are available or you are trying to build-up your company's applicant pool. This should be done in order to improve the representation of females in the work force. Refer to Attachment . Maintain a record of the organizations' responses.

One of the notices on the project site bulletin board indicated you serve as the company's EEO officer. The Department should be notified of this appointment by letter. The name of the individual who will serve as the company's Disadvantaged Business Enterprise Program Liaison Officer should also be identified. Refer to Attachment

Based on my interview with Mr./Ms. and the employees, and the inspection of the project bulletin board, it appears that you should have an EEO briefing to discuss the Department's Special Provision, Equal Employment Opportunity - Federal Standards. You should contact me to schedule a briefing.

A commitment to correct the items identified should be prepared and submitted to reach this office by

The EEO Staff is anxious to assist you in achieving compliance. Any questions concerning this matter should be addressed to: \_\_\_\_\_, Arkansas State Highway and Transportation Department, Human Resources Division, P. O. Box 2261, Little Rock, AR 72203, (501) 569-\_\_\_\_\_.

Yours truly,

James Moore, Jr.  
External EEO Coordinator

JMJ:lc  
Enclosures

cc: Resident Engineer

**ATTACHMENT K**  
**COMPLIANCE DATA REPORT**



COMPLIANCE DATA REPORT

1. State Arkansas
2. Review Report Number \_\_\_\_\_ (For Regional Office Use)
3. Review Authority: \_\_\_\_\_ SEC. 22(A) Federal Highway Act 1968  
\_\_\_\_\_ 23 USC 140  
\_\_\_\_\_ Civil Rights Act of 1964, Title VI  
\_\_\_\_\_ 49 CFR Part 23  
\_\_\_\_\_ Other (Specify)
4. Job No. \_\_\_\_\_
5. FAP No. \_\_\_\_\_
6. Contract Value \_\_\_\_\_
7. Date(s) of Review \_\_\_\_\_
8. Date Review Completed \_\_\_\_\_
9. Contractor Identification (Identify if DBE)  
Prime Contractor \_\_\_\_\_  
Subcontractor \_\_\_\_\_  
Vendor \_\_\_\_\_  
Supplier \_\_\_\_\_  
Other (Specify) \_\_\_\_\_
10. Geographical Area Covered \_\_\_\_\_  
(SMSA, EA)
11. Time Period Covered: From \_\_\_\_\_ Through \_\_\_\_\_  
(mo, day, year) (mo., day, yr.)

12. Estimated Peak Employment Period \_\_\_\_\_  
(Month, Year)

13. Name and Address of Contractor \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. Name and Title of Policy Officer \_\_\_\_\_  
\_\_\_\_\_

15. Name and Title of EEO Officer \_\_\_\_\_  
\_\_\_\_\_

16. Decision: \_\_\_\_\_ Acceptable patterns and practices indicated;  
no deficiencies found.

\_\_\_\_\_ Deficiencies identified; properly addressed  
in voluntary corrective action plan.

\_\_\_\_\_ Deficiencies found; not adequately addressed.

17. Subcontractors

Name and Address	DBE or Nonminority	Dollar Value of Contract Agreement

Name and Address	DBE or Nonminority	Dollar Value of Contract Agreement

18. Purchase Order Agreements in excess of \$10,000.

Name and Address (Vendors, Suppliers, etc.)	DBE or Nonminority

Name and Address (Vendors, Suppliers, etc.)	DBE or Nonminority

19. Union Affiliations

Union	Local Number	Does Union have exclusive referral rights?		Does Union sponsor or participate in apprentice training programs?	
		Yes	No	Yes	No

20. On-Site Construction Employment Data.

JOB CATEGORIES	TOTAL EMPLOYEES		TOTAL MINORITIES		BLACK NOT OF HISPANIC ORIGIN		HISPANIC		AMERICAN INDIAN OR ALASKAN NATIVE		ASIAN OR PACIFIC ISLANDER		APPRENTICES		ON-THE-JOB TRAINEES		
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	
OFFICIALS(MANAGERS)																	
SUPERVISORS																	
FOREMEN/WOMEN																	
CLERICAL																	
EQUIPMENT OPERATORS																	
MECHANICS																	
TRUCK DRIVERS																	
IRONWORKERS																	
CARPENTERS																	
CEMENT MASONS																	
ELECTRICIANS																	
PIPEFITTERS, PLUMBERS																	
PAINTERS																	
LABORERS, SEMI-SKILLED																	
LABORERS, UNSKILLED																	
TOTAL																	
TOTAL EMPLOYMENT FROM PREVIOUS REPORT (IF ANY)																	
TABLE B																	
APPRENTICES																	
ON-THE-JOB-TRAINEES																	



21. Home Office Employment Data.  
Home Office Address

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	MALE EMPLOYEES				FEMALE EMPLOYEES				TOTAL ALL EMPLOYEES
	TOTAL MALES	MINORITY GROUPS			TOTAL FEMALES	MINORITY GROUPS			
		BLACK	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE		HISPANIC	BLACK	ASIAN OR PACIFIC ISLANDER	
OCCUPATIONS & MANAGERS									
PROFESSIONALS									
TECHNICIANS									
SALES WORKERS									
OFFICE & CLERICAL									
SUB-TOTAL (WHITE COLLAR)									
CRAFTSMEN (SKILLED)									
OPERATIVES (SEMI-SKILLED)									
LABORERS (UNSKILLED)									
SERVICE WORKERS									
SUB-TOTAL (BLUE-COLLAR)									
TOTAL EMPLOYMENT FROM PREVIOUS REPORT (IF ANY)									
THE DATA BELOW SHALL ALSO BE INCLUDED IN THE FIGURES FOR THE APPROPRIATE OCCUPATIONAL CATEGORIES ABOVE									
ON-THE-JOB TRAINERS	WHITE COLLAR								
	PRODUCTION								

22. Summarize new hires for six months.

JOB CATEGORIES	TOTAL EMPLOYEES		TOTAL MINORITIES		BLACK NOT OF HISPANIC ORIGIN		HISPANIC		AMERICAN OR ALASKAN NATIVE		ASIAN OR PACIFIC ISLANDER		WHITE NOT OF HISPANIC ORIGIN	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F
OFFICIALS(Managers)														
SUPERVISORS														
FOREMEN/WOMEN														
CLERICAL														
EQUIPMENT OPERATORS														
MECHANICS														
TRUCK DRIVERS														
IRONWORKERS														
CARPENTERS														
CEMENT MASONS														
ELECTRICIANS														
PIPEFITTERS, PLUMBERS														
PAINTERS														
LABORERS, SEMI-SKILLED														
LABORERS, UNSKILLED														
TOTALS														

23. Home office hires covered by the Review.

Total Employees		Total Minorities		Black Not of Hispanic Origin		Hispanic		American Indian or Alaskan Native		Asian or Pacific Islander		White Not of Hispanic Origin	
M	F	M	F	M	F	M	F	M	F	M	F	M	F

24. Summary Analysis of Employment Data.

25. List training programs contractor participates in. Discuss adequacy of training.



ARKANSAS STATE HIGHWAY  
AND  
TRANSPORTATION DEPARTMENT

Dan Flowers  
Director  
Telephone (501) 569-2000



P. O. Box 2261  
Little Rock, Arkansas 72203-2261  
Telefax (501) 569-2400

Re: On-Site Review  
Job No.  
FAP No.

Dear :

The Federal Highway Administration has reviewed the subject On-Site Review submitted by the Arkansas State Highway and Transportation Department and concurs in the recommendation that the company be considered in compliance.

This does not preclude a future determination of noncompliance based on a finding that the organization's written commitments are not sufficient to achieve compliance or upon a finding that the organization's commitments are not being faithfully kept.

The Department appreciates your cooperation during the review.

Yours truly,

Kay Crutchfield  
Section Head - EEO

KC:lc

cc: OFCCP

## **ATTACHMENT L**

### **NOTIFICATION OF VERIFICATION REVIEW**

- 1. On-Site Review**
- 2. Desk Audit**

ARKANSAS STATE HIGHWAY  
AND  
TRANSPORTATION DEPARTMENT

Dan Flowers  
Director  
Telephone (501) 569-2000



P. O. Box 2261  
Little Rock, Arkansas 72203-2261  
Telefax (501) 569-2400

Re: On-Site Review

Dear :

Participants in the Disadvantaged Business Enterprise Program must meet the eligibility standards established by the Department of Transportation in 49 CFR Part 23. The Arkansas State Highway and Transportation Department is responsible for monitoring program participants to ensure those eligibility standards are met. Accordingly, (firm name) has been selected for an On-Site Review.

The review will be conducted by \_\_\_\_\_ on \_\_\_\_\_, at \_\_\_\_\_ a.m. in your office. It will be your responsibility to furnish adequate meeting space in order for the reviewing officer to meet with representatives of the company. Please confirm the date and time of the review by letter. Confirmation should be prepared and submitted to reach this office not later than \_\_\_\_\_.

In the interest of expediting the review, prepare and submit the attached list of material to reach this office not later than \_\_\_\_\_. A prompt and complete response will be sincerely appreciated.

The first phase of the review will consist of an evaluation by the reviewing officer of the material submitted. Questions relating to the material will be developed for discussion during the review.



The second phase of the review will consist of a project site visit where the reviewing officer will interview employees.

Should the date of the review not be convenient or should you have any questions in regard to the pending review, call at (501) 569- .

Yours truly,

Kay Crutchfield  
Section Head - EEO

KC:lc

Enclosure

cc: Certification Committee

- \_\_\_\_\_ 1. Name, title and telephone number of each person representing your firm at this review.
- \_\_\_\_\_ 2. Most recent audited financial statements.
- \_\_\_\_\_ 3. Federal Tax returns for the last three (3) years including all schedules.
- \_\_\_\_\_ 4. Birth certificates of principals of your company.
- \_\_\_\_\_ 5. Resumes of work experiences of all owners and officers.
- \_\_\_\_\_ 6. Identify any owner and/or management official of this firm who is employed full-time or part-time by another agency, organization or contractor. Include the name of the employer, length of employment and number of hours worked each week by each owner and/or management official.
- \_\_\_\_\_ 7. Application for Arkansas Contractors License.
- \_\_\_\_\_ 8. Articles of Incorporation, including date approved by State and any subsequent amendments.
- \_\_\_\_\_ 9. Corporation By-Laws.
- \_\_\_\_\_ 10. Partnership Agreements.
- \_\_\_\_\_ 11. Copies of issued stock certificates.
- \_\_\_\_\_ 12. Copies of all shareholder agreements including voting trusts, employment contracts and other agreements involving you and your company.
- \_\_\_\_\_ 13. Stock ledger.
- \_\_\_\_\_ 14. Proof of stock purchase.
- \_\_\_\_\_ 15. Submit all agreements relating to stock options, ownership options, stockholder agreements, buy-out rights, stockholders voting rights, restrictions on the disposal of stock, stock loan agreements, facts pertaining to the value of shares and ownership of voting securities.

