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Manual for

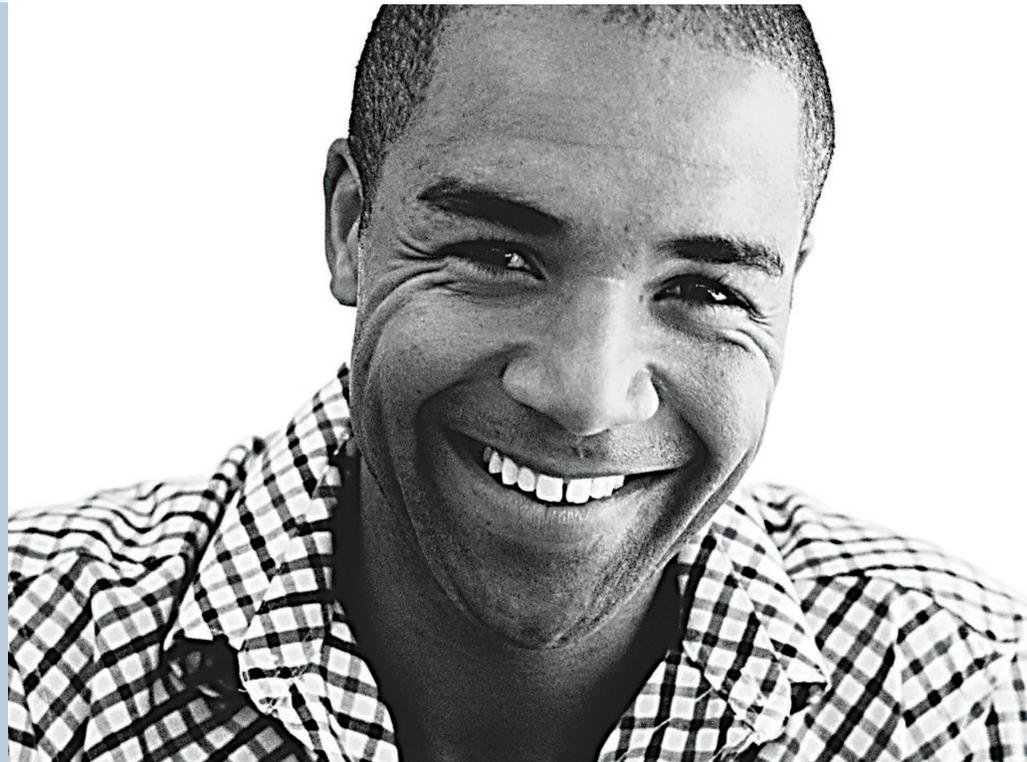
AFFIRMATIVE ACTION PLANS

in Oklahoma State Government

(Revised May 2011)



State of Oklahoma
Office of Personnel
Management



Oscar Jackson, Jr., IPMA-CP
Adminrator and
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Human Resources
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PREFACE

Title 74, Section 840-2.1(A) of the Oklahoma Statutes requires all agencies, boards, commissions, departments, and offices of each branch of state government to prepare an annual Affirmative Action Plan (AAP). A copy of the agency's written plan must be filed with the Office of Personnel Management (OPM) by September 1 of each year. In addition, OPM is required to analyze the agencies' affirmative action plans and other EEO reports, and prepare an assessment of the efforts and progress made in the area of affirmative action, including the status of recruitment, hiring, and promotion of women, men, and minorities within job categories.

This manual is designed to help agencies in the development of their EEO/AA programs and to provide uniform guidelines for the preparation of their annual written affirmative action plans. It contains recommended methods, techniques, and related instructions for EEO/AA program monitoring, evaluating, and reporting for state agencies.

The information in this manual supersedes the Manual for Affirmative Action Plans in Oklahoma State Government, revised July 2009.

Questions may be directed to the OPM Office of Equal Opportunity and Workforce Diversity at (405) 521-3082.

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INTRODUCTION

The terms “equal employment opportunity” and “affirmative action” are often used interchangeably, however, they hold separate meanings. *Equal employment opportunity* is the legal obligation an employer has to administer all terms and conditions of employment in a non-discriminatory manner. *Affirmative action*, on the other hand, refers to the employer's efforts to identify and eliminate any barriers and correct deficiencies in its employment policies and practices that impact or may impact upon the achievement of equal employment opportunity.

The affirmative action program should be designed as a cooperative effort and coordinated throughout the organization in order to achieve maximum equal employment opportunity results. The best approach to developing an effective program involves careful consideration of the organization's culture, environment, work force and resources, and translating the results into a detailed, action-oriented plan. The plan should also provide a set of specific and results-oriented programs to which an appointing authority commits himself or herself to apply every good faith effort to achieve prompt and full utilization of women and minorities at all levels and in all segments of the workforce where deficiencies exist. The formal, written plan should contain three major elements: (1) an objective self-analysis of employment policies and practices; (2) a reasonable basis for concluding that this action is appropriate; and (3) reasonable actions tailored to correcting the problem areas disclosed by the self-analysis.

There is no mandatory method for preparing affirmative action plans in Oklahoma state government except that each agency's written plan must meet all of the standards in Merit Rules 530:10-3-33 through 530:10-3-33.11 and be submitted to the Office of Personnel Management for approval.

530:10-3-33. Standards for affirmative action plans

- (a) The provisions of this Section and 530:10-3-33.1 through 530:10-3-33.11 comprise the standards for agency affirmative action plans.
- (b) *All agencies, boards, commissions, departments, and offices of each branch of state government, except institutions within The Oklahoma State System of Higher Education, shall submit an affirmative action plan to the Office of Personnel Management annually no later than September 1 following the end of the fiscal year ending June 30 [74:840-2.1(A)].* **Appointing Authorities should submit plans as soon as possible following the end of the fiscal year.**
- (c) An Appointing Authority shall submit a corrected plan within **30** days after the date of notice from the Administrator that a previously submitted plan does not meet one or more specified standards.
- (d) Affirmative action plans for executive branch agencies authorized **15** or more full-time-equivalent employees shall meet all of the required standards described in 530:10-3-33 through 530:10-3-33.11.
- (e) Affirmative action plans for executive branch agencies authorized fewer than **15** full-time-equivalent employees shall contain the required standards described in 530:10-3-33 through 530:10-3-33.4 and 530:10-3-33.8 through 530:10-3-33.10.

The standards that are in Merit Rules 530:10-3-33.1 through 530:10-3-33.11 have been reprinted in boxes throughout this manual. The methods, techniques, and related instructions that supplement the standards are intended as recommendations, which agencies may use to comply with the minimum affirmative action plan development standards, which are in the Merit Rules. Where similar methods and procedures developed by the agency would provide better program results, their use is encouraged. Of course, any such methods and procedures must include the required standards.

In addition to the standards, the statutory requirement that agency affirmative action plans be submitted to the Office of Personnel Management is now addressed in the Merit Rules.

530:10-3-52. Failure to submit an affirmative action plan on time

(a) If the Appointing Authority fails to submit or resubmit an affirmative action plan as required in 530:10-3-33, the Administrator shall take the following actions unless the Administrator finds compelling reasons why they should not be taken.

(1) If an affirmative action plan is not received within **30** days following September **1** or any established deadline for resubmission, the Administrator shall submit written notice to the Appointing Authority, any governing body of the agency, the appropriate Cabinet Secretary, and the Affirmative Action Review Council that the affirmative action plan is late.

(2) If an affirmative action plan is not received within **60** days following September **1** or any established deadline for resubmission, the Administrator shall submit written notice to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives that the affirmative action plan is late.

(b) Failure to submit or resubmit an affirmative action plan by the established deadline may result in the Appointing Authority being recorded in the report described in 530:10-3-39 as being in noncompliance with the Oklahoma Personnel Act and standards for affirmative action plans.

**PART I
THE NARRATIVE PORTION**

1.1 THE POLICY STATEMENTS

Standard:

530:10-3-33.1. Equal employment opportunity policy statement

All affirmative action plans shall contain an equal employment opportunity policy statement signed annually by the Appointing Authority. This policy shall include but not be limited to:

- (1) A statement and affirmation or reaffirmation of the Appointing Authority's equal employment opportunity policy;
- (2) The Appointing Authority's directions for employment decisions; and
- (3) A statement of the Appointing Authority's personal acceptance of overall responsibility for equal employment opportunity and affirmative action.

Support from top management is the first step in creating a strong affirmative action/equal employment opportunity program. Written policy statements evidence this by the appointing authority declaring and affirming an active commitment to the principles of equal employment opportunity/affirmative action and a policy against harassment. Policy statements on EEO/AA should reflect the following:

- A. The agency's commitment to a fundamental policy of non-discrimination for all persons without regard to race, color, religion, sex, national origin, age, political affiliation or opinion, or disability so long as the disability does not render the person unable to do the work for which employed.
- B. That equal employment opportunity will be a consistent consideration in all employment decisions, including recruitment, selection, appointment, promotion, training, delegation, discipline, layoffs, recall from layoffs, benefits, and any other terms and conditions of employment.
- C. The responsibility of all employees to fully support the affirmative action/equal employment opportunity policy and program objectives.
- D. Identification of primary and alternate persons, and their office locations and telephone numbers, who are responsible for monitoring and reporting the agency's affirmative action program.

1.1.1. Careful planning and monitoring are essential to ensure that no discrepancies exist between the written policies and practices within the agency. Often, well-written policies have been ignored and have become ineffective because the policy statements were not communicated or reinforced by appropriate action.

1.1.2. Finally, the policy statements should be revised as necessary (for example, when changes in the appointing authority or persons of primary responsibility occur); however, **written reaffirmation of the policy statements should be made annually.** Sample policy statements are provided on pages 4 and 5 of this manual.

EXAMPLE 1

**(AGENCY) POLICY STATEMENT
ON
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION**

Consistent with federal and state laws and guidelines established for equal employment opportunity and affirmative action, I would like to affirm my continuing policy to provide equal employment and advancement opportunity in all job classifications of this agency without regard to race, color, religion, sex, national origin, age, political affiliation or opinion, or disability so long as the disability does not render the person unable to do the work for which employed.