- \_\_\_\_\_ 16. Minutes of all organizational meetings held in the last two (2) years.
- \_\_\_\_\_ 17. Contributions of capital, titles to equipment or other proof of property ownership.
- \_\_\_\_\_ 18. One copy of each of the following: rental agreement, loan agreement, service agreement, contract (signature page), insurance policy (signature page), performance bond.
- \_\_\_\_\_ 19. If you share office facilities or equipment with any other company, submit copies of these agreements.
- \_\_\_\_\_ 20. Copies (front and back) of at least two (2) canceled checks for purchases on each highway project currently under contract.
- \_\_\_\_\_ 21. A copy of one payroll check to one employee of the company.
- \_\_\_\_\_ 22. Provide the name, official title and address of the person primarily responsible for preparation of the foregoing data. Include telephone number where this person can be reached by the reviewing officer, if necessary.

Name \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone ( ) \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

ARKANSAS STATE HIGHWAY  
AND  
TRANSPORTATION DEPARTMENT

Dan Flowers  
Director  
Telephone (501) 569-2000



P. O. Box 2261  
Little Rock, Arkansas 72203-2261  
Telefax (501) 569-2400

Re: Desk Audit Notification

Dear :

Participants in the Disadvantaged Business Enterprise Program must meet the eligibility standards established by the Department of Transportation in 49 CFR Part 23. The Arkansas State Highway and Transportation Department is responsible for monitoring program participants to ensure those eligibility standards are met. Accordingly, (firm name) has been selected for a Desk Audit.

This audit will not require your presence. However, it will require submission of the information requested on the attached list to the following address not later than

Arkansas State Highway  
& Transportation Department  
EEO Section  
P. O. Box 2261  
Little Rock, AR 72203

In the interest of expediting the audit, a prompt and complete response will be sincerely appreciated. Should you have any questions regarding the information requested, please call at (501) 569-

Yours truly,

Kay Crutchfield  
Section Head - EEO

KC:lc  
Enclosure

cc: Certification Committee

- \_\_\_\_\_ 1. Name, title and telephone number of each person representing your firm at this review.
- \_\_\_\_\_ 2. Most recent audited financial statements.
- \_\_\_\_\_ 3. Federal Tax returns for the last three (3) years including all schedules.
- \_\_\_\_\_ 4. Birth certificates of principals of your company.
- \_\_\_\_\_ 5. Resumes of work experiences of all owners and officers.
- \_\_\_\_\_ 6. Identify any owner and/or management official of this firm who is employed full-time or part-time by another agency, organization or contractor. Include the name of the employer, length of employment and number of hours worked each week by each owner and/or management official.
- \_\_\_\_\_ 7. Application for Arkansas Contractors License.
- \_\_\_\_\_ 8. Articles of Incorporation, including date approved by State and any subsequent amendments.
- \_\_\_\_\_ 9. Corporation By-Laws.
- \_\_\_\_\_ 10. Partnership Agreements.
- \_\_\_\_\_ 11. Copies of issued stock certificates.
- \_\_\_\_\_ 12. Copies of all shareholder agreements including voting trusts, employment contracts and other agreements involving you and your company.
- \_\_\_\_\_ 13. Stock ledger.
- \_\_\_\_\_ 14. Proof of stock purchase.
- \_\_\_\_\_ 15. Submit all agreements relating to stock options, ownership options, stockholder agreements, buy-out rights, stockholders voting rights, restrictions on the disposal of stock, stock loan agreements, facts pertaining to the value of shares and ownership of voting securities.

- \_\_\_\_\_ 16. Minutes of all organizational meetings held in the last two (2) years.
- \_\_\_\_\_ 17. Contributions of capital, titles to equipment or other proof of property ownership.
- \_\_\_\_\_ 18. One copy of each of the following: rental agreement, loan agreement, service agreement, contract (signature page), insurance policy (signature page), performance bond.
- \_\_\_\_\_ 19. If you share office facilities or equipment with any other company, submit copies of these agreements.
- \_\_\_\_\_ 20. Copies (front and back) of at least two (2) canceled checks for purchases on each highway project currently under contract.
- \_\_\_\_\_ 21. A copy of one payroll check to one employee of the company.
- \_\_\_\_\_ 22. Provide the name, official title and address of the person primarily responsible for preparation of the foregoing data. Include telephone number where this person can be reached by the reviewing officer, if necessary.

Name \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Telephone ( ) \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

**ATTACHMENT M**  
**VERIFICATION REVIEW PROCEDURE**

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

DISADVANTAGED BUSINESS ENTERPRISE

VERIFICATION REVIEW

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Location: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Purpose

The purpose of this On-Site Review is to solicit information from representatives of \_\_\_\_\_ to determine whether the ownership and control by minorities or women is real, substantial, and continuing and exceeds the pro forma ownership reflected in the certification form.

The following persons are the owners or representatives of the owners:

Name \_\_\_\_\_ Title \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

For the record, please examine this file and respond to whether the information contained constitutes all documents submitted to the Department for the purpose of obtaining certification as a Disadvantaged Business Enterprise.

Response:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_





1. State the month, day and year the company was established.

\_\_\_\_\_

2. Identify the owner(s) by name, title and percentage of ownership.

Name	Title	Percentage
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

3. Specify the race and sex of the owner(s).

Name	Race	Sex
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

4. The officers of the company are:

	Name	Date Elected
President:	_____	_____
Vice-President:	_____	_____
Secretary:	_____	_____
Treasurer:	_____	_____
Other:	_____	_____

5. Current Board of Directors

Name	Minority or Female	Date Elected	Home Address
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

6. Is the company a partnership, corporation, sole proprietorship, or other business entity?

7. Has the company ever made a change in ownership?

Yes \_\_\_\_\_ No \_\_\_\_\_

If Yes, specify the name(s) of the previous owner(s).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. Specify the reason(s) this change in ownership took place.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. Specify the nature of agreements made in the transfer of ownership. Include financial, equipment, personnel, space, etc.

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10. Is the company currently operating under the license of the previous owner?

Yes \_\_\_\_\_ No \_\_\_\_\_

If Yes, specify the nature of the agreement for such an arrangement.

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11. Is the company currently operating under a license?

Yes \_\_\_\_\_ No \_\_\_\_\_

If Yes, specify the type and name in which the license was obtained.

Type

Name

_____	_____
_____	_____
_____	_____

12. Does the company own or lease its present location? If leasing, identify the owner and state the nature of the lease agreement.

Own \_\_\_\_\_ Lease \_\_\_\_\_ Owner: \_\_\_\_\_

Nature of Agreement:

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13. Specify the particular tasks carried out by each owner of the company.

Owner: \_\_\_\_\_ Tasks: \_\_\_\_\_

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Owner: \_\_\_\_\_ Tasks: \_\_\_\_\_

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Owner: \_\_\_\_\_ Tasks: \_\_\_\_\_

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14. Identify the last employer of each of the owners and include the title under which tasks were performed.

Name

Title

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15. Identify any owner and/or management official of this firm who is employed full-time or part-time by another agency, organization or contractor. Include the name of the employer, length of employment and number of hours worked each week by each owner and/or management official.

Name of Employee	Length of Employment	Number of Hours	Name of Employer

16. State the contributions of capital, equipment, space, expertise, etc., of each owner, to acquire his/her interest in the company.

Owner \_\_\_\_\_

Contributions \_\_\_\_\_

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Owner \_\_\_\_\_

Contributions \_\_\_\_\_

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Owner \_\_\_\_\_

Contributions \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Owner \_\_\_\_\_

Contributions \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

17. State the major items of equipment owned by the company.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

18. What is the approximate dollar value of the items of equipment owned by the company?

\$ \_\_\_\_\_

19. Under whose signature were the major items of equipment obtained?

\_\_\_\_\_

20. Who determines the jobs to bid?

\_\_\_\_\_

21. Who prepares the estimates?

\_\_\_\_\_

22. Who subcontracts the work?

\_\_\_\_\_

23. State the number of employees currently employed by the owners.

Full-Time \_\_\_\_\_ Part-Time \_\_\_\_\_

24. State the approximate dollar amount of work completed or presently underway for the Arkansas State Highway and Transportation Department.

\$ \_\_\_\_\_

25. Identify the company's bonding source and bonding limit.

Source \_\_\_\_\_ Limit \_\_\_\_\_

26. Does any owner of the company have an ownership interest in another company?

Yes \_\_\_\_\_ No \_\_\_\_\_

If Yes, identify the company and state the percentage of ownership held.

Company	Percentage
_____	_____

27. Is the company being assisted financially or otherwise by anyone other than the owners?

Yes \_\_\_ No \_\_\_\_\_



If Yes, identify the source and nature of assistance being provided.

Source \_\_\_\_\_ Assistance \_\_\_\_\_

\_\_\_\_\_

Source \_\_\_\_\_ Assistance \_\_\_\_\_

\_\_\_\_\_

Source \_\_\_\_\_ Assistance \_\_\_\_\_

\_\_\_\_\_

28. Who negotiates financing for the company?

\_\_\_\_\_

29. Who obtained bonding and insurance for the company?

\_\_\_\_\_

30. Who signs the payroll?

\_\_\_\_\_

31. Under whose signature are creditors paid?

\_\_\_\_\_

32. Detail any limitations on authority of any official to sign checks, including amount of check and multiple signature requirement.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

33. What is the approximate dollar value of the company?

\$ \_\_\_\_\_

34. What is the approximate net worth of the company.

\$ \_\_\_\_\_

35. Identify three (3) major creditors with whom you purchase, lease and/or presently owe.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

36. Identify the company's banking and/or loan institution.

\_\_\_\_\_  
\_\_\_\_\_

37. Is the company certified as a Disadvantaged Business Enterprise in another city, county or state?

Yes \_\_\_\_\_ No \_\_\_\_\_ Pending \_\_\_\_\_

If Yes or Pending, identify the certifying authority and state.

Authority \_\_\_\_\_

State \_\_\_\_\_

Authority \_\_\_\_\_

State \_\_\_\_\_

38. Has the company been denied certification as a Disadvantaged Business Enterprise in another city, county or state?

Yes \_\_\_\_\_ No \_\_\_\_\_

If Yes, identify the certifying authority and state the circumstances of the denial.

Authority \_\_\_\_\_

Circumstances \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Comments:

\_\_\_\_\_

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\_\_\_\_\_



**ATTACHMENT N**  
**DBE OWNER INTERVIEW FORM**

## OWNER INTERVIEW FORM

Date \_\_\_\_\_

1. Company \_\_\_\_\_
2. Name \_\_\_\_\_
3. Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. Telephone Number (AC) ( \_\_\_\_\_ ) \_\_\_\_\_
5. Race/Sex \_\_\_\_\_
6. As a majority owner of the company, describe your authority, duties and responsibilities.  
\_\_\_\_\_  
\_\_\_\_\_
7. Explain and describe the day-to-day operations of the company.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
8. Who makes the financial decisions for your company?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. When your firm organized, what resources did you contribute?
  - a. Money \$ \_\_\_\_\_
  - b. Equipment \_\_\_\_\_
  - c. Real Estate \_\_\_\_\_
  - d. Expertise \_\_\_\_\_

10. How did you acquire those resources? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. What resources did the other owners contribute?
- a. Money \$ \_\_\_\_\_
  - b. Equipment \_\_\_\_\_
  - c. Real Estate \_\_\_\_\_
  - d. Expertise \_\_\_\_\_

12. What resources did non-owners contribute?
- a. Money \$ \_\_\_\_\_
  - b. Equipment \_\_\_\_\_
  - c. Real Estate \_\_\_\_\_
  - d. Expertise \_\_\_\_\_

13. Have there been additional contributions of resources?  
Explain. \_\_\_\_\_  
\_\_\_\_\_

14. Who signs checks for your company? \_\_\_\_\_  
\_\_\_\_\_

15. How many signatures are required for payroll and other checks?  
\_\_\_\_\_

16. Who are the managers in your company? \_\_\_\_\_  
\_\_\_\_\_

17. Who selected them and how were they selected?

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18. How many supervisors are employed by the company?

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Explain each of their duties and responsibilities.

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19. When was the last time you hired an employee?

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Explain the procedure.

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20. When was the last time you fired an employee?

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Explain the procedure.

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21. What employee benefits does your company offer?

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Who determines those benefits?

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22. Explain and describe your firm's bidding and estimating process.

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23. Who selects projects to bid and how is the selection made?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

24. Who does the estimating? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

25. Who prepares the bid for your firm? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

26. Explain how you get your bid to contractors. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

27. On a typical project you are bidding, how many contractors do you submit bids to?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

28. Explain how your firm performs its contracts and describe how you obtain the following:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

a. Equipment \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. Materials \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

29. Explain the process for solving field construction problems.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

30. Explain the process used to monitor jobs. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

31. Have you ever subcontracted any portion of your company contracts?  
\_\_\_\_\_  
If so, to whom? \_\_\_\_\_  
Why? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dollar value? \_\_\_\_\_ Percentage? \_\_\_\_\_

32. Does your firm carry insurance? \_\_\_\_\_  
Explain. \_\_\_\_\_  
\_\_\_\_\_

33. Does your firm have any permits? \_\_\_\_\_  
Explain. \_\_\_\_\_

**ATTACHMENT O**  
**DBE EMPLOYEE INTERVIEW FORM**

## EMPLOYEE INTERVIEW FORM

Date \_\_\_\_\_

1. Company \_\_\_\_\_
2. Name of Employee \_\_\_\_\_
3. Classification \_\_\_\_\_
4. Social Security Number \_\_\_\_\_
5. Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. Telephone Number (AC) ( ) \_\_\_\_\_
7. Race/Sex \_\_\_\_\_
8. How long have you worked for the company?  
\_\_\_\_\_  
\_\_\_\_\_
9. How did you obtain the job? \_\_\_\_\_  
\_\_\_\_\_
10. Who hired you? \_\_\_\_\_
11. Who owns this company? \_\_\_\_\_
12. How often does the owner visit the project site?  
\_\_\_\_\_  
\_\_\_\_\_
13. Have you ever worked for more than one company during the same week and/or month? \_\_\_\_\_  
If yes, explain. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. Which company's name appeared on your payroll check(s) during this period?  
\_\_\_\_\_

Who signed the payroll check(s)? \_\_\_\_\_

**SUPERINTENDENT/FOREMAN ONLY**

15. How often do you discuss the project activity with the owner?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 12**

**Employment Data Analysis**



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

# Memorandum

Subject: **State Highway Agency Employment  
1995 EEO-4 Reports** Date: **July 1, 1996**

From: **Director  
Office of Civil Rights  
Fort Worth, Texas** Reply to **HCR-06**  
Attn of **4722 Gen**

To: **Division Administrators W. D. Richardson,  
W. A. Sussmann, R. S. Thomas,  
J. K. Erickson, and C. D. Reagan**

We have completed our review and analysis of the subject reports which are prepared by the State highway agencies in this Region. The analysis of these reports is reflected in the documents which are attached and are applicable to Regionwide employment and employment in your State. Each of the documents is explained below.

### **Net Changes in State Employment**

This document shows changes in employment Regionwide and Statewide between 1994 and 1995. It also identifies the EEO-4 occupational categories which have less percentage representation of minorities and females than the civilian labor force.

### **Minority and Female Trends Graphs**

The first graph shows nonminority, minority and female actual numbers and percentage representation for the baseline year (1978), 1994, and 1995. As such, it illustrates trends in the minority and female representation during the 17-year period between 1978 and 1995 Regionwide and Statewide. The second graph portrays minority and female critical trades also for the baseline year (1978), 1994, and 1995. The critical trades listed are for 1995. A Regionwide critical trade is defined as a job category of 100 or more employees where underrepresentation of minorities and females exists in relation to their availability in the civilian labor force (CLF). Critical trades within each State would include all those job categories of 30 or more employees. Critical trades will vary for females and minorities as noted in each graph.

The occupational category titles are abbreviated as follows:

Off/Adm	-	Officials/Administrators
Prof	-	Professionals
Tech	-	Technicians
Prot Serv	-	Protective Service

<b>Para Prof</b>	-	<b>Para Professionals</b>
<b>Adm Supp</b>	-	<b>Administrative Support</b>
<b>Sk Craft</b>	-	<b>Skilled Craft</b>
<b>Serv Maint</b>	-	<b>Service Maintenance</b>

The attached package contains both Regionwide and your particular State's statistics and graphs. Please provide one set of the attached documents to the State for its information and use in implementing its Affirmative Action Program. Call us if you have any questions.

  
Humberto R. Martinez

**Attachments**





U.S. Department  
of Transportation  
**Federal Highway  
Administration**

# Memorandum

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Subject: **State Highway Agency Employment  
1995 EEO-4 Reports** Date: **July 1, 1996**

From: **Director  
Office of Civil Rights  
Fort Worth, Texas** Reply to  
Attn of **HCR-06  
4722 Gen**

To: **Mr. Edward W. Morris, Jr., Director  
Office of Civil Rights (HCR-10)  
Washington, D.C.**

We have completed our review and analysis of the subject reports which are prepared by the State highway agencies in this Region. The analysis of these reports is reflected in the attached documents. Each of the documents is explained below.

### **Net Changes in State Employment**

This document shows changes in employment Regionwide and Statewide between 1994 and 1995. It also identifies the EEO-4 occupational categories which have less percentage representation of minorities and females than the civilian labor force.

### **Minority and Female Trends Graphs**

The first graph shows nonminority, minority and female actual numbers and percentage representation for the baseline year (1978), 1994, and 1995. As such, it illustrates trends in the minority and female representation during the 17-year period between 1978 and 1995 Regionwide and Statewide. The second graph portrays minority and female critical trades also for the baseline year (1978), 1994, and 1995. The critical trades listed are for 1995. A **Regionwide critical trade** is defined as a job category of 100 or more employees where underrepresentation of minorities and females exists in relation to their availability in the civilian labor force (CLF). Critical trades within each State would include all those job categories of 30 or more employees. Critical trades will vary for females and minorities as noted in each graph.

The occupational category titles are abbreviated as follows:

Off/Adm	-	Officials/Administrators
Prof	-	Professionals
Tech	-	Technicians
Prot Serv	-	Protective Service

- Para Prof - Para Professionals
- Adm Supp - Administrative Support
- Sk Craft - Skilled Craft
- Serv Maint - Service Maintenance

We have provided the attachments to the Region 6 States for their use in implementing their Affirmative Action Programs. Call us if you have any questions.

  
Humberto R. Martinez

Attachments

FHWA Region 6  
 Regionwide Net Changes in State Highway Agency Employment  
 1994 - 1995

Total employment increased from 29,287 to 29,423 or 0.5%. Minority employment increased from 7,783 to 8,110 or 4.2%. Female employment increased from 5,689 to 5,933 or 4.3%. Minority percentage representation increased from 27% to 28%. Female percentage representation increased from 19% to 20%. Net changes by occupational categories were as follows:

	TOTAL EMPLOYMENT			MINORITY EMPLOYMENT		
	1994	1995	Change	1994	1995	Change
Officials/Administrators	668	755	+ 87 or 13.0%	176	207	+ 31 or 17.6%
Professionals	5856	6094	+238 or 4.1%	1164	1289	+125 or 10.7%
Technicians	6774	6708	- 66 or 1.0%	1484	1537	+ 53 or 3.6%
Protective Service	450	422	- 28 or 6.2%	74	64	- 10 or 13.5%
Para Professionals	855	875	+ 20 or 2.3%	166	191	+ 25 or 15.1%
Administrative Support	2116	2047	- 69 or 3.3%	592	599	+ 7 or 1.2%
Skilled Craft	9802	9876	+ 74 or 0.8%	3318	3422	+104 or 3.1%
Service Maintenance	2766	2646	-120 or 4.3%	809	801	- 8 or 1.0%
<b>Total</b>	<b>29287</b>	<b>29423</b>	<b>+136 or 0.5%</b>	<b>7783</b>	<b>8110</b>	<b>+327 or 4.2%</b>

Minority Underrepresentation

Minority availability in the Region 6 civilian labor force is 26.6%. The following categories fall below that percentage.

Professionals	21%
Technicians	23%
Protective Service	15%
Para Professionals	22%

	TOTAL EMPLOYMENT			FEMALE EMPLOYMENT		
	1994	1995	Change	1994	1995	Change
Officials/Administrators	668	755	+ 87 or 13.0%	99	120	+ 21 or 21.2%
Professionals	5856	6094	+238 or 4.1%	1800	1951	+151 or 8.4%
Technicians	6774	6708	- 66 or 1.0%	891	902	+ 11 or 1.2%
Protective Service	450	422	- 28 or 6.2%	78	72	- 6 or 7.7%
Para Professionals	855	875	+ 20 or 2.3%	533	556	+ 23 or 4.3%
Administrative Support	2116	2047	- 69 or 3.3%	1719	1666	- 53 or 3.1%
Skilled Craft	9802	9876	+ 74 or 0.8%	221	261	+ 40 or 18.1%
Service Maintenance	2766	2646	-120 or 4.3%	348	405	+ 57 or 16.4%
<b>Total</b>	<b>29287</b>	<b>29423</b>	<b>+136 or 0.5%</b>	<b>5689</b>	<b>5933</b>	<b>+244 or 4.3%</b>

Female Underrepresentation

Female availability in the Region 6 civilian labor force is 41.3%. The following categories fall below that percentage.