The principles of equal employment opportunity apply to all employment practices and personnel actions throughout the agency, including recruiting, hiring, promotions, demotions, separations, training, transfers, layoffs (RIF), recall, compensation, benefits and all other terms and conditions of employment. I want to remind each employee that all personnel actions as well as all decisions relating to employment practices are to be made in accordance with the spirit of equal employment opportunity for all.

We have developed an affirmative action plan to help us achieve our goal of equal employment opportunity for all. (NAME), located in _____, telephone number _____, e-mail address _____, has been delegated the responsibility of implementing the plan, including monitoring and evaluating our progress and reporting the results to me.

In addition, (NAME) is assigned to serve as the Affirmative Action/Equal Employment Opportunity Officer for this agency. He/she or a member of his/her staff is available to any employee having questions or needing assistance in regards to affirmative action or equal employment opportunity in this agency.

My personal commitment to this policy is complete. I accept overall responsibility for equal employment opportunity and affirmative action within this agency. I expect each and every employee to perform his/her duties and responsibilities in a manner that will demonstrate this agency's firm commitment in this most important area.

Signature of Appointing Authority

Print Appointing Authority's Name and Title

Date

EXAMPLE 2

POLICY AGAINST SEXUAL HARASSMENT

It is the policy of the **(AGENCY)** not to discriminate in any of its employment practices on the basis of race, color, religion, sex, national origin, age, political affiliation or opinion, or disability so long as the disability does not render the employee unable to do the work for which employed, or marital status. Any form of unlawful discrimination to which this policy applies is a very serious matter and will not be tolerated.

Sexual harassment is a form of unlawful discrimination based on sex. In some circumstances, it may violate other laws (for example, criminal assault). Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature. Conduct prohibited by this policy includes, but is not limited to:

Unwelcome sexual flirtation; Advances or propositions for sexual activity; Continued or repeated verbal abuse of a sexual nature, such as suggestive comments and sexually explicit jokes; Sexually degrading language to describe an individual; Remarks of a sexual nature to describe a person's body or clothing; Display of sexually demeaning objects and pictures; Offensive physical contact, such as unwelcome touching, pinching, or brushing the body; Coerced sexual intercourse; Sexual assault.

Such conduct is unlawful discrimination based on sex when submission to such conduct is explicitly or implicitly a requirement of the individual's employment, or used as a basis for any employment-related decision concerning that individual, or when such conduct has the purpose or effect of unreasonably interfering with the individual's work performance or creates an intimidating, hostile or offensive work environment.

Sexual harassment will not be condoned. Employees are absolutely prohibited from engaging in sexual harassing behavior. Furthermore, any supervisory employee, employee with authority for personnel matters, or other agent or officer of this agency who knows or should have known that an employee of this agency is being subjected to sexual harassment must either take immediate corrective action or report the facts to an Assistant Administrator or to me. *All employees have a duty to immediately report sexual harassment to a supervisor, an Assistant Administrator, or directly to me.*

Appropriate disciplinary measures will be taken against any employee who causes, engages in, encourages, condones or otherwise permits unlawful sexual harassment, as well as supervisory or other responsible employees who fail to take corrective action as provided above. Such conduct may be grounds for disciplinary action, up to and including termination of employment.

Any employee who believes that he or she has been the victim of sexual harassment may complain of discrimination based on sex in accordance with this agency's grievance procedure or the complaint may be filed directly with me. Any employee attempting to penalize or retaliate against another employee for filing a complaint, reporting an incident of sexual harassment, or cooperating with an investigation of alleged sexual harassment, shall be subject to disciplinary action, up to and including termination of employment.

It is the responsibility of all employees in this agency, supervisory and non-supervisory, to adhere to this policy and to use all reasonable efforts to further its goals and spirit.

Signature of Appointing Authority

Print Appointing Authority's Name and Title

Date

1.2 RESPONSIBILITY FOR AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY

Standard:

530:10-3-33.2. Responsibility for affirmative action and equal employment opportunity

All affirmative action plans shall include identification of persons responsible for equal employment opportunity within the agency and a description of their equal employment opportunity responsibilities. The list shall include but not be limited to:

(1) **The Appointing Authority.** The affirmative action plan shall describe the Appointing Authority's personal overall responsibility for equal employment opportunity and affirmative action within the agency;

(2) **The primary equal employment opportunity officer and assistants.** The affirmative action plan shall include names and job titles of persons who have primary responsibility for affirmative action plan implementation and equal employment opportunity within the agency according to 530:10-3-72;

(3) **Managers and Supervisors.** The Appointing Authority shall describe the responsibility managers and supervisors have for assuring equal employment opportunity in all personnel decisions. The Appointing Authority may identify specific managers and supervisors or various levels of managers and supervisors with specific responsibilities for assuring equal employment opportunity is considered in making personnel decisions within the agency; and

(4) **Employees.** The Appointing Authority shall describe the responsibility of all agency employees to contribute to equal employment opportunity within the agency.

1.2.1. Appointing Authority

It is the responsibility of the appointing authority to exercise overall responsibility for equal employment opportunity and affirmative action within each agency. He or she may, however, employ or designate a person to assist in the implementation and monitoring of the program.

Aside from the appointing authority, there are three other critically important areas of responsibility in the equal employment opportunity/affirmative action program:

- A. the EEO/AA Officer;
- B. the line managers, supervisors, and other key staff members; and
- C. every employee of the agency.

1.2.2. EEO/AA Officer

This person may also be called the Civil Rights Administrator, EEO Coordinator, Affirmative Action Officer or any other title appropriate to the needs of the agency. Depending on the size and structure of the organization, the duties of this individual may be the person's sole responsibility. Regardless, the person should be

- A. at a staff position with sufficient authority to ensure program implementation;
- B. supervised by and report directly to the appointing authority on all matters relating to the EEO/AA program; and
- C. knowledgeable of federal and state civil rights and equal opportunity legislation and regulations, current social and economic conditions and interrelationships of majority and minority groups, grievance investigations, interviewing techniques, and report writing.

Some general areas of responsibility appropriate for EEO/AA Officers include:

- A. Developing affirmative action programs, plans, policy statements, and internal communications.
- B. Assisting in the identification of problem areas and effecting solutions to problems.
- C. Designing and implementing audit and reporting systems to:
 - 1. Measure the effectiveness of the agency's program.
 - 2. Indicate remedial action needed to correct deficiencies.
 - 3. Determine the degree to which the agency's goals and objectives have been attained.
- D. Serving as liaison between the agency and the various state and federal compliance agencies.
- E. Serving as the agency's outreach and referral resource for minority organizations, women's organizations, organizations for disabled and older persons, and community action groups concerned with employment opportunities for minorities, women, disabled and older persons.
- F. Investigating cases and drafting recommendations for resolution of discrimination complaints.
- G. Keeping the agency's various organizational levels informed of developments in the EEO area.
- H. Inspecting the agency's various worksites to ensure that EEO information is being disseminated and prominently displayed when appropriate.
- I. Monitoring the agency's personnel practices to ensure no discriminatory practices exist.

Additional information on the qualifications and responsibilities of the EEO/AA Officer are covered in Section 840-2.3 of Title 74 of the Oklahoma Statutes and the Office of Personnel Management Job Family Descriptors for the Civil Rights Administrator series.

1.2.3. Line Managers/Supervisors

Managers and supervisors should understand their roles in the EEO/AA program. The responsibilities of the department heads, supervisors, personnel officers, and other key staff members

- A. should be spelled out in the written affirmative action plan; and
- B. may be communicated by other means, such as in the performance evaluation process and/or periodically covered in training or informational meetings.

Some of the responsibilities for managers and supervisors include:

- A. Assisting in the identification of problem areas and establishment of unit goals and objectives.
- B. Monitoring training programs and hiring and promotion patterns to eliminate any impediments to goal attainment.
- C. Conducting career counseling with employees, with special attention given to minorities, women, disabled persons and older workers to ensure they have full access to opportunities for career progression (i.e., transfers, promotions, training, etc.).
- D. Active involvement with organizations that work with or on the behalf of minorities, women, disabled and older persons, as well as community-based agencies and leaders.
- E. Scheduling regular meetings and training sessions with supervisory staff and/or employees to keep them abreast of policy changes and program objectives.
- F. Regular communication with staff to emphasize the agency's EEO policies, including the policy against harassment of employees.

1.2.4. Employees

In addition, every employee of the agency should know that they, too, have a responsibility to see that the EEO/AA program is faithfully executed.

It is recommended that the affirmative action plan contains a reminder to all employees of their responsibility to:

- A. Apply all laws, rules, regulations, policies, and procedures fairly and impartially toward all persons, without regard to race, color, religion, sex, national origin, age, political affiliation or opinion, or disability so long as the disability does not render the person unable to do the work for which employed.
- B. Exhibit an attitude of respect, courtesy, and cooperation toward fellow employees and the public.
- C. Aid supervisors and managers in carrying out their responsibilities with regard to the EEO/AA program.
- D. Be familiar with the affirmative action plan and make a good faith effort to complete their assigned responsibilities as identified in the plan.

1.3 DISSEMINATION OF AFFIRMATIVE ACTION PLANS

Standard:

530:10-3-33.3. Dissemination of affirmative action plans

All affirmative action plans shall include a description of the methods to be used for internal and external dissemination of the affirmative action plan.

Dissemination of the written plan is essential in having an effective EEO/AA program. In addition to containing the agency's EEO/AA policy statement itself, the affirmative action plan should include procedures on how the agency will communicate their plan, both internally and externally.

1.3.1. Internal

All channels for written communications within the agency should be available for use to inform employees of the affirmative action plan and to periodically reaffirm the agency's commitment to the EEO/AA policy.

Initial dissemination of the plan should be done in such a way that every employee understands their responsibilities in the EEO/AA program. Posting the policy on employee bulletin boards is a good method for internal dissemination. Other suggested methods include:

- A. Agency publication/newsletter
- B. Employee handbook
- C. Memo/letter to all employees
- D. Agency annual report
- E. Agency web site

Following initial dissemination of the plan, it is recommended that the appointing authority hold general employee staff meetings during which the plan can be explained. Senior-level staff members who can officially express the agency's commitment to the plan and answer questions regarding its implementation should conduct these meetings. The meetings should be positive in tone, reflecting a sincere attitude to achieve results, and not just merely complying with laws and regulations.