Officials/Administrators	16%
Professionals	32%
Technicians	13%
Protective Service	17%
Skilled Craft	3%
Service Maintenance	15%
<b>Total</b>	<b>20%</b>

Texas Department of Transportation  
 Net Changes in Employment  
 1994 - 1995

Total employment increased from 14,409 to 14,742 or 2.3%. Minority employment increased from 3,899 to 4,160 or 6.7%. Female employment increased from 3,075 to 3,244 or 5.5%. Minority percentage representation increased from 27% to 28%. Female percentage representation increased from 21% to 22%. Net changes by occupational categories were as follows:

	TOTAL EMPLOYMENT			MINORITY EMPLOYMENT		
	1994	1995	Change	1994	1995	Change
Officials/Administrators	256	282	+ 26 or 10.2%	38	41	+ 3 or 7.9%
Professionals	3724	3954	+230 or 6.2%	752	859	+107 or 14.2%
Technicians	3115	3139	+ 24 or 0.8%	714	768	+ 54 or 7.6%
Protective Service	12	11	- 1 or 8.3%	6	7	+ 1 or 16.7%
Para Professionals	612	633	+ 21 or 3.4%	130	154	+ 24 or 18.5%
Administrative Support	816	789	- 27 or 3.3%	249	267	+ 18 or 7.2%
Skilled Craft	5368	5478	+110 or 2.0%	1780	1848	+ 68 or 3.8%
Service Maintenance	506	456	- 50 or 9.9%	230	216	- 14 or 6.1%
<b>Total</b>	<b>14409</b>	<b>14742</b>	<b>+333 or 2.3%</b>	<b>3899</b>	<b>4160</b>	<b>+261 or 6.7%</b>

Minority Underrepresentation

Minority availability in the Texas civilian labor force is 29.7%. The following categories fall below that percentage.

Officials/Administrators	15%
Professionals	22%
Technicians	24%
Para Professionals	24%
<b>Total</b>	<b>28%</b>

	TOTAL EMPLOYMENT			FEMALE EMPLOYMENT		
	1994	1995	Change	1994	1995	Change
Officials/Administrators	256	282	+ 26 or 10.2%	35	40	+ 5 or 14.3%
Professionals	3724	3954	+230 or 6.2%	1304	1425	+121 or 9.3%
Technicians	3115	3139	+ 24 or 0.8%	447	469	+ 22 or 4.9%
Protective Service	12	11	- 1 or 8.3%	1	1	No Change
Para Professionals	612	633	+ 21 or 3.4%	493	513	+ 20 or 4.1%
Administrative Support	816	789	- 27 or 3.3%	675	649	- 26 or 3.9%
Skilled Craft	5368	5478	+110 or 2.0%	88	108	+ 20 or 22.7%
Service Maintenance	506	456	- 50 or 9.9%	32	39	+ 7 or 21.9%
<b>Total</b>	<b>14409</b>	<b>14742</b>	<b>+333 or 2.3%</b>	<b>3075</b>	<b>3244</b>	<b>+169 or 5.5%</b>

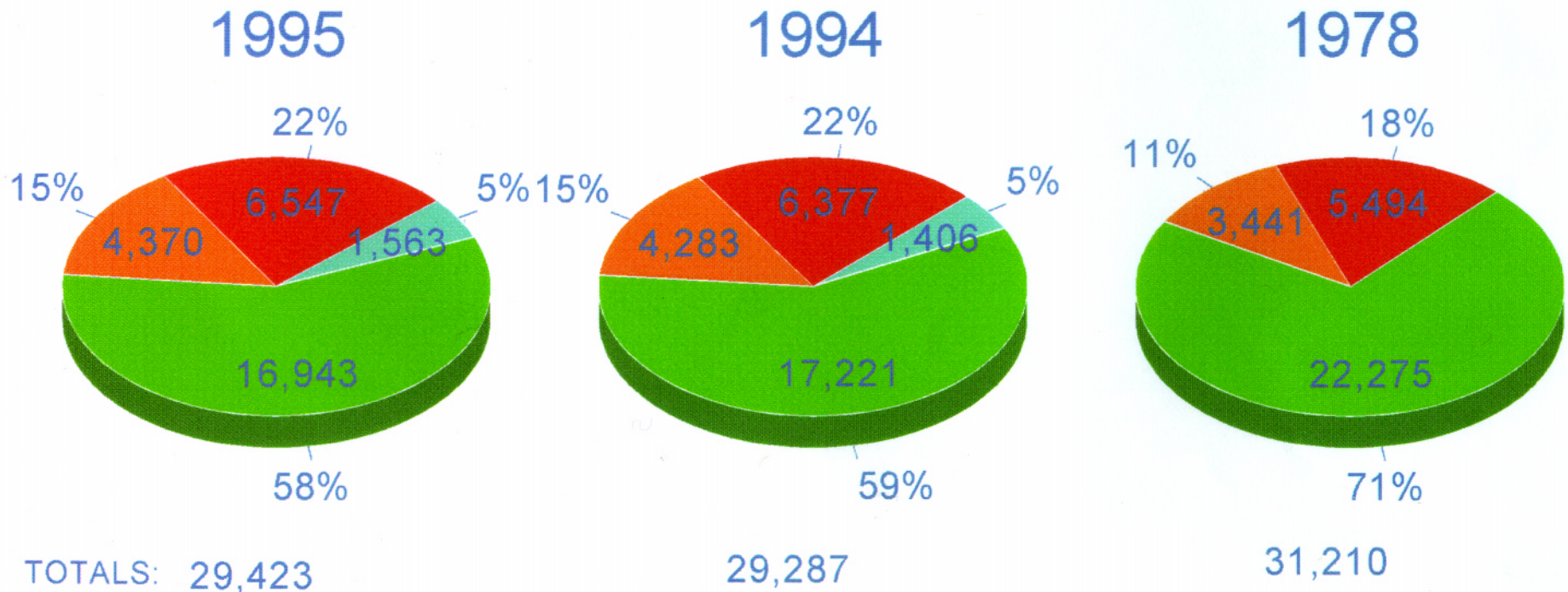
Female Underrepresentation

Female availability in the Texas civilian labor force is 41.4%. The following categories fall below that percentage.

Officials/Administrators	14%
Professionals	36%
Technicians	15%
Skilled Craft	2%
Service Maintenance	9%
<b>Total</b>	<b>22%</b>

# REGION 6 STATE EMPLOYMENT

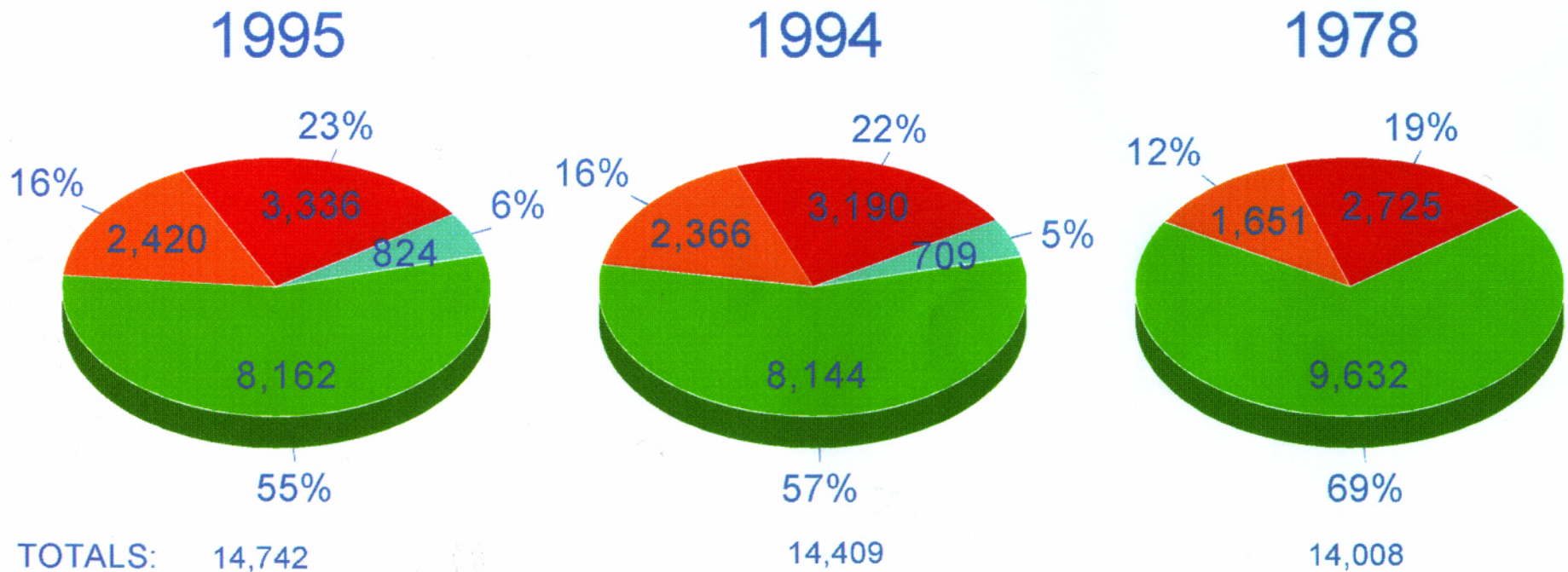
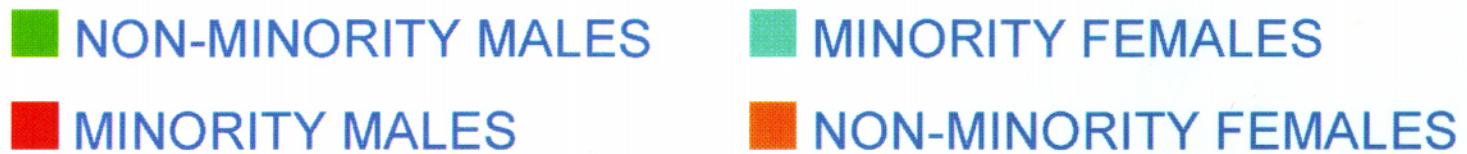
## MINORITY & FEMALE TRENDS