In addition, newly appointed first-line supervisors should be made aware of their responsibilities regarding the EEO/AA program as soon as possible upon assumption of their new duties. Newly assigned employees should also be briefed on the affirmative action plan and their responsibilities in the EEO/AA program.

1.3.2. External

External communication of the affirmative action plan is equally important. Overall success of the program greatly depends on the support of individuals, institutions, and organizations in the community, especially those within the immediate labor areas that are likely to be resources for applicant referrals.

A personal letter from the Appointing Authority transmitting the EEO/AA policy statement to such individuals, institutions, and organizations is a good way to emphasize the seriousness of the agency's commitment to the plan and affirmative action.

1.3.3. Some of the types of organizations that should receive the policy statement include:

- A. Recruitment resources
- B. Minority, women, disabled persons, and older persons organizations
- C. Community civic leaders
- D. Colleges and universities
- E. Trade schools

1.3.4. In addition, it is a good idea to display the policy statement where job applicants can see and read it. Other desirable information that may also be posted in areas of public and employee access includes:

- A. State and federal EEO and Fair Employment Practice posters/information
- B. State of Oklahoma Executive Department EEO Proclamation/policy
- C. The agency's EEO/AA policy statement
- D. Agency's policy against harassment

1.4 DISABLED PERSONS AND OLDER PERSONS

The need is self-evident to provide for equal employment opportunity for disabled persons and persons over 40 years old. Although goals do not apply, state agencies are obliged to comply with applicable requirements of federal and state laws and regulations pertaining to prohibited discrimination against any employee or applicant because of disabilities or age.

1.4.1. Disabled Persons

Persons with disabilities are protected against discrimination under the Americans with Disabilities Act (ADA) and ADA Amendment Act (ADAAA) if they are otherwise qualified. The ADAAA broadens the scope of protection available under the ADA by expanding the interpretation and definition of the term “disability” under the ADA of 1990, which prohibits discrimination against disabled workers or job applicants. "Qualified" simply means that they have the ability to do the job. In employment situations, three groups of people are considered to be disabled and are covered by the ADA:

- A. People who have physical or mental impairments, which substantially limits one or more major life activities. Blindness and paralysis are obvious examples of disabilities. Less obvious disabilities, such as epilepsy or diabetes, are also covered and are commonly known as "hidden disabilities or episodic impairments."
- B. People who have a record of disabilities, such as heart problems or former treatment for mental illness.
- C. People who are regarded as having a disability, because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. Examples might include people with a minor curving of the spine or a noticeable limp, which does not affect their job performance or limit a major life activity.

1.4.2. Age

Federal and state laws protect workers 40 years of age or older from arbitrary age discrimination in hiring, discharge, pay, promotions, fringe benefits, and other aspects of employment. The laws do not apply where age is a bonafide occupational qualification.

Recognizing the need to eradicate any and all forms of discrimination in the workplace, the EEO/AA program should be designed to promote employment of older persons on the basis of ability rather than age and avoid problems arising from the impact of age on employment.

1.5 TRAINING AND RECRUITMENT

Two other areas of attention in the EEO/AA program are training and recruitment. Training and recruitment in many ways may be considered the cornerstone of affirmative action in providing equal employment opportunity.

1.5.1. Training

Training opportunities should be provided to all employees on a non-discriminatory basis. Training should be designed to develop skills that will:

- A. improve employee's current performance;
- B. qualify employee for advancement to higher-level positions; or
- C. fill positions, which have been identified as line of progression.

1.5.2. Recruitment

The active recruitment of new employees affords the best opportunity to maintain an appropriate work force balance in all job categories. There are a number of agencies, schools, organizations, and groups that have offices and facilities across the state that provide recruitment referral services. The listing below reflects some of the recruitment sources that may be contacted. The local telephone directory for the specified recruitment area should be referred to for the current address and telephone number.

- A. State and Local Government Organizations
 - Oklahoma Employment Security Commission
 - Oklahoma Office of Personnel Management
 - State Professional Licensing Agencies
 - State Universities and Colleges
 - State Vocational-Technical Schools
 - Local Chamber of Commerce
- B. Minority and Women's Organizations
 - Business and Professional Women's Clubs
 - Business and Professional Minority Organizations
 - NAACP Affiliates
 - National Organization of Women
 - Urban League Affiliates
 - Hispanic Culture Center and Affiliates
 - Native American Center and Affiliates
 - Asian-American Affiliates
 - Religious Organizations and Leaders
- C. Other Organizations and Schools
 - YMCA and YWCA
 - United Way Organizations
 - Private Colleges and Schools with High Minority and Female Participation

1.6 EVALUATION OF PRECEDING YEARS' AA/EEO EFFORTS

Standard:

530:10-3-33.9. Evaluation of preceding years' AA and EEO efforts

(a) All affirmative action plans shall include a narrative evaluation of affirmative action and equal employment opportunity. The narrative shall include but not be limited to descriptions of:

(1) good faith efforts to achieve any goals and timetables established in the preceding plan;

(2) actions taken to correct any problem areas identified in the preceding year; and

(3) the status of recruitment, hiring, and promotion of females, males, and minorities within job categories.

(b) All affirmative action plans shall include a list of the number of new hires for the past 3 years on the Evaluation of Previous EEO Efforts (NEW HIRES) form prescribed by the Administrator.

NOTE: The above rule establishes standards for the following two documents:

- A. A “narrative evaluation” of affirmative action and equal employment opportunity [see (a) above] to be included in the Narrative Portion of the plan per this section of the manual; and**
- B. A “list of the number of new hires for the past 3 years” [see (b) above] to be submitted on the Evaluation of Previous EEO Efforts (NEW HIRES) form prescribed by the Administrator and included in the Statistical Portion of the plan per section 2.6 of this manual.**

The affirmative action program goals, like other organizational program objectives, should have a system for monitoring and measuring progress and for determining whether elements of the plan are being implemented as programmed.

This section of the affirmative action plan should include:

- A. a description of the agency's good faith efforts and progress made in meeting the goals established for the previous year based on recruitment and training activities, appointments, promotions, demotions, separations, and other personnel transactions, which occurred during the period; and
- B. an assessment of the status of the action items formulated to correct problem areas identified in the previous year's plan.

If any action item has not been accomplished as planned, an explanation should be provided describing:

- A. the difficulties encountered, and
- B. the reason(s) for not accomplishing the action item(s).

1.7 IDENTIFICATION AND ANALYSIS OF PROBLEM AREAS; CORRECTIVE ACTION

Standard:

530:10-3-33.10. Identification and analysis of problem areas; corrective action

All affirmative action plans shall include identification and analysis of any problem areas. This shall include but not be limited to, a summary of a review of all personnel policies, procedures, and practices that may influence the effectiveness of equal employment opportunity and affirmative action efforts. For each problem area identified, the Appointing Authority shall include:

- (1) a clear description of the problem;
- (2) a general statement of commitment to lessen the problem;
- (3) a description of results-oriented action plans to correct the problem;
- (4) a timetable for correcting the problem; and
- (5) assignment of responsibility for corrective action.

1.7.1. Areas of Review

The identification of problem areas and corrective action involves a review of personnel policies, procedures, and practices to discover barriers that influence or may affect the quality and effectiveness of the program to provide equal employment opportunity. Areas of review may include, but are not limited to the following:

- A. Imbalances in the work force with respect to minorities and women. Each instance of underutilization should be reviewed separately, identifying the affected group, the EEO category, and all circumstances relating to the underutilization.
- B. Applicant flow for minorities and women.
- C. The total selection process, such as position descriptions, application forms, interview procedures, final selection process, etc.
- D. Transfer and promotion patterns and practices.
- E. Training and development programs.
- F. Work place atmosphere.
- G. Technical compliance with the affirmative action plan, such as the internal and external dissemination of the EEO/AA policy, posting of EEO posters and information for access by applicants and employees, and similar activities.
- H. Recruitment and referral activities.

1.7.2. Reporting Corrective Actions

Identification of problem areas and corrective actions may be reported as follows:

- A. Problem Statement: A brief description of the situation or problem. The descriptive statement should relate to a specific EEO concern.
- B. Objective: A general statement of commitment to alleviate the problem or deficiency.
- C. Corrective Action: A list of specific action items or activities designed to correct the identified problem or deficiency. The corrective action items should not merely be general statements of intent, but rather concrete, specific activities designed to accomplish an objective.
- D. Responsibility: Assignment of person or persons (i.e., name, title, telephone numbers, e-mail address, etc.) responsible for completing the action items.
- E. Targeted Completion Date: A completion date should be established on each action item. For those activities which are ongoing, indicate "ongoing activity" and the date the action item was initiated; however, it is best to specify an exact completion date whenever possible as this will enable more precise monitoring of the action items for follow-up action where needed.

1.8 INTERNAL AUDIT AND REPORTING

1.8.1. An internal audit and tracking system will help monitor the personnel transactions, training, and recruitment activities for the purpose of reporting to management activities with any EEO/AA significance. An effective internal monitoring and evaluation system should enable the agency to determine the following on a regular basis:

- A. How much progress has been made towards meeting the objectives of the overall affirmative action program.
- B. Problem areas that need remedial action.
- C. Any objectives that have not been implemented.

1.8.2. An agency's internal audit and monitoring system may include:

- A. A description of the records maintained and methods used to report recruitment referrals, placements, promotions, demotions, separations, etc.
- B. A description of the content and frequency of any reports prepared to provide information to managers and supervisors on the achievement of the organizational EEO/AA program goals and timetables.
- C. A description of the methods and procedures used to inform the agency head and upper-level management of the agency's EEO/AA program efforts and progress, problem areas, and recommended corrective action.

PART TWO THE STATISTICAL PORTION

2.0 OVERVIEW

The affirmative action plan contains many technical, detailed, and complex reports and analyses. Preparation of the various reports involves a great deal of mathematical computations. Information about jobs and employees must be listed, sorted, copied, and summarized in a number of different ways. It is, therefore, well worth the effort to plan in detail the entire process, keeping in mind the possibilities for reducing errors and of being able to detect and correct errors that may occur. It is also a good idea to maintain some flexibility in choosing the method used for each analysis since the most suitable approach may not be evident at the time the project is initiated.

The following analyses and reports should be included in the statistical portion of the Affirmative Action Plan:

- 2.1 Job Group Analysis
- 2.2 Availability Analysis
- 2.3 Utilization Analysis and Annual Goals
- 2.4 Present Staffing Report
- 2.5 Personnel Transactions Report
- 2.6 Evaluation of Previous EEO Efforts (NEW HIRES)
- 2.7 Review of Job Groups Where Goals Were Not Attained

2.1 THE JOB GROUP ANALYSIS

Standard:

530:10-3-33.5. Job group analysis

Affirmative action plans for agencies authorized **15** or more full-time-equivalent employees shall include an analysis of the racial or ethnic and sexual composition of the present workforce by job groups. Job groups shall be based on similar work content, advancement opportunities, and rate of pay. Appointing Authorities shall:

- (1) Use the EEO job categories as a basis for job group analysis; however, an Appointing Authority may subdivide an EEO job category into several job groups;
- (2) Assign all jobs to job categories using the EEO job category listing published by the Administrator unless the level of assigned responsibility for the job family within the agency matches the description for another category better than the category listed in the Administrator's publication;
- (3) List the number of employees and the total number of male, female, total minority and individual employees in each job group; and
- (4) Complete the Job Group Analysis form prescribed by the Administrator to record job group analysis data.

To determine the utilization of minorities and females, all assigned job titles (including managerial) should be combined into "job groups" according to the make-up of the agency or specific work unit. This grouping of job titles is the basis for determining availability, identifying underutilization, and establishing goals and timetables.

2.1.1. Job Group

A job group is defined as one or more job titles having similar work content, advancement opportunities, and rate of pay. A job group may also be considered a job family.

- A. Work Content refers to a job's responsibilities and the related skills necessary to perform the job. Jobs requiring significantly different entry-level qualifications should not be grouped together.
- B. Advancement Opportunities refers to jobs that have similar advancement opportunities. "Dead-end" jobs that offer little opportunity for advancement should not be grouped with jobs that offer clear advancement opportunities.
- C. Rate of Pay or salaries of the jobs within a job group, as a general practice, should not vary greatly; however, in some cases it may be necessary to group together jobs that have similar work content and advancement opportunities, even though there is a great salary variance. Pay rates should be the least important factor in determining job groupings.

Job groups may differ with each employment setting and vary according to the size and complexity of the work force. The following is an example of how job groups may vary depending on the size of the agency. In the example below, note that a small agency may group

all "personnel professionals" together while a large agency may group four different job titles into four different job groups.

EXAMPLE

JOB FAMILY: Human Resources
EEO CATEGORY: Professionals

LARGE AGENCY
(1000 + employees)

MEDIUM AGENCY
(250-999 employees)

SMALL AGENCY
(less than 250 employees)

JOB GROUP

1. CRA/EEO Officer
2. HR Manager
3. Training Officer
4. Safety Officer

1. HR Admin.
2. Training/Safety

1. HR Admin.

2.1.2. Forming the Job Groups

- A. Each EEO category may be divided into two or more job groups (the exact number depends on the variety of jobs in each category and on the number of employees involved). In some instances, small agencies may simply use EEO categories instead of job groups.
- B. Job groups should have enough incumbents to permit a meaningful utilization analysis. The criterion for determining how many incumbents make an adequate job group is whether the job group permits the projection of a hiring goal if underutilization is identified. An example might be a small agency that has only one employee identified as an Official/Administrator. Obviously, one incumbent is not enough to permit a meaningful goal projection. In this case, the job group or EEO category would be determined first; then, when preparing to establish goals for the year, it would be combined with the next highest job group. In this example, if the next highest job group was Professionals comprised of section heads, the one Official/Administrator would be included in the Professionals job group of section heads when preparing to establish goals for the year.
- C. It is nearly impossible to design all perfect job groups. The major concern is whether the job groups present a true picture of the distribution and availability of minority and female employees. For example, if female administrative assistants, whose primary duties are secretarial in nature, are grouped in the Professionals job group with other job titles having primarily male incumbents, it would not give a true picture of the female distribution. In this case, it would be best to include the female administrative assistants in a separate job group (perhaps the Administrative Support job group). If there are too few incumbents, the job group could later be combined with another similar job group for goal-setting purposes.

- D. The main points to remember when forming job groups are the three criteria introduced above: work content, advancement opportunities, and rate of pay. If it appears reasonable to combine job groups because of a small number of employees and there is still similarity of content, opportunities, and wages, then do so; otherwise, it may be necessary to form small job groups and later decide whether to combine them for goal setting purposes. For obvious reasons, it is desirable to keep the number of job groups to a minimum.

2.1.3. INSTRUCTIONS FOR COMPLETING THE JOB GROUP ANALYSIS FORM

The Job Group Analysis form is used to group the job titles according to work content, advancement opportunities and rate of pay, and to show the job group composition by race/ethnicity and sex.

HEADINGS – This line is already populated. It indicates the appropriate EEO category and job group that applies but may be divided into two or more job groups. In some instances, small agencies might use EEO categories as job groups because of their small work force.

SALARY or PAY BAND – Indicate the annual salary or pay band of employees occupying positions in the job title. **If pay band salaries are different than the state classified service salary schedule, attach the appropriate pay plan schedule for reference.**

JOB FAMILY TITLE – List all job titles assigned to the particular job group.

TOTAL EMPL – This column will self-compute from the total number of employees assigned for each job title.

MALE – Enter the number of male employees assigned for each job title.

FEMALE – Enter the number of female employees assigned for each job title.

TOTAL MINORITIES – This column will self-compute from the total number of minorities assigned for each job title.

TOTAL FOR JOB GROUP (NUMBER) – This row will self-compute from the work force information for each job title.

TOTAL FOR JOB GROUP (PERCENT) – This row will self-compute the percentages of total employees from the work force information for each job title.

The following pages contain an illustration of a completed Job Group Analysis form.

2.2 THE AVAILABILITY ANALYSIS

Standard:

530:10-3-33.6. Availability analysis

Affirmative action plans for agencies authorized **15** or more full-time-equivalent employees shall include an analysis of the number of minorities and females available to the workforce of the agency. An Appointing Authority shall:

- (1) Prepare an availability analysis for each job group;
- (2) Use the civilian labor force information identified by the Administrator to obtain the raw availability percentage of minorities and females in the workforce, unless more appropriate data is available;
- (3) Consider the following availability factors when considering how individuals are usually selected for employment within each job group:
 - (A) Percentage of minorities or females having requisite skills in the reasonable recruitment area. The reasonable recruitment area is defined as the geographical area from which the agency usually seeks or reasonably could seek workers to fill the positions in question;
 - (B) Percentage of minorities or females promotable, transferable, and trainable within the agency's organization. Trainable refers to those employees within the agency who, with appropriate training that the Appointing Authority is reasonably able to provide, could become promotable or transferable during the plan year. Unless a greater weight is approved by the Administrator, the weight for this factor shall not exceed **15%**; and
 - (C) Other relevant factors if approved by the Administrator;
- (4) Determine the appropriate geographic area for each factor used. This shall include the recruitment area from which most employees are drawn;
- (5) Weight each factor used. The weight shall represent the percentage of all employees in the job group who come from the source referenced in a particular factor, and the total of all factors used shall always equal **100%**; and
- (6) Complete the Availability Analysis form prescribed by the Administrator to record availability analysis.

For AA/EEO purposes, availability is defined as the percentage of minorities or females in the relevant recruitment area who have the skills necessary for entry into a specific job group or, who are capable of acquiring such skills. The purpose of the availability analysis is to determine the number of persons by race/ethnicity and gender that is available for employment within each of the job groups. The availability analysis provides the basis for determining whether or not minorities and women are underutilized in the work force and the degree of significance of any such underutilization.

The availability analysis involves three major steps:

- (1) determining the sources providing employees to job groups;
- (2) calculating the number of persons available by race/ethnicity and gender from each source; and

- (3) determining the relative number of employees provided by each source.

There are various acceptable methods and sources used in determining the availability for minorities and females. The best method and source, or combination of sources, for an agency to use depends on many internal factors, including the agency's organizational structure and work force complexity.

One method that may be adopted for use in determining minority and female availability is explained below. It is patterned after the procedures used by the U.S. Office of Federal Contract Compliance Program (OFCCP). However, there is nothing in this manual that requires an agency to use this method or to comply with any regulation of the OFCCP. An agency should pick the method and sources that are best suited to its needs and objectives.

2.2.1. The Factor Analysis Method

Considers the following sources and factors to determine availability:

FACTOR 1 – Percentage of Minorities or Females Having Requisite Skills in the Reasonable Recruitment Area applies to minorities and females and will be different for each job group. Source: Most current Census Data or any other external data relative to the specific industry.

FACTOR 2 – Percentage of Minorities or Females Promotable, Transferable, and Trainable within the Agency's Organization applies to minorities and females. Look at the internal work force, determine what group(s) would serve as feeder groups for the particular job group, and then decide what percentage of the feeder group(s) of minorities and females are promotable, transferable, or trainable to the upper-level job group. Source: Agency Data.

FACTOR 3 – Other Relevant Factors if Approved by the Administrator

In using the factor analysis method, each factor should be considered separately for all job groups, as well as separately for minorities and females. The steps involved are summarized below:

- A. Decide which of the factors are applicable to the particular job groups.
- B. Gather the raw availability data on each factor to be used.
- C. Convert the data to decimal form.
- D. Consider the relative importance of each factor as a source of employees.
- E. Express the relative importance of each factor in decimal form. **(The sum of all weight factors must be 1.00 or 100 percent)**
- F. Multiply the availability percentage for each factor by the assigned decimal weight for that factor.
- G. Add the products of the factors to find the total availability estimate for the job group.