1978-NO GENDER BREAKDOWN AVAILABLE

# TEXAS STATE EMPLOYMENT

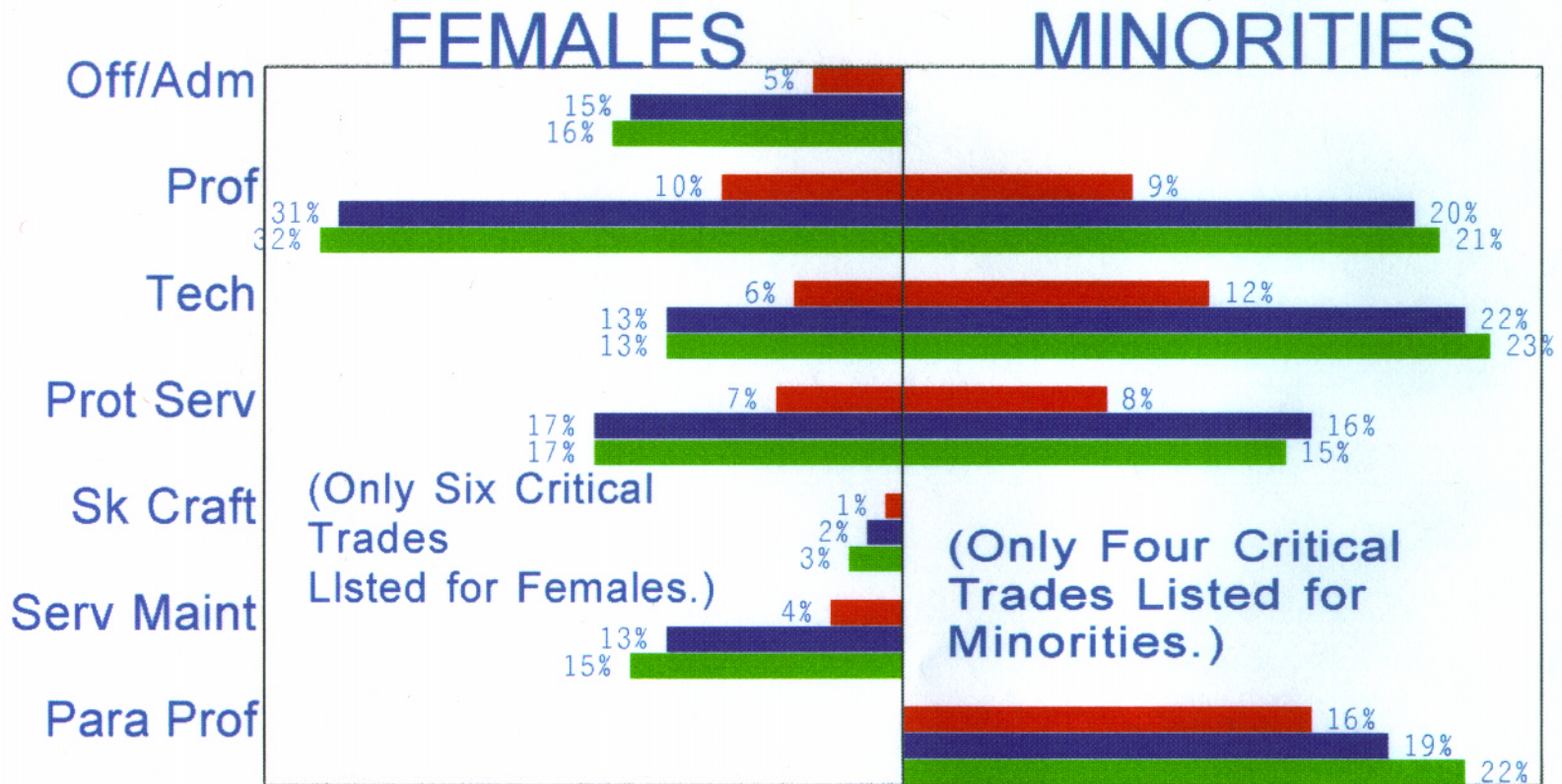
## MINORITY & FEMALE TRENDS



1978-NO GENDER BREAKDOWN AVAILABLE

# REGION 6 STATE EMPLOYMENT

## MINORITY & FEMALE CRITICAL TRADES



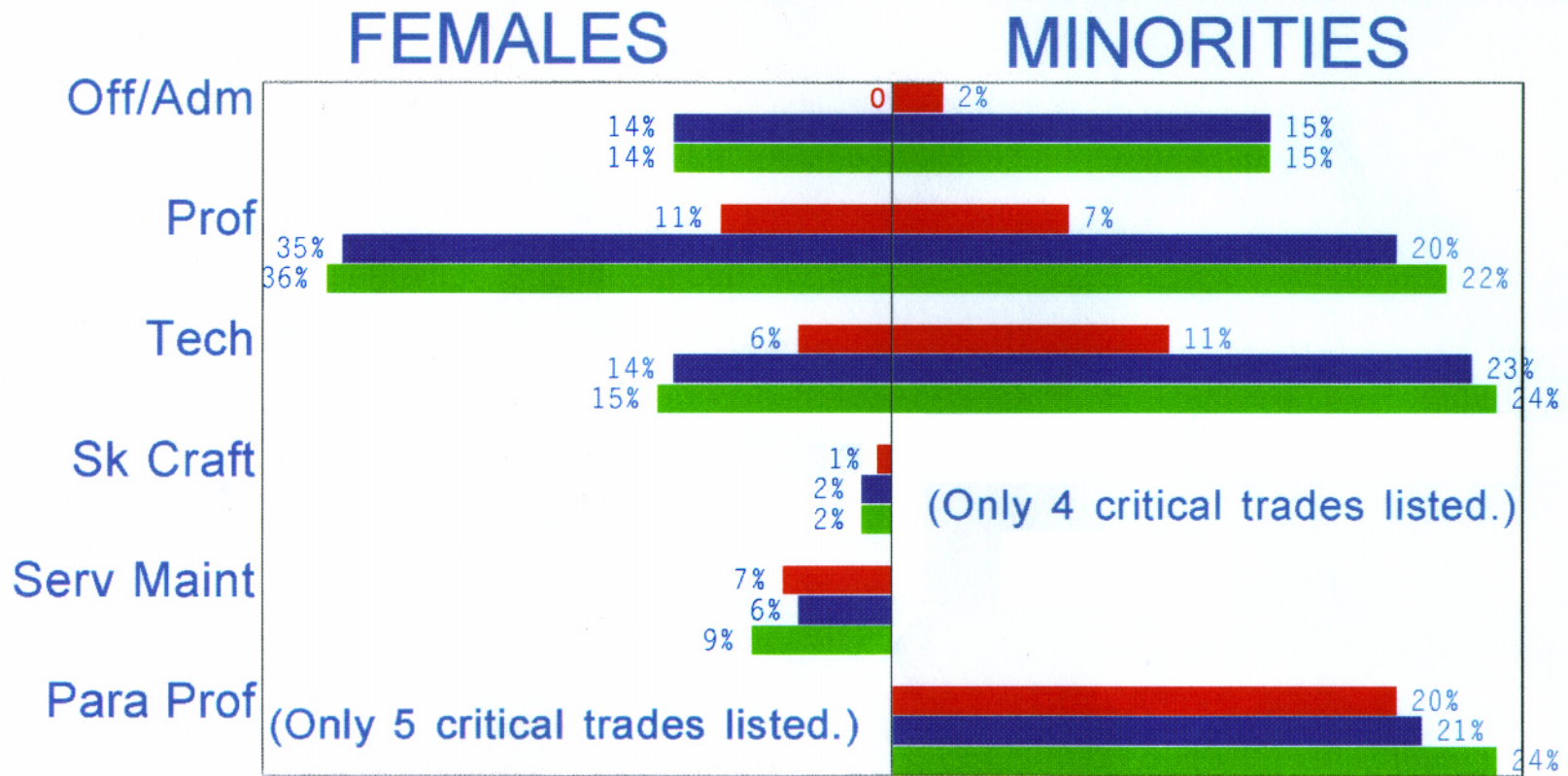
Critical Trades Listed are for 1995.



CLF: MINORITY 26.6% FEMALE 41.3%

# TEXAS STATE EMPLOYMENT

## MINORITY & FEMALE CRITICAL TRADES



Critical trades listed are for 1995.

1978 1994 1995

CLF: MINORITY 29.7% FEMALE 41.4%



**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 13**

**Memorandum Initiating Focus on Internal Employment  
(May 5, 1976)**

UNITED STATES GOVERNMENT

DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

*Memorandum*

SUBJECT: Contract Compliance - State Highway  
Agency Employment Practices

DATE: May 5, 1976

In reply  
refer to: 06-00.4

FROM: Regional Administrator  
Fort Worth, Texas

TO: Mr. C. F. McMillen  
Division Administrator  
06-05 Little Rock, Arkansas

As I stated in my opening remarks of Region 6's Civil Rights Workshop on November 3, 1975, the employment of minorities and women by State Highway Agencies is a priority area during Fiscal Year 1976. While I am encouraged by the progress made by the Arkansas Highway Department in this area, I feel that it is not indicative of what can be achieved.

Minority representation in the employment of the State Highway Department in September 1973 was 6.21% compared to 7.51% in March 1976, an increase of 1.30 percentage points. Minorities are severely under-represented in all job categories with the exception of the Service/Maintenance category.

I am, therefore, requesting, pursuant to 23 USC 140(a), and the State Assurance With Regard to EEO, paragraphs 7 and 9, that the following actions be taken immediately:

I. State Action

1. Assessment - Conduct an assessment of present State personnel policies including recruitment, selection, promotion, training and layoffs. The assessment should be directed towards identification of barriers to equal employment opportunity. The awareness of and commitment to the program on the part of top management and supervisors should also be assessed. An important part of this assessment should be an evaluation of present employment statistics. Specific occupational, geographical, and sectional areas wherein minorities are under-represented should be identified to concentrate affirmative action efforts in those areas.

2. Communication of Top Management Support - The State Highway Director should communicate his support of the EEO Program internally. Such support should also be communicated externally to sources and potential sources of recruitment, and to the community at large.

3. Accountability - Managers and supervisors should be held accountable for actions in their areas of responsibility which affect equal opportunity. Assessment of efforts must consider opportunities to recruit, hire, train and upgrade.

4. Recruitment - Undertake intensive recruitment efforts geared towards minorities and women. Establish new recruiting sources.

5. Develop Goals and Timetables - Set measurable goals and reasonable timetables. Goals should be set departmentwide and by section and/or district, considering attrition and accession rates. Managers and supervisors should be made aware of the goal(s) for which they will be responsible. Goals should be both short range and long range.

6. Internal Feedback - Systems for ensuring periodic progress reports should be established. These progress reports should provide sufficient information to enable the State Highway Director to determine what has been done, what effect actions taken have had on attaining established goals, and what problem areas exist.

## II. DIVISION OFFICE Action

1. Meet with the Director of the State Highway Agency and apprise him of the foregoing.

2. Obtain the State's commitment to establish a program designed to correct deficiencies identified in their report of assessment.

3. Analyze report of assessment submitted by the State. Verify accuracy of semi-annual statistical reports. Make recommendations to the State based on interpretations of information contained in the reports. Forward reports to Region with recommendations, if any, provided to the State.

4. Develop charts (frequency polygons) dating back to September 1973 outlining the State's progress in the employment of minorities and women in total employment and by pay rate and/or classification. (See Attachment 1 for suggested format).

### III. Due Dates

1. The results of the meeting with the State Highway Agency Director are to be reported to the Regional Office not later than June 30, 1976.