2.2.2. Which Factors to Use

All of the factors should be carefully reviewed. The best method of deciding which factors to use is to review how individuals are usually selected for employment within each job group. Are they usually hired from the outside or are they usually promoted from within? If they are usually promoted from within, then Factor 2 will be the starting point in deciding which factor to use. There could be instances when just a single factor will apply.

It is the combination of all of the factors and the relative value weight given to each of them that allow for the computation of the final availability.

The process of reviewing how employees were selected is more thoroughly explained in the following section on weighing the factors.

2.2.3. Weighing the Factors for Figuring Final Availability

- A. Before the final availability can be determined, a decision must be made as to the relevant importance of each factor used as a source of employees for each job group. The importance of each factor is then translated into a value weight. A value weight is a numerical (decimal) representation of the relative importance of the factor.

Which factors to use and the value weights to assign may be decided by examining each current employee as indicated above using the following questionnaire technique:

1. Was the employee hired from an external source within your reasonable recruitment area?
 - If Yes, this would indicate that Factor 1 will apply.
 - If No, then continue with the next question.
2. Did the employee enter the job group by promotion, transfer, or reinstatement from another job group?
 - If Yes, this would indicate that Factor 2 will apply.
 - If No, then continue with the next question.
3. Was the employee hired from a source that was not covered by questions 1 or 2?
 - If Yes, this would indicate that Factor 3 will apply.
 - You need to specifically identify your source of statistics and ensure that the Administrator has previously approved of its use.

- B. The steps involved in arriving at the value weights are as follows:

Step A - Note the number of incumbent employees matching each factor. Each employee can only match one question so that the total in the survey is the same as the total in the job group.

Step B - The total number of employees matching each question should be divided by the total in the job group to give a percentage. The percentage will represent the weight.

The above steps are demonstrated in the following examples:

Question #1: Of the 75 incumbent employees, 60 were hired from outside of the State system. $60/75 = 0.80$, therefore, an 80 percent value weight would be assigned to Factor 1.

Question #2: Of the remaining 15 employees, all were promoted from another job group. $15/75 = 0.20$, therefore, a 20 percent value weight would be assigned to Factor 2.

RESULTS

<u>Factor</u>	<u>Value Weight</u>
#1	.80
#2	.20
#3	<u>.00</u>
	1.00

The above results are then recorded on the Availability Analysis form.

2.2.4. INSTRUCTIONS FOR COMPLETING THE AVAILABILITY ANALYSIS FORM

This form is used to determine the availability of minorities and females. It is not necessary that all factors be used; however, each factor should be considered. A separate form must be completed for each job group.

HEADINGS – These lines are already populated.

FACTORS – Select the factor(s) applicable to recruitment effort for each job group. Other relevant factors not covered in the external and internal factors should be included in Factor 3.

RAW AVAILABILITY – Enter the raw availability percentages for each applicable factor used for each protected group. Review 2.2.1 to determine Source of Statistics.

WEIGHT FACTOR – Enter a value weight for each factor used. The value weights may be subjectively assigned or based on objective research. The sum of all weight factors must total 1.00 or 100 percent.

WEIGHTED AVAILABILITY – This section will self-compute by multiplying the “Raw Availability %” by the “Weight Factor” for each protected group and each factor used, and will enter the product in decimal format.

SOURCE OF STATISTICS – Identify the document that provided the Raw Availability data. Review 2.2.1 to determine Source of Statistics.

TOTAL – This row will self-compute from all the value weights assigned in the Weight Factor column. The sum of all weight factors must total 1.00 or 100 percent.

FINAL AVAILABILITY – This section will self-compute by summing each column. The Final Availability number for each group will populate the Utilization Analysis form for determining underutilization.

The following page illustrates an example of a completed Availability Analysis form.

Availability Analysis

Agency Name and Code: <u>Oklahoma State Technical Commission, #000</u>		June 30, 2011 (date)											
EEO Category: <u>Professionals</u>		Job Group:											
Factors	Raw Availability %					Weight Factor	Weighted Availability *					Source of Statistics	
	Black	Hisp	As/PI	AI/AN	Total Min		Black	Hisp	As/PI	AI/AN	Total Min		Fem
Percentage of minorities or females having requisite skills in the area which the agency can reasonably recruit.	4.70	2.00	2.20	5.10	17.20	0.30	1.41	0.60	0.66	1.53	5.16	16.68	2000 Census EEO Statewide Oklahoma
Percentage of minorities or females promotable, transferable, and trainable within the agency's organization.	12.60		6.30	18.80	37.50	0.70	8.82		4.41	13.16	26.25	52.50	Present Staffing report as of June 30, 2010
3. Other relevant factors													
Total						1.00	10.23	0.60	5.07	14.69	31.41	69.18	
Final Availability							10.2%	0.6%	5.1%	14.7%	31.4%	69.2%	

* (Raw Availability % X Weight Factor = Weighted Availability)

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2.3 THE UTILIZATION ANALYSIS AND ANNUAL GOALS

2.3.1. Utilization Analysis

Standard:

530:10-3-33.7. Utilization analysis

(a) Affirmative action plans for agencies authorized **15** or more full-time-equivalent employees shall include an analysis of the utilization of minorities and females in the agency's workforce for June 30th of each year.

(b) Appointing Authorities shall use a commonly recognized statistical method to determine if underutilization exists, i.e., there are fewer minorities or women in a particular job group than would reasonably be expected by their availability.

(1) Agencies authorized less than **200** full-time-equivalent employees shall use the "80% method" to determine underutilization, unless another method is approved by the Administrator. The "80% method" declares underutilization to exist if the females or minorities in a job group are less than 80% of their availability or if the number of females or minorities in a job group is zero.

(2) Agencies authorized **200** or more full-time-equivalent employees may use the "80% method" as described in paragraph (1) of this subsection, or may use one of the following methods:

(A) The "whole person" method. When this method is used, underutilization is declared if the number of females or minorities is as much or more than one person below the number that would cause the job group representation percentage to match exactly the availability percentage.

(B) The "two standard deviation" method. When this method is used, underutilization is declared if the number of females or minorities in a job group is more than two standard deviations below availability.

(C) Another method approved by the Administrator.

(c) Appointing Authorities shall complete the Utilization Analysis and Annual Goals form prescribed by the Administrator to show a comparison of the actual employment of minorities and women with their relative availability in the applicable job groups.

(d) A declaration of underutilization in an affirmative action plan shall not constitute an admission of wrongdoing or a determination that discriminatory practices are occurring in the agency.

The utilization analysis is a comparison of the estimated availability percentages (calculated in the availability analysis) to the actual employment percentages (reflected in the job group analysis). This analysis serves as the basis for setting minimum goals and establishing timetables. For example, if the representation of females among incumbents in a particular job group is far enough below the corresponding estimated availability, females should be declared underutilized in that job group and a goal set for the hiring or promotion of females into that job group. The same goal establishment procedure applies to each minority group found to be underrepresented.

"Underutilized" is defined as having fewer minorities or women in a particular job group than would reasonably be expected by their availability. No method has been universally prescribed for determining when "underutilization" should be declared. The best guidance seems to be that there should be some statistical significance in the difference between "reasonably expected" utilization (availability X incumbents) and actual utilization.

Some of the commonly used statistical methods for determining if underutilization exists are:

- A. The Whole Person Method
- B. The 80 Percent Method
- C. The Two Standard Deviation Method

2.3.1.1. The Whole Person Method

Using this method, underutilization is declared if the number of females or minorities in a job group is as much or more than one person below the number that would cause the job group representation percentage to match exactly the availability percentage.

EXAMPLE 1

<u>Job Group</u>	<u>Total Employees</u>	<u>Avail %</u>	<u>Protected Group Employees %</u>
Administrative Support	100	22%	20%

Underutilization exists because 22 protected class employees (100 x 22%) are required to match the availability percentage and there are only 20 protected employees (100 x 20%) in the job group. The difference is more than one whole person short (22-20 = 2). Since 2 is greater than 1, underutilization exists.

EXAMPLE 2

<u>Job Group</u>	<u>Total Employees</u>	<u>Avail %</u>	<u>Protected Group Employees %</u>
Technicians	20	22%	20%

Underutilization does not exist because 22 percent of 20 employees (20 x 22%) is 4.4 people and there are 4 protected class members (20 x 20%) in the job group. The shortfall for the job group is 0.4 person (4.4 - 4 = 0.4). Since 0.4 is less than 1, no underutilization exists.

2.3.1.2. The 80 Percent Method

According to this method, underutilization exists if the representation of protected class members in a job group is less than 80 percent of their availability.

EXAMPLE 3

<u>Job Group</u>	<u>Total Employees</u>	<u>Protected Group Employees %</u>	<u>Avail %</u>
(1) Administrative Support	10	40%	45%
(2) Administrative Support	10	0%	5%

For the first protected class, **there is no underutilization** because 40% is more than 80% of 45% (36%). In the second protected class, **there is underutilization** because 0% is less than 80% of 5% (4%).

Note: Since 0 percent is less than 80 percent of any positive number, the 80 percent method will always indicate underutilization when there are no protected class members in a job group and their availability is more than 0 percent.

EXAMPLE 4

<u>Job Group</u>	<u>Total Employees</u>	<u>Protected Group Employees %</u>	<u>Avail %</u>
Professionals	200	41%	50%

In this example, **no underutilization exists** because 41% is more than 80% of 50% (40%); also because there are 82 protected class members (200 x 41%) and 80 protected class members are required for parity [(200 x 50%) x 80%] = [100 x 80%].

2.3.1.3. Two Standard Deviation Rule

A *standard deviation* is a measure of statistical disparity, just as a mile is a measure of distance. It provides that if the number of protected class members in a job group is more than two standard deviations below availability, then that class is underutilized. Origin of this method is associated with normal random variable statistics, i.e.:

- A. The probability is 0.05 that a normal random variable will differ from its mean by as much or more than 1.96 standard deviations.
- B. The probability is 0.025 that a normal random variable will be less than its mean by as much or more than 1.96 standard deviations.
- C. It is unusual for a normal random variable to take a value of more than about 2 standard deviations below its mean.
- D. The probability that a normal random variable will take a value as many or more than two standard deviations below its mean is 0.0228.