The frequency polygons requested in item II.4. are also due in the Regional Office not later than June 30, 1976.

2. The report of the assessment of the status of the State's internal program outlined in Section I.1. of this memorandum is due in the Regional Office not later than July 15, 1976. This report should also include State action taken or proposed with regard to items I. 2,3,4 and 5 & 6 of this memorandum.

Affirmative action will help the State reduce the possibility of expensive legal judgements brought under the 1972 EEO Act (P.L. 92-261). Evidence of the cost of adverse court rulings resulting from complaints filed under Title VII can be found in the preponderance of cases wherein discrimination was found. Assessments of up to two years back pay and legal costs and "Front Pay" in cases of discrimination in promotions are not uncommon.

The State's cooperation in this endeavor will not only benefit the State but will assist FHWA in fulfilling its monitoring agency role.

Your cooperation in ensuring successful implementation of the action items contained herein is sincerely appreciated.

J. W. White

Attachment

**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 14**

**Letter Suspending Federal-Aid Statewide (March 10, 1980)**



U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION  
750 Florida Street  
Baton Rouge, Louisiana 70801

**RECREATED COPY OF ORIGINAL**  
**Original Not Reproducible**

March 10, 1980

REFER TO:  
CR-EEO

Mr. George A. Fischer, Secretary  
Louisiana Department of Transportation and Development  
Baton Rouge, Louisiana

Dear Mr. Fischer:

During July 1979, our Regional Office of Civil Rights conducted a follow-up review of the DOTD's efforts to implement actions agreed to by your Department during a review conducted in February 1978. After this review, the DOTD agreed to correct the deficiencies identified and submit its Affirmative Action Plan (AAP) by October 1, 1979.

Subsequent to the above actions, we approved two time extensions for submission of the AAP. In each instance, the target dates were not met. The AAP was due on May 28, 1979.

In view of the above, we can no longer continue to authorize Federal-aid projects until an acceptable AAP is submitted by the DOTD. Therefore, effective today, March 10, 1980, we will withhold our approval action on all PS&E submissions until an acceptable AAP is submitted and approved by our Regional Office.

We ask that you give this matter your immediate attention and advise this office if assistance is needed. We would also be happy to discuss this matter with you and your staff if you so desire.

Sincerely yours,

J. N. McDonald  
Division Administrator

**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 15**

**Letter Proposing to Withhold Federal-Aid Statewide  
(September 5, 1980)**



U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION  
ROOM 454 FEDERAL OFFICE BUILDING  
200 N.W. 5TH  
OKLAHOMA CITY, OKLAHOMA 73102  
September 5, 1980

IN REPLY REFER TO  
HDA-OK

Oklahoma Department  
of Transportation  
Affirmative Action Program

Mr. R. A. Ward, Director  
Oklahoma Department  
of Transportation  
Oklahoma City, Oklahoma

Dear Mr. Ward:

I have been informed that the Oklahoma Department of Transportation Affirmative Action Plan submitted in July has been reviewed by our Regional and Washington Civil Rights Offices. The Washington Office did not approve the plan.

The Oklahoma Department of Transportation (ODOT) should initiate action to adequately address the issues raised to date by the Regional Civil Rights staff and have a completed, acceptable plan submitted by September 30, 1980.

In the event that ODOT cannot, or will not, develop an acceptable plan by September 30, 1980, further approval of PS&E's will be suspended until such a plan is submitted.

The deficiencies which the Civil Rights staff believe still exist are summarized below.

1. Program Organization

The program is not organized in a logical, sequential fashion in accordance with the format prescribed by FHPM 2-2-2.

2. Required Actions from Previous FHWA Region 6 Reviews

These actions were recommended based on the initial and follow-up on-site reviews conducted in 1977 and 1979. Our intent was to have ODOT address the required actions by establishing standard operating procedures through which an ongoing Affirmative Action Plan could be implemented. ODOT has instead haphazardly established objectives aimed at formulating such procedures in the future.

-more-



3. Assessment of ODOT Employment Status

There is no evidence in the program that a thorough problem-identification oriented assessment has been made of minority and female utilization and impacts personnel policies and practices have on minority and female employment. Problem areas are not identified; minority and female underutilization is identified only in overall employment but not by occupational categories, organizational elements or individual racial/ethnic groups.

4. Objectives, Action Items and Minority and Female Hiring Goals

Since a thorough assessment is not evident in the program, objectives and goals established are questionable because there is no way of knowing whether they are aimed at correcting real problem areas. Goals established are general in nature and do not commit ODOT to hiring specific underrepresented groups in specific sections and divisions. Also, nearly all of the target dates established for objectives have already passed.

5. Discrimination Complaint Procedures

The informal counseling program and formal hearing procedures are not linked together. Definitive time limits are not established for completion of informal counseling steps. There is no provision made for investigation of complaints. Finally, the formal hearing procedure is highly adversary in nature and biased against complainants.

6. Internal Reporting/Accountability System

Such a system, tied to objectives, goals, action items and timetables, is not established in the program. Thus, the State does not have a reliable, timely method by which to monitor progress being made toward accomplishment of objectives and goals and ensuring managerial/supervisory accountability.

I believe this confirms my conversation with you in your office on the morning of September 3 and also outlines generally the conversation you had with Regional Administrator Mendenhall in Tulsa on the afternoon of September 4.

Please be assured my staff and members of the Regional Office staff are available and willing to meet with and work with you and members of your staff to arrive at an acceptable plan.

Sincerely yours,

  
Gordon E. Penney  
Division Administrator

cc: Region

**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 16**

**Letter From State Documenting Compliance with  
Requirements (October 24, 1980)**



STATE OF OKLAHOMA  
DEPARTMENT OF  
**TRANSPORTATION**

200 N. E. 21st Street  
Oklahoma City, Oklahoma 73105

October 24, 1980

Mr. John S. Hassell, Jr.  
Federal Highway Administrator  
U.S. Department of Transportation  
400 Seventh Street, Southwest  
Washington, D. C. 20590

Dear Mr. Hassell:

I have just completed a meeting with my staff concerning our latest completed affirmative action plan draft. They inform me, and from my observation I concur, that we have a submission which meets or exceeds all requirements and is workable and realistic.

We believe the assistance and cooperation my staff has received from Ed Morris and Lamont Johnson, from your Washington office, as well as the assistance we have received from division and region personnel, has enabled us to produce this final presentation. Many long hours have been invested by all the participants in the production of this draft which is acceptable to the Oklahoma Department of Transportation and each of your representatives.

My staff was informed as your representatives left today that we could expect final written approval within the next week. When we receive this approval, we will begin printing copies for distribution to each level of the Department. Implementation of efforts to attain our stated goals has already begun, and this Department is dedicated to continuing its efforts in the area of affirmative action.

Again, I wish to express my appreciation for the contributions of your representatives in the development of this plan.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "R. A. Ward", with a long horizontal flourish extending to the right.

R. A. Ward  
Director/Chief Engineer

STATE TRANSPORTATION COMMISSION

CHAIRMAN—R. D. PARKER, VICE CHAIRMAN—W. E. ALLFORD, SECRETARY—J. E. CARTER, MEMBERS—JAMES W. ALLEN, JOHNNY W. PERRY,  
M. B. ATKINSON, WILLIAM R. NASH, MERLE SWINEFORD, DIRECTOR—R. A. WARD

AN EQUAL OPPORTUNITY EMPLOYER

**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 17**

**Memorandum From Region to Division on Findings of  
Program Document Review (November 9, 1992)**



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

# Memorandum

Subject: STA EEO Programs: Texas EEO Program Update

Date: November 9, 1992

From: Director  
Office of Civil Rights  
Fort Worth, Texas

Reply to  
Attn. of: HCR-06  
4721-5 TX

To: Mr. Frank M. Mayer  
Division Administrator (HCR-TX)  
Austin, Texas

We have completed our review of the subject program document. All of the items listed in our September 26, 1991, memorandum to the Division Office, with the exception of one, have been included in the State's submission. The item not included pertains to managers' and supervisors' accountability for achieving EEO goals through the performance appraisal process. The Texas Department of Transportation (TxDOT) did include it as an action item for the coming year.

While the program update can be approved as submitted, we feel that the following items need further clarification on the part of the TxDOT prior to granting approval:

## General Comments

- o The Organizational Chart on page 3 of both Part I and Part II of the program document shows the **Civil Rights Director** reporting directly to the Executive Director and, at the same time, to the Associate Executive Director, Support Operations. If this dual status is meant to emphasize the difference between a functional role versus an administrative one then it should be stated or illustrated. It appears that the DBE program function was inadvertently omitted from the Civil Rights Division's organizational chart.
- o Reference throughout the program document to the "**FHPM**" should be deleted in future submissions. The regulations governing the civil rights programs have been included in the **Federal Aid Policy Guide (FAPG)**.

## Part I - Contract Compliance

- o The **Training** provisions will need to be revised in next year's program update to reflect the changes resulting from the recently issued OJT Optional approach pilot program.

- o On page 21 under **b. Corrective Action**, reference is made to a show cause notice, yet no procedure for the issuance of such notices has been included under Part I of the State's EEO Program.
- o The contract sanctions described under paragraph III on page 29 need to be revised. The provisions under this paragraph appear to indicate that no contract sanctions involving the withholding of payments to contractors for failure to comply with the EEO requirements of the contract will be taken unless directed to do so by the FHWA or the Office of Federal Contract Compliance Programs. This position is inconsistent with TxDOT's responsibility under the Federal-aid program.

The State EEO assurances signed by the TxDOT require that the Department, **"on its own initiative, take affirmative action, including the imposition of contract sanctions and the initiation of appropriate legal proceeding under any applicable State or Federal law to achieve equal employment opportunity on Federal-aid highway projects...."** The regulation at 23 CFR 230.405 (b)(2) also states that, **"The corrective action procedures outlined herein do not preclude normal contract administration procedures by States to ensure the contractor's completion of specific contract equal opportunity requirements,..."** The EEO program format set forth in Appendix A to Subpart C of 23 CFR 230 requires under Part I, paragraph V A that the program document, **"Describe the procedures used by the State to impose contract sanctions or institute legal proceedings."** The EEO program format also requires that States indicate whether it withholds contractor's progress payments for failure to comply with EEO requirements, and if not, identify other actions taken.

- o As a result of the OJT Optional approach pilot program the procedure on page 34 describing the transfer of trainees from one project to another will need to be revised. The transfer of trainees should only be allowed after the good faith efforts requirements of the contract have been satisfied. In such cases, contractors should be advised that the \$2.00/hour reimbursement for training shall not be paid.
- o On page 36 under paragraph 6, the TxDOT should consider deleting reference to a particular association (AGC) when describing the procedure for reimbursement to contractors for hours of training provided.
- o The section under paragraph VI, page 36 dealing with DBE's does not describe the TxDOT procedures for ensuring contractor compliance with DBE contract provisions as required by Region 6's EEO Program Guide.

The entire report is limited to statistical data without some sort of analysis of what those figures mean.

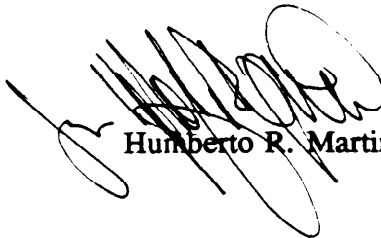
- o Page 45 appears to have been inadvertently omitted.

#### Part II - Affirmative Action Plan

- o The standard district structure included in the AAP does not list any of the civil rights programs at the district level.
- o The discrimination complaint procedure described in the AAP beginning on page 74 may be approved as submitted. The TxDOT, however, should reconsider adopting it for the following reasons:
  - o On page 75 under **Discrimination Complaint Definition and Responsibilities**, second paragraph, the TxDOT states that an employee may file a complaint after an attempt to resolve the issue(s) with management officials has failed. It appears that there is an informal process which employees must follow before a formal complaint can be filed. If this is the case, the informal process should be described in more detail.
  - o The designation of a hearing officer by the Human Resources Division to hear cases involving civil rights issues may be inappropriate. In fact, the entire procedure covering the hearing process should be revisited. The hearings appear to be more of a judicial proceeding rather than an administrative one. It is too long and cumbersome to both the TxDOT and the complainant. Now that the Department has established a Civil Rights Division with direct access to the Executive Director it seems rather superfluous to have an **Associate Executive Director** make a final decision in a case involving a civil rights issue instead of the head of the Civil Rights Division. In contrast, with the Human Resources Division it appears that the Civil Rights Division has less involvement and authority in matters dealing with cases of alleged discrimination. Once the Civil Rights Division concludes that there is "cause" then the "but for" formula should be used to make the employee whole. An employee not satisfied with the Department's action may file an appeal with the Equal Employment Opportunity Commission (EEOC).

- o The Department should clarify whether it intends to conduct hearings in cases dealing with **Applicant Complaints and Sexual Harassment**. If not, the AAP should reflect the Department's position.

If you have any questions regarding this matter please do not hesitate to call me at 334-3671 or Mr. Hector R. Negron at 817/334-4342.



Humberto R. Martinez



**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 18**

**E-Mail Documenting Direct Inquiry From State  
(February 7, 1994)**

**From:** Humberto R. Martinez (HMARTINEZ)  
**To:** JMSMITH  
**Date:** Monday, February 7, 1994 2:13 pm  
**Subject:** Inquiry from Henry Droughter

This is to advise you that Henry called me this morning and asked me for guidance on the appropriate procedure for identifying employees by race/ethnicity in order to comply with EEOC and FHWA reporting requirements. I referred him to 29 CFR, Parts 1602.30, 1602.32, 1602.33 and 1602.38. In addition, I referred him to EEOC's instructions for filling out EEOC Form 164, State and Local Government Information Report (EEO-4).

In essence, the instructions for the EEO-4 are regulatory. Under the instructions, employers may acquire race/ethnic information of their employees either by visual surveys or from post-employment records. Direct inquiries while not prohibited, are not encouraged. Classifications of employees shall be consistent with the race/ethnic categories as defined in the instructions for the EEO-4. Section 1602.33 provides that wilfully false statements on the report are a violation of federal law. Thus it is incumbent upon the custodians of the records to ensure that where there is reasonable doubt with respect to a specific classification they must ensure that the classification does meet the definitions provided in the report's instructions.

Henry indicated that this information answered his question.

**CC:** PMAGEE, HNEGRON

**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 19**

**Letter of Followup From Division to State (June 6, 1994)**



U.S. Department  
of Transportation  
Federal Highway  
Administration

Oklahoma Division  
200 N.W. 5th Street, Room 454  
Oklahoma City, OK 73102-3288

June 6, 1994

IN REPLY REFER TO HDA-OK

Mr. Delmas Ford, Secretary  
Oklahoma Department  
of Transportation  
Oklahoma City, Oklahoma

Dear Mr. Ford:

In my May 12, 1994 letter, I described our preliminary assessment of the ODOT's progress in several civil rights areas in response to the five points included in former Regional Administrator Wes Mendenhall's December 29, 1993 letter to you. As concern about several needed actions was linked to specific steps to be taken by May 30, 1994, I thought it appropriate to follow-up with you now. The following discussion summarizes our assessment at this time:

**Point-by-Point Assessment**

1. **A Complete and Approvable Contract Compliance Program Document**

Its submission was required by May 30, 1994. The Contract Compliance Program document has been submitted and is being reviewed concurrently by our office and our Regional Office of Civil Rights. We consider the coverage of organization structure, roles, and authority of the different sections within the ODOT to be key discussions. Our comments are being formulated and will be sent to ODOT soon. So far, the document looks promising, but we do expect some revision will be necessary.

2. **An Organization and Staffing Plan for the Civil Rights Unit**

An unequivocal commitment to having two contract compliance specialists by May 30, 1994, was required. We have been informed that job openings for the two full-time employee positions have closed (an additional contract compliance specialist and a Disadvantaged Business Enterprise (DBE) certification specialist) and that interviews will be conducted very soon. We do remain concerned that the ODOT may now have to fill three positions to fulfill the staffing for two contract compliance specialists. As I indicated in my May 12, 1994 letter, we are proceeding on the basis you and Jack Crowley remain committed to having

two contract compliance specialists in place. Clearly, training will be needed for new personnel in these roles. We understand that the Department also intends to submit a revised staffing chart to better describe and confirm the specific staffing assignments in the Regulatory Services Unit.

3. A Schedule of Planned Contract Compliance Reviews

One review has been completed and gained FHWA approval recently. We understand that two are in progress. In ODOT's February 1, 1994 response, six reviews were to be completed by July with five additional to be scheduled through December 1994. While contract compliance staffing is in transition, reviews are being conducted by other staff members. This remains a necessity to fulfill the review schedule commitments previously accepted by FHWA.

4. A Final Contract Compliance Field Procedures Manual

Meetings have been held with construction personnel to discuss our comments on draft copies of the Field Procedures Manual. While we believe there is agreement on remaining changes, some of our comments have to date not been addressed in formal revisions. On May 17, 1994, we sent a letter to the ODOT with the list of comments remaining to be addressed.

Commitments from the Construction Division have been that the final, properly revised Field Procedures Manual will be sent to the field by July 1; that a detailed schedule and training outline will be finalized by August 1994; and that training for both ODOT field personnel and also contractor personnel in cooperation with the Association of Oklahoma General Contractors will begin shortly afterward. We also understand that an information session will be held next month for the field personnel and that the Field Procedures Manual will be discussed.

5. A Follow-up Joint Review of DBE Re-certification Practices

The Office of the Inspector General (OIG) conducted an audit of the oversight and management of the DBE certification/re-certification responsibilities in the FHWA Division Office and the ODOT on May 2-5, 1994, with a follow-up visit to a specific DBE this week. We expect to get a preliminary copy of their survey report in the near future, and I do foresee the OIG's observations to necessitate further actions from both our offices. We plan to hold off on doing a DBE Certification Review at this time, but there will be a review of the ODOT's DBE Contract Goal Setting for individual projects on August 29-September 2, 1994.

Conclusion

While several concerns linger related to the areas covered in the December 29, 1993 letter to you, significant progress has been made. We are cautiously optimistic about both these steps and those that remain. Ms. Susan Alexander and her staff have a positive, partnering attitude and are really trying hard to improve the program. Mr. Jon Powell's continued support is also of key importance to creating the proper atmosphere for acceptance and reinforcement of the steps yet to be accomplished. Similarly, we believe that the leadership of the ODOT remains committed to following a positive direction with the Department's civil rights responsibilities. Our staff will continue to stay actively involved with their ODOT counterparts as progress continues.

Sincerely yours,



Gary E. Larsen  
Division Administrator

1 Addressee  
1 ODOT, Director Crowley  
1 ODOT, Jon Powell  
1 File # 903  
1 GEL  
1 Reading  
GELarsen:kq 06/06/94  
CIVSTAT2.GL

**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 20**

**Correspondence Documenting Close Out of Compliance  
Deficiencies (July 14, 1994)**



U.S. Department  
of Transportation

**Federal Highway  
Administration**

# Memorandum

Subject: **New Mexico State Highway and Transportation Department's  
Internal EEO Program: Final Agreement** Date: **July 14, 1994**

From: **Director  
Office of Civil Rights  
Fort Worth, Texas** Reply to: **HCR-06**  
Attn of: **4721-3 NM**

To: **Mr. Edward W. Morris, Jr., Director  
Office of Civil Rights, HCR-1  
Washington, D. C.**

Attached is Mr. Dale Wilken's July 14, 1994, memorandum to the Secretary of the New Mexico State Highway and Transportation Department (State) summarizing agreements reached between the FHWA and the State on the subject program. The agreements satisfactorily address each of the recommendations made by the FHWA in the report issued under your signature on March 8, 1994, following the preliminary on-site assessment conducted by an FHWA review team on July 26 and 27, 1993.

The preliminary assessment was conducted by the FHWA as a result of a referral from the Department of Justice. In the referral, the Department of Justice asked the FHWA to determine the authority it might have to investigate allegations of a pattern or practice of sexual harassment within the New Mexico State Highway and Transportation Department. Having determined that it had authority and jurisdiction over the matter, the FHWA proceeded with the assessment. Initially, the purpose of the inquiry was to determine whether a comprehensive program review or investigation was warranted. As a result of the on-site visit, the FHWA determined that the preliminary assessment and a response from the State agreeing to corrective actions recommended by the FHWA would be acceptable. The State issued a formal response to the FHWA report on June 20, 1994. The response was personally presented to you and me by the State's General Counsel, Art Waskey, in Washington, D. C. on June 23, 1994.

It is our opinion that the State's response and commitments included therein and the agreements documented in the attached letter to the State are satisfactory from a programmatic standpoint. We therefore recommend that you advise the Department of Justice of our findings and inform them that this office will closely monitor the State's efforts to ensure implementation of the actions recommended by the FHWA.

  
Humberto R. Martinez

Attachment





**U.S. DEPARTMENT OF TRANSPORTATION**  
FEDERAL HIGHWAY ADMINISTRATION  
819 TAYLOR ST., ROOM 8A00  
FORT WORTH, TEXAS 76102

July 14, 1994

REGION 6

REFER TO:  
HCR-06  
4721-3 NM

Mr. Carroll Young, Secretary  
New Mexico State Highway and  
Transportation Department  
P. O. Box 1149  
Santa Fe, New Mexico 87504-1149

Thru:  
Mr. Reuben S. Thomas  
Division Administrator  
Santa Fe, New Mexico

Dear Mr. Young:

On June 23, 1994, Arthur Waskey, General Counsel for your agency met in Washington, D. C., with Ed Morris, Director of Civil Rights and Humberto R. Martinez, Director of the Region 6 Office of Civil Rights to present and discuss the New Mexico State Highway and Transportation Agency's (State) response to the FHWA report issued following the on-site preliminary assessment conducted on July 26 and 27, 1993. The meeting was requested by Mr. Waskey and was for the purpose of personally presenting the State's response to the FHWA report.