EXAMPLE 5

<u>Job Group</u>	<u>Total Employees</u>	<u>Protected Group Employees %</u>	<u>Avail %</u>
(1) Administrative Support	30	40%	45%
(2) Administrative Support	30	0%	5%

(1) The number of standard deviations by which 12 protected class members (30 x 40%) differs from the expected 13.5 members (30 x 45%) is: $(12-13.5)/\text{square root of } (30 \times 0.45 \times 0.55^*) = -0.55$.

(2) The number of standard deviations by which 0 protected class members differs from the expected 1.5 members (30 x 5%) is: $(0-1.5)/\text{square root of } (30 \times 0.05 \times 0.95^*) = -1.26$.

Since neither of these numbers is more negative than -2, **there is no underutilization.**

* Calculated by subtracting 1.00 minus the Avail %.

EXAMPLE 6

<u>Job Group</u>	<u>Total Employees</u>	<u>Protected Group Employees %</u>	<u>Avail %</u>
Professionals	200	41%	50%

The number of standard deviations by which 82 protected class members (200 x 41%) differs from the expected 100 members (200 x 50%) is: $(82-100)/\text{square root of } (200 \times 0.5 \times 0.5^*) = -2.55$.

Since the number -2.55 is more negative than -2, **there is underutilization.**

* Calculated by subtracting 1.00 minus the Avail %.

2.3.2. Goals and Timetables

Standard:

530:10-3-33.11. Goals and timetables

Affirmative action plans for agencies authorized **15** or more full-time-equivalent employees shall include flexible goals and timetables for job groups in the agency's workforce that show underutilization. Agencies using the "80% method" are not required to establish hiring goals for females and each minority group that is underutilized within a job group. For each job group in which underutilization is found for minorities or females, an Appointing Authority shall consider affirmative action to increase the representation of the group that is underutilized. An Appointing Authority shall:

- (1) List job groups that show underutilization during the affirmative action plan period; and
- (2) Complete the Utilization Analysis and Annual Goals form prescribed by the Administrator.

Hiring goals are the agency's expressions of "good faith" commitment to affirmative action.

Consideration should be given to data on the labor supply, including the number of minorities and women possessing necessary skills and training who are available to work. Consideration should also be given to the percentage of minority group members and women applying for, entering, moving within, and leaving the employment area. Data should be developed for the different organizational levels and various other categories, such as:

- A. Department, section, division, or other major components of the agency.
- B. Geographic work location.
- C. Major job groups, such as Officials and Administrators, Professionals, Technicians, Protective Service, Paraprofessionals, Administrative Support, Skilled Craft, and Service/Maintenance workers.

Whenever there is an underutilization that justifies remedial action, goals equal to the final availability percentage (calculated in the availability analysis) will automatically appear on this form for females and minorities for each job group.

One way to forecast vacancy and promotional opportunities is to conduct a survey of turnover and promotions that occurred during the past year, adjusting plus or minus for any expansions or contractions. The timetables for long-range goals should be established based on the opportunities that are projected.

2.3.3. INSTRUCTIONS FOR COMPLETING THE UTILIZATION ANALYSIS AND ANNUAL GOALS FORM

The Utilization Analysis and Annual Goals form is used to show both a comparison of the actual employment of minorities and women (Job Group Analysis) with their relative availability (Availability Analysis) in the applicable job groups and appropriate goals.

Underutilization is defined as having fewer minorities or women in a particular job group than would reasonably be expected by their availability. Where the utilization is less than the availability and the agency's significance test is satisfied (i.e., whole person, 80% method, and 2-standard deviation), underutilization is declared.

For each job group in which underutilization is found for minorities and females (indicated by a "Y" for Yes"), a goal equal to the final availability percentage (calculated in the availability analysis) will automatically appear on this form.

Timetables for vacancy and promotional opportunities are to be considered. Timetables should be established with the help of someone who is knowledgeable of the number of vacancies and promotions that are likely to occur in each job group during the affirmative action plan year.

THIS FORM WILL SELF-POPULATE FROM THE JOB GROUP ANALYSIS and AVAILABILITY ANALYSIS FORMS.

NOTE:

At the bottom of the Utilization Analysis and Annual Goals form is the significance test method used in determining underutilization, Whole Person Method or 80% Method. Be sure to submit the proper form based on the size of your agency.

The following page illustrates an example of a completed Utilization Analysis and Annual Goals form.

Utilization Analysis* and Annual Goals

Job Group	Incumbents										Utilization*																					
	Total		Black		Hispanic		Asian/Pacific Islander		American Indian/Al N		Total Minorities		Female																			
	Black	Hisp	ASPI	AI/AN	Fem	Total Min.	% Avail	% in Under Cat	Goal	Util	% Avail	% in Under Cat	Goal	Util	% Avail	% in Under Cat	Goal	Util														
Official / Administrator	5	0	0	1	3	1	3.6%	0.0%	Y	3.6%	0.0%	Y	2.3%	0.0%	Y	1.0%	0.0%	Y	1.0%	20.0%	N	0	6.6%	80.0%	N	0						
Professionals	16	2	0	1	3	12	10.2%	12.5%	N	0	0.6%	0.0%	Y	0.6%	0.0%	Y	5.1%	6.3%	N	0	14.7%	18.6%	N	0	31.4%	37.5%	N	0	69.2%	75.0%	N	0
Technicians	3	0	0	1	0	1	4.9%	0.0%	Y	4.9%	0.0%	Y	1.0%	0.0%	Y	0.7%	33.3%	N	0	5.1%	0.0%	Y	5.1%	14.0%	33.3%	N	0	59.7%	33.3%	Y	59.7%	
Protective Services	0	0	0	0	0	0	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!
Paraprofessionals	0	0	0	0	0	0	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!
Administrative Support	2	1	0	0	0	2	5.0%	50.0%	N	0	2.0%	0.0%	Y	2.0%	0.0%	Y	0.6%	0.0%	Y	0.6%	4.6%	0.0%	Y	4.6%	21.2%	50.0%	N	0	70.1%	100.0%	N	0
Skilled Craft Workers	0	0	0	0	0	0	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!
Service Maintenance	0	0	0	0	0	0	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!	#####	#DIV/0!	0.0%	#DIV/0!

* Significance Test: 80% Method

OPM-AA/EEO-5 (06/07/2010)

Agency Name and Code: Oklahoma State Technical Commission. #000

Date: June 30, 2011

2.4 PRESENT STAFFING REPORT

Standard:

530:10-3-33.4. Present staffing report

All affirmative action plans shall include a report of the distribution of employees among the EEO job categories as of June **30** immediately before the beginning of the new affirmative action plan period. On the Present Staffing form prescribed by the Administrator, the Appointing Authority shall list the total number of full-time employees within each EEO job category.

2.4.1. This report reflects the distribution and composition of the agency's work force by the EEO job categories. The data provides a snapshot of the total number of employees throughout the agency by race/ethnicity and gender for each of the applicable EEO categories. The information in this report will be used by OPM in the annual EEO/AA Statistical Report.

2.4.2. INSTRUCTIONS FOR COMPLETING THE PRESENT STAFFING REPORT

THIS FORM WILL SELF-POPULATE FROM THE JOB GROUP ANALYSIS FORM.

The following page illustrates an example of a completed Present Staffing Report form.

PRESENT STAFFING

Agency Name and Code: Oklahoma State Technical Commission, #000 EEO Coordinator: As of: June 30, 2011

Job Categories	TOT EMP	MALE						FEMALE						
		WHITE	BLACK	HISP	AS/PI	A/AN	TOT MALE	WHITE	BLACK	HISP	AS/PI	A/AN	TOT FEM	TOT MIN
Official/ Admin	5	2	0	0	0	0	2	2	0	0	0	1	3	1
% Represented		40.0	0.0	0.0	0.0	0.0	40.0	40.0	0.0	0.0	0.0	20.0	60.0	20.0
% CLF		53.9	1.8	1.3	0.7	2.7	62.4	31.0	1.8	1.0	0.3	2.2	37.6	15.1
Professionals	16	2	1	0	0	1	4	8	1	0	1	2	12	6
% Represented		12.5	6.3	0.0	0.0	6.3	25.0	50.0	6.3	0.0	6.3	12.5	75.0	37.5
% CLF		37.3	1.8	0.9	1.3	1.8	44.4	45.5	2.9	1.1	0.9	3.3	55.6	17.2
Technicians	3	2	0	0	0	0	2	0	0	0	1	0	1	1
% Represented		66.7	0.0	0.0	0.0	0.0	66.7	0.0	0.0	0.0	33.3	0.0	33.3	33.3
% CLF		32.4	2.2	1.2	0.6	2.5	40.3	45.7	4.9	1.0	0.7	5.1	59.7	21.9
Protective Services	0	0	0	0	0	0	0	0	0	0	0	0	0	0
% Represented		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!						
% CLF		66.2	4.5	1.7	0.3	7.1	83.3	12.2	1.8	0.5	0.2	1.3	16.7	21.6
Paraprofessionals	0	0	0	0	0	0	0	0	0	0	0	0	0	0
% Represented		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!						
% CLF		32.4	2.2	1.2	0.6	2.5	40.3	45.7	4.9	1.0	0.7	5.1	59.7	21.9
Admin Support	2	0	0	0	0	0	0	1	1	0	0	0	2	1
% Represented		0.0	0.0	0.0	0.0	0.0	0.0	50.0	50.0	0.0	0.0	0.0	100.0	50.0
% CLF		23.5	2.1	0.9	0.3	1.7	29.9	55.3	5.0	2.0	0.6	4.6	70.1	21.2
Skilled Craft Workers	0	0	0	0	0	0	0	0	0	0	0	0	0	0
% Represented		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!						
% CLF		73.3	3.4	5.3	0.5	7.0	93.5	4.8	0.4	0.3	0.2	0.5	6.5	21.9
Service Maintenance	0	0	0	0	0	0	0	0	0	0	0	0	0	0
% Represented		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!						
% CLF		40.5	4.8	5.2	0.8	4.8	58.5	28.4	4.1	2.6	0.9	3.7	41.5	31.1
TOTALS	26	6	1	0	0	1	8	11	2	0	2	3	18	9
% Represented		23.1	3.8	0.0	0.0	3.8	30.8	42.3	7.7	0.0	7.7	11.5	69.2	34.6
% CLF		41.7	3.0	2.8	0.7	3.5	53.8	35.4	3.4	1.7	0.6	3.3	46.2	22.9