We are pleased with the results of the meeting. The discussions not only illuminated many of FHWA's findings and recommendations and the State's responses to them, but also served to clarify several misconceptions held by our respective agencies on the proceedings and events surrounding this matter. These clarifications early on in the meeting helped to establish a climate conducive to positive discussion of the FHWA report and the State's response to it.

As a result of the meeting, the following general agreements were reached.

1. The Federal Highway Administration will continue the approval of the State's currently approved program which was last approved on March 29, 1993. This action is being taken in order to allow the State sufficient time for it to take the actions agreed to and outlined in its response to the FHWA report, as noted below, and incorporate the results of those actions, as appropriate, into the next program update. This must be completed, or substantially underway, by the next program update due in the Regional Office by January 31, 1995.
2. The State has agreed to review its entire process for handling complaints of discrimination filed against the State by its employees or applicants for employment and improve and streamline the entire process. The review process, at least in part, will be conducted by an independent consultant. The improvement will also include redefining the role of all elements/offices of the

State currently involved in the process. An informal process including the designation of "EEO Counselors" will also be considered as part of the effort. Where possible and appropriate, the redefined process will consolidate duplicative processes. As an example, the procedures for processing complaints alleging discrimination on the basis of sex could be integrated into the procedures for processing all other complaints alleging discrimination. In reviewing the entire complaints procedures, the State will consider obtaining employee feedback on the procedure through listening sessions and/or employee surveys.

3. Any revisions to policy, procedure and organization resulting from the actions taken by the State to implement actions it agreed to in its response, as clarified by the meeting in Washington, D. C., will be substantially underway by January 31, 1995, or if completed, will be incorporated into the Department's next update of its EEO/Affirmative Action Program due January 31, 1995, and as appropriate, in the "Employee Civil Rights Handbook." The FHWA will consider the changes made in determining whether or not to approve the program.
4. The FHWA has withdrawn its recommendation that the State refer all complaints to the EEOC until it revises and the FHWA approves its complaint processing procedures.

The above are the major agreements reached. Several of the State's responses to the FHWA recommendations were determined acceptable and do not require any further discussion in this report. These include assuring that the revised Civil Rights handbook has a signed copy of the State's sexual harassment policy; elimination of "devotion" and "loyalty" as a qualification for employment opportunities; and assuring that supervisors are trained to formally resolve complaints when appropriate. The FHWA will expect the State to implement these actions.

Other areas of agreement that were discussed and warrant further mention in this letter are as follows:

1. The FHWA's concern with training on sexual harassment is not with the amount or quality of training. It is clear that the State has conducted and plans to conduct a tremendous amount of training in this area for its managers, supervisors and employees. FHWA's concern here is with ensuring that all managers and employees attend the mandatory training. The State has agreed to develop procedures to ensure that all employees, including managers and supervisors, are notified that the training on sexual harassment is mandatory and an employee's failure or refusal to attend the training may be considered an act of insubordination and may subject the employee to disciplinary action. Such a notice/process may be incorporated into the next EEO program update.

2. Certain language in the current complaint process identified during the meeting as potentially "chilling" to employees will be eliminated in the next revision of the complaint process ("venting personal anger" as an example).
3. The form that employees use to withdraw their complaints of discrimination or grievances, currently at the beginning of the complaints and grievance sections of the Civil Rights Handbook, will be placed at the end of the respective sections of the handbook.
4. The State, at FHWA's suggestion, agreed to consider the issuance of a table of offenses and penalties to ensure that disciplinary actions where warranted are taken against those employees that have been found to have violated any non-discrimination law, regulation or agency policy. However, whether the State has adopted such a table will not be used by the FHWA as a condition for approval of the State's next EEO Program.
5. The State will consider conducting an analysis of employees' attrition rates by major organizational unit. This analysis could be incorporated into the adverse impact analysis done by the Affirmative Action Programs Bureau as part of the annual EEO program submittal and update.

In closing, I would like to commend the State for the aggressive and comprehensive efforts it has made to provide all of its employees training on sexual harassment. The intensity of the training efforts and the resources committed to it reflect a serious intent on the State's part to take a preventive and proactive approach to assuring that all employees are provided a climate free from harassment, discrimination and reprisal. We certainly would encourage you to continue your direction and offer any assistance you deem necessary.

Sincerely yours,



Dale E. Wilken  
Acting Regional Administrator

**STATE INTERNAL EEO/AFFIRMATIVE ACTION  
PROGRAMS REFERENCE MANUAL**

**Tab 21**

**Memoranda (2) to Arkansas and New Mexico Divisions  
On State Organization and Staffing (June 26 & 28 1995)**



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

# Memorandum

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Subject: EEO Program Update: Arkansas Date: June 26, 1995

From: Director Office of Civil Rights Fort Worth, Texas Reply to: HCR-06 Attn of: 4721-1 AR

To: Mr. William D. Richardson Division Administrator (HAM-AR) Little Rock, Arkansas

We have completed our review of the subject program. We noticed that the update did not contain any information on the organizational changes that took place in 1994 affecting the civil rights function. On February 1 and April 1, 1994, we notified your office of the need to amend the currently approved program documents showing the effect, if any, the organizational changes have on the civil rights function.

To assist your office and the Arkansas State Highway and Transportation Department (ASHTD) in assessing the effects of the organizational changes on the various civil rights programs, the following regulatory requirements were cited in our February and April communications:

**23 USC 302(a) State Highway Department.** Requires State to be adequately equipped and organized to discharge duties required by Title 23.

**23 CFR 200.9(b) Title VI Program and Related Statutes.** Requires States to establish a civil rights unit and designate a coordinator who has a responsible position in the organization and easy access to the head of the agency. The unit is required to contain a Title VI Specialist who shall also be responsible for initiating and monitoring Title VI activities and preparing reports. The regulation also requires States to adequately staff the civil rights unit to effectively implement all civil rights requirements. States shall have civil rights complaints investigated by State civil rights personnel trained in compliance investigations.

**State Assurance With Regard to Equal Employment Opportunity as Required by Federal Aid Highway Act of 1968 (23 USC 140).** Requires States to develop an Equal Opportunity Program and appoint an Equal Opportunity Coordinator whose primary duty shall be to administer the State's EEO Program.

**23 CFR 230, Subpart C, Appendix A, State Highway Agency EEO Program.** Requires States to appoint a qualified Affirmative Action Officer. The appointment should be on a full time basis. The person appointed should not have other duties and responsibilities.

**49 CFR 23.45(b) Participation by Minority Business Enterprise in Department of Transportation Programs.** Requires States to designate a liaison officer and such support staff as necessary and proper to administer the program. The liaison officer shall report to the Chief Executive Officer and shall be responsible for the day to day administration of the program.

The subject program is approved with the understanding that the ASHTD will submit the revised sections of the civil rights programs affected by the organizational changes.

  
Humberto R. Martinez



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

# Memorandum

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Subject: Bertain and Associates Report Date: June 28, 1995

From: Director Office of Civil Rights Fort Worth, Texas Reply to: HCR-06 4721-3 NM Attn. of:

To: Mr. Reuben S. Thomas Division Administrator (HDA-NM) Santa Fe, New Mexico

We have carefully evaluated the final report on the study conducted by Bertain and Associates entitled, "Study on the Effectiveness of the Discrimination and Sexual Harassment Program." We applaud the overall direction of the report. The various policy statements on discrimination and harassment are clear and unequivocal. Changes to establish the credibility and objectivity of the internal complaints process and sanctions for those that have been found to have engaged in prohibited conduct have also been recommended by this office on numerous occasions in the past. The training effort to date and the proposed training plan are also likely to continue a positive trend towards a friendlier workplace.

We do have one major concern. The recommendations regarding the elimination of the Affirmative Action Programs Bureau and the transfer of its programs and responsibilities to the Human Resources Division, if implemented, would conflict with several U. S. Department of Transportation (DOT) and FHWA regulations that specifically address the organization, staffing and roles and responsibilities for the various DOT and FHWA required civil rights programs. More specifically, the following regulations apply:

- \* 13 CFR §200.9(b) requires the State to establish a civil rights unit and designate a coordinator who has a responsible position in the organization and easy access to the head of the agency. The regulation also requires that a Title VI specialist be assigned to the civil rights unit and that it be adequately staffed to effectively implement all civil rights requirements. The unit is to be responsible for initiating and monitoring Title VI activities and ensuring that complaint investigations are conducted by trained civil rights personnel.
- \* The regulations at 23 CFR Part 230, Subpart C, Appendix A, require States to appoint a qualified Affirmative Action Officer with responsibility and authority to implement the State's EEO program (Internal AAP). The appointment is required to be on a full time basis and cannot be added to an existing full-time position. The essential requirements for the Affirmative Action Officer are knowledge of and ability to interpret theories of discrimination, experience in nondiscrimination, equal opportunity and EEO activities, sensitivity to issues

involving discrimination, commitment to program goals, and sufficient status and ability to work with others.

- \* The State Assurance With Regard to Equal Employment Opportunity as Required by the Federal-Aid Highway Act of 1968 also requires the State to appoint an Equal Opportunity Coordinator whose primary duty shall be to administer the State's Equal Employment Opportunity Program.
- \* The Department of Transportation's DBE Program Regulations at 49 CFR §23.45(b) require the State to designate a liaison officer and such support staff as necessary and proper to administer the DBE program. The liaison officer is required to report to the Chief Executive Officer and to be responsible for the day-to-day administration of the program.

We therefore do not recommend that the State implement those recommendations in the Bertain report that eliminate the Affirmative Action Programs Bureau or that reassign any FHWA required civil rights program and responsibilities thereunder to another bureau. The approval of the FHWA required State EEO/AAP, Title VI, and DBE Programs would have to be re-evaluated.

On the complaint procedure, a concern we have is that the recommended process does not specify who is responsible for rendering and issuing a decision on each complaint of discrimination following the investigation and issuance of the investigative report. Also the time frames for filing appeals to the Secretary are not included.

Section B.5. on page V-23 provides that the investigator will develop and communicate to both the complainant and the respondent, a plan and timetable for the investigation. While we have no objection to providing all parties involved with a timetable, providing a detailed investigative plan to the involved parties may present an impediment to an effective investigation. We recommend that in finalizing its complaint procedure this area be defined more clearly.

Once again, we compliment the State's actions to date. We are also forwarding a copy of this memorandum to our Headquarters Office of Civil Rights with a request that they also provide us their comments on the final report.

  
Humberto R. Martinez