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2.5 PERSONNEL TRANSACTIONS REPORT

Standard:

530:10-3-33.8. Personnel transaction report

All affirmative action plans shall include a report of personnel transactions. The report shall be an agency-wide summary of personnel transactions showing the progress made toward achieving any affirmative action goals for the preceding year. An Appointing Authority shall:

(1) List the total number of employees and the total number of male, female, individual minority, and total minority employees present at the beginning of the preceding plan period and the corresponding numbers at the end of the period. If the numbers for the beginning of the period are inconsistent with the numbers submitted in the preceding plan, the Appointing Authority shall include an explanation for the differences;

(2) List the number of male, female, individual minority, and total minority employees affected by the following types of personnel transactions during the period;

(A) **New hires.** This type includes new full-time appointments, transfers in, reinstatements, and recalls, but does not include temporary, part-time, or time-limited appointments;

(B) **Promotions.** In addition to promotions, this type includes direct reclassifications resulting in a higher rate of pay, and any other transactions resulting in an employee being reclassified to a different state job with a higher pay band assignment or to a higher level within the same job family;

(C) **Demotions.** This group includes both voluntary and involuntary demotions, direct reclassifications to a lower pay band, and any other transactions resulting in an employee being assigned to a lower pay band or to a lower level in the same job family;

(D) **Separations.** This group includes discharges, resignations, transfers out, retirements, reduction-in-force, or other voluntary or involuntary separation from full-time employment with the agency, but not including the separation of persons on temporary, part-time, or time-limited appointments.

(3) List summary information on the Personnel Transactions Report form prescribed by the Administrator.

2.5.1. The Personnel Transactions Report provides an agency-wide summary of the progress made toward achieving the established affirmative action plan goals for the reporting period. It shows a comparison of the total number of employees at the beginning and end of the report period, and the total number of completed personnel transactions. This data will be used as input for the annual EEO/AA Status Report.

2.5.2. INSTRUCTIONS FOR COMPLETING THE PERSONNEL TRANSACTIONS REPORT

This report provides a snapshot of the agency for the reporting year. It shows the number of employees the agency had at the beginning and end of the year, how many were hired, left, promoted, and demoted.

1. EMPLOYEES AT BEGINNING OF PERIOD – Indicate the number of employees employed by the agency at the beginning of the period (on July 1) by race and gender. This information should be the same as preceding year’s “Employees at End of Period” figures. **If any figures are different, input correct figures and provide an explanation at the bottom of the page. (All Total, Total Min, and percentage of total for each column will self-compute.)**
2. EMPLOYEES AT END OF PERIOD – This row will self-populate from the Job Group Analysis and Present Staffing forms, and compute the percentage of total for each column.
3. NET INCREASE (DECREASE) – This row will self-compute by subtracting the number of employees at the beginning of the period from the number of employees at the end of the period (Line 2 – Line 1).
4. PERSONNEL TRANSACTIONS **(All Total and Total Min columns will self-compute.)**
 - A. New Hires (#): Indicate the actual number of new full-time appointments made during the reporting year. (Include inter-agency transfers, recalls and reinstatements but exclude temporary, part-time, and time-limited appointments.)
NOTE: This line will self-populate from the Evaluation of Previous EEO Efforts (NEW HIRES) form.
 - B. New Hires (%): Each column will self-compute the percentage of new hires made during the reporting year.
 - C. Promotions (#): Insert the actual number of promotions made during the reporting year. (For EEO/AA purposes, a promotion is when a person receives a higher rate of pay at the end of the reporting period than at the beginning.)
 - D. Promotions (%): Each column will self-compute the percentage of promotions made during the reporting year.
 - E. Demotions: Insert any downgrade resulting in a permanent reduction in a lower rate of pay. A reduction may be voluntary or involuntary.
 - F. Separations: Insert any voluntary or involuntary separation from a permanent, full-time position (discharges, resignations, transfers, retirements, layoffs, etc.).
5. COMMENTS – Provide explanation of unusual or changed data.
6. **NOTE: THIS FORM MUST BALANCE.** Use one of the following formulas as a check:
 Long Formula: Line 1 + Line 4A – Line 4D = Line 2
 OR
 Short Formula: Line 4A – Line 4D = Line 3.

The following page illustrates an example of a completed Personnel Transactions Report form.

2.6 EVALUATION OF PREVIOUS EEO EFFORTS (NEW HIRES)

Standard:

530:10-3-33.9. Evaluation of preceding years' AA and EEO efforts

(a) All affirmative action plans shall include a narrative evaluation of affirmative action and equal employment opportunity. The narrative shall include but not be limited to descriptions of:

(1) good faith efforts to achieve any goals and timetables established in the preceding plan;

(2) actions taken to correct any problem areas identified in the preceding year; and

(3) the status of recruitment, hiring, and promotion of females, males, and minorities within job categories.

(b) All affirmative action plans shall include a list of the number of new hires for the past 3 years on the Evaluation of Previous EEO Efforts (NEW HIRES) form prescribed by the Administrator.

NOTE: The above rule establishes standards for the following two documents:

- A. A “narrative evaluation” of affirmative action and equal employment opportunity [see (a) above] to be included in the Narrative Portion of the plan per section 1.6 of this manual; and**
- B. A “list of the number of new hires for the past 3 years” [see (b) above] to be submitted on the Evaluation of Previous EEO Efforts (NEW HIRES) form prescribed by the Administrator and included in the Statistical Portion of the plan per this section of the manual.**

2.6.1 The affirmative action program goals, like other organizational program objectives, should have a system for monitoring and measuring progress and determining whether elements of the plan are being implemented as programmed.

The top half of this form compares the actual number of new full-time appointments the agency filled with minorities and females in the past three-years and statistically shows any good faith efforts and progress made by the agency in meeting their established goals.

The bottom half of the form identifies how the agency specifically utilized the new appointments made during the current reporting period based on the EEO job categories.

2.6.2. INSTRUCTIONS FOR COMPLETING EVALUATION OF PREVIOUS EEO EFFORTS (NEW HIRES) REPORT

A. TOP OF FORM

HEADINGS – These lines are already populated.

NEW HIRES FY (for 1 and 2 only)

1. Identify the fiscal year for the affirmative action plan prepared year-before-last and insert that year's new hire statistical data by ethnic/minority group.
2. Identify the fiscal year for the affirmative action plan prepared last year and insert that year's new hire statistical data by ethnic/minority group.

TOTAL NEW HIRES – This column will self-compute.

WHITE, BLACK, HISP, AS/PI, and AI/AN – Enter new hire data for 1 and 2 fiscal years.

TOTAL MIN – This column will self-compute.

MALE – Enter the number of male new hires for 1 and 2 fiscal years.

FEMALE – Enter the number of female new hires for 1 and 2 fiscal years.

TOTAL NUMBER FOR THREE-YEAR PERIOD – This row will self-compute.

TOTAL PERCENT FOR THREE-YEAR PERIOD – This row will self-compute.

B. BOTTOM OF FORM AND NEW HIRES FY (for 3 only)

NEW HIRES FOR CURRENT REPORTING YEAR ONLY

NOTE: Only the new hire statistical data for the current affirmative action plan is to be used in this section.

3. Identify the fiscal year for the current affirmative action plan. **This line will self-populate from the new hire statistical data inserted below.**

TOTAL NEW HIRES – This column will self-compute.

WHITE, BLACK, HISP, AS/PI, and AI/AN – Enter new hire data for current fiscal year according to gender and EEO category.

TOTAL MALE – This column will self-compute.

TOTAL FEMALE – This column will self-compute.

TOTAL MIN – This column will self-compute.

TOTALS – This row will self-compute.

The following page illustrates an example of a completed Evaluation of Previous EEO Efforts (NEW HIRES) form.

Evaluation of Previous EEO Efforts
(NEW HIRES)

Agency Name and Code: Oklahoma State Technical Commission, #000 As Of: June 30, 2011

Summary		Total New Hires	White	Black	Hisp	AS/PI	AI/AN	Total Min	Male	Female
1. New Hires FY	2009	Number	2	1				1	2	1
2. New Hires FY	2010	Number	2			1	1	2	1	3
3. New Hires FY	2011	Number	1	0	0	0	0	0	0	1
Total Number for Three Year Period			5	1	0	1	1	3	3	5
Total Percent for Three Year Period		Percent	63%	13%	0%	13%	13%	38%	38%	63%
Total Percent for Current Year		%	100%	0%	0%	0%	0%	0%	0%	100%

NEW HIRES FOR CURRENT REPORTING YEAR ONLY

EEO Categories	Total New Hires	Male					Female							
		White	Black	Hisp	AS/PI	AI/AN	Total Male	White	Black	Hisp	AS/PI	AI/AN	Total Fem	Total Min
Official/Administrator	0						0						0	0
Professionals	1						0	1					1	0
Technicians	0						0						0	0
Protective Services	0						0						0	0
Paraprofessionals	0						0						0	0
Administrative Support	0						0						0	0
Skilled Craft	0						0						0	0
Service Maintenance	0						0						0	0
TOTALS	1	0	0	0	0	0	0	1	0	0	0	0	1	0

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2.7 REVIEW OF JOB GROUPS WHERE GOALS WERE NOT ATTAINED

This report serves as a supplement to the Personnel Transactions Report and to assess the goals that were not attained during the previous year. The information may also be used to help complete the Evaluation of Previous EEO/AA Efforts narrative section of the plan.

A separate report should be prepared for each job group where the established goals were not met.

Please note that this is not a form but an example of the format to be used.

EXAMPLE

JOB GROUPS WHERE GOALS WERE NOT ATTAINED

Job Group:

Goal Description: _____

Good Faith Efforts Made: _____

Reason(s) Goals Not Met: _____

Proposed Corrective Measures: _____

PART THREE REFERENCES AND DEFINITIONS

3.1 EEO JOB CATEGORIES (Source: EEOC)

01 Officials and Administrators: Occupations in which employees set broad policies, exercise overall responsibility for execution of these policies, or direct individual departments or special phases of the agency's operations, or provide specialized consultation on a regional, district or area basis.

Includes: Department heads, bureau chiefs, division chiefs, directors, deputy directors, controllers, wardens, superintendents, sheriffs, police and fire chiefs and inspectors, examiners (bank, hearing, motor vehicle, warehouse), inspectors (construction, building, safety, rent-and-housing, fire, A.B.C. Board, license, dairy, livestock, transportation), assessors, tax appraisers and investigators, coroners, farm managers, and kindred workers.

02 Professionals: Occupations that require specialized and theoretical knowledge that is usually acquired through college training or through work experience and other training that provides comparable knowledge.

Includes: Personnel and labor relations workers, social workers, doctors, psychologists, registered nurses, economists, dietitians, lawyers, systems analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers or instructors, police and fire captains and lieutenants, librarians, management analysts, airplane pilots and navigators, surveyors and mapping scientists, and kindred workers.

03 Technicians: Occupations that require a combination of basic scientific or technical knowledge and manual skills that can be obtained through specialized post-secondary school education or through equivalent on-the-job training.

Includes: Computer programmers, drafters, survey and mapping technicians, licensed practical nurses, photographers, radio operators, technical illustrators, highway technicians, technicians (medical, dental, electronic, physical sciences), police and fire sergeants, inspectors (production or processing inspectors, testers and weighers), and kindred workers.

04 Protective Services Workers: Occupations in which workers are entrusted with public safety, security and protection from destructive forces.

Includes: Police and patrol officers, fire fighters, guards, deputy sheriffs, bailiffs, correctional officers, detectives, marshals, harbor patrol officers, game and fish wardens, park rangers (except maintenance), and kindred workers.

05 Paraprofessionals: Occupations in which workers perform some of the duties of a professional or technician in a supportive role, which usually require less formal training and/or

experience normally required for professional or technical status. Such positions may fall within an identified pattern of staff development and promotion under a "New Careers" concept.

Includes: Research assistants, medical aides, child support workers, policy auxiliary welfare service aides, recreation assistants, home-maker aides, home health aides, library assistants and clerks, ambulance drivers and attendants, and kindred workers.

06 Administrative Support (including Clerical and Sales): Occupations in which workers are responsible for internal and external communications, recording and retrieval of data and/or information and other paperwork required in an office.

Includes: Bookkeepers, messengers, clerk-typists, stenographers, court transcribers, hearing reporters, statistical clerks, dispatchers, license distributors, payroll clerks, office machine and computer operators, telephone operators, legal assistants, sales workers, cashiers, toll collectors, and kindred workers.

07 Skilled Craft Workers: Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs.

Includes: Mechanics and repairers, electricians, heavy equipment operators, sanitary engineers, skilled machining occupations, carpenters, compositors and typesetters, power plant operators, water and sewage treatment plant operators, and kindred workers.

08 Service Maintenance: Occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or which contribute to the upkeep and care of building, facilities or grounds of public property. Workers in this group may operate machinery.

Includes: Chauffeurs, laundry and dry cleaning operatives, truck drivers, bus drivers, garage laborers, custodial employees, gardeners and ground keepers, refuse collectors, construction laborers, park rangers (maintenance), farm workers (except managers), craft apprentices/trainees/helpers, and kindred workers.

3.2 GLOSSARY OF EEO TERMS AND CONCEPTS

EEO, like any other field, has its own special terminology. The definitions given below should help provide a better understanding of any technical language or terms that may be printed in opinions, court decisions or other literature on EEO. Words or phrases bolded within a definition are themselves defined elsewhere in the glossary.

Accessibility - A barrier-free environment in which the mobility of physically disabled persons is not inhibited by external forces such as architectural design.

Adverse Impact (Effect) - Applying certain personnel policies uniformly to all applicants or employees (e.g., word-of-mouth recruiting, diploma requirements, intelligence tests, minimum height requirements), has the effect of denying employment or advancement to members of a **protected class**. **Business necessity** is the only justifiable reason for adverse impact.

Affected Class (Also See **Protected Class**) - Any employee group (for example, minorities and women) that has suffered, and continues to suffer, the effects of unlawful discrimination.

Affirmative Action - The methods and measures taken to correct imbalances in the work force and eliminate the effects of past discrimination employment practices.

Affirmative Action Plan - A planned document containing affirmative steps designed to eliminate discrimination and to overcome the effects of past or present practices, policies, or other barriers to equal employment opportunity. Such steps include, but are not limited to the following:

(1) The establishment of a long-term goal and short range, interim goals and timetables for specific job classifications, all of which should take into account the availability of basically qualified persons in the relevant labor market;

(2) A recruitment program designed to attract qualified members of the affected group;

(3) A systematic effort to organize work and redesign jobs in ways that will provide opportunities for persons lacking entry-level knowledge or skills to enter, and with appropriate training, to progress in a career field;

(4) The initiation of measures designed to assure that members of an affected group who are qualified to perform the job are included within the pool of persons from which a selection official makes a selection;

(5) A systematic effort to provide career advancement training, both classroom and on-the-job, to employees locked into dead-end jobs; and

(6) The establishment of a system for regularly monitoring and evaluating the effectiveness of the affirmative action program, and procedures for making timely adjustments where effectiveness is not demonstrated.

Applicant Flow Record - Written, objective measure used to analyze and monitor the recruiting efforts in an employer's Affirmative Action Plan. This record shows each job applicant's name, race, national origin, sex, referral source, data of application, position applied for, whether the job applied for (or any other job) was offered or why it wasn't.

Availability - The presence of women and minorities "ready, willing, and able to work" in the civilian labor force, used in setting goals and determining **underutilization**. There are several basic measures of availability: **occupational parity**, **labor force parity**, **population parity**.

Balanced and Representative Work Force - A work force whose composition at all levels approximates the composition of the relevant civilian labor force in terms of race, sex, and ethnicity.

Bona Fide Occupational Qualification (BFOQ) - A job requirement that permits an employer to legally discriminate on the basis of sex, age, religion, or national origin. Such requirements are rare exceptions. For example, sex is a BFOQ for modeling dresses or working in a women's locker room. Sex is not a BFOQ, however, for heavy physical work, since some women are physically powerful. Race and Color are never a BFOQ.

Business Necessity - If an employer's practices or policies tend to **adversely affect** members of a **protected class**, then the employer must be able to demonstrate that the challenged practices effectively carry out the business purposes they are alleged to serve and that no alternative, nondiscriminatory practices can achieve the safe and efficient operation of its business.

Class Action Suit - A court action on behalf of an **affected class** alleging an unlawful pattern of discrimination by an employer. A class action suit can be initiated by an individual, a group, and/or government agency.

Compliance - The degree to which state agencies carry out (comply with) their **affirmative action plan** or federal and state anti-discrimination laws and regulations.

Disabled Veteran - A person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty and who is entitled to a 30 percent disability compensation under the laws administered by the Veteran's Administration.

Disparate Treatment - Discrimination within the meaning of Title VII of the Civil Rights Act of 1964 that occurs when an employer or other person subject to the Act intentionally excludes individuals from an employment opportunity on the basis of race, color, religion, sex, or national origin. Evidence of exclusion need not be embodied in employer's employment policies or practices however. Whenever similarly situated individuals of a different race, sex, religion, or national origin group are accorded disparate treatment in the context of a similar employment situation, it is reasonable to infer (absent other evidence) that discrimination has occurred. The presence of a discriminatory motive can be inferred from the fact that there were differences in treatment.

Equal Employment Opportunity - Administering all terms and conditions of employment without regard to age, color, disability, national origin, race, religion, or sex.

EEOC Guidelines - Interpretations of Title VII expressed by the Equal Employment Opportunity Commission that don't have the force of law but tend to be supported by the courts. These positions are outlined in various EEOC publications, such as "Discrimination Because of Sex", "Discrimination Because of Religion", etc.

Employer Information Report EEO-4 - This annual report shows the representation of female and minority employees in an employer's total work force as well as in standard job grouping (i.e., officials/administrators, professionals, technicians, protective services, paraprofessionals, administrative support, skilled craft, and service maintenance).

FEPA - The Oklahoma Fair Employment Practices Act, Section 840-4.12(I) of the Oklahoma Personnel Act.

Goals - As part of an affirmative action program, goals to eliminate employment discrimination and effects of past discrimination are required. Goals are specific, temporary and flexible.

Intent Versus Effect - In EEO law, corporate or personal intentions have no bearing on discrimination. What does count is the effect of what is done. If discrimination has occurred, the intention not to discriminate is of no value in defending one's position.

Job-Relatedness - According to EEO court decisions, any criterion employed to determine whether a person will be hired, fired, transferred, promoted, given a salary increase, and so forth, must be directly related to job performance.

Manifest Imbalance - Representation of EEO groups in a specific occupational grouping or grade level in the agency's work force that is substantially below its representation in the appropriate CLF.

Minority - Persons who appear to belong, identify with, or are regarded in the community as belonging to one of the following racial or ethnic groups:

Black. All persons having origins in any of the Black racial groups of Africa;

Hispanic. All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;

Asian or Pacific Islander. All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippines Islands, and Samoa.

American Indian or Alaskan Native. All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition. For affirmative action purposes, persons who are reported as American Indian shall verify tribal affiliation by providing a certificate of Degree of Indian Blood from the U.S. Department of Interior, Bureau of Indian Affairs, or by providing the name and address of tribal officials who can verify tribal affiliation.

Occupational Parity - The representation of women and minorities in particular occupational categories in the recruiting area. This has generally been accepted as a primary basis for defining affirmative action **goals** and **underutilization**.

Parity - Statistical parity is the objective of affirmative action efforts. Parity is achieved when the percentage of women and minorities in an organization's work force matches the percentage of protected class members available in the labor force.

Physical Disability.- A physical or mental impairment which substantially limits one or more major life activities.

Present Effect of Past Practices - The concept of present effects of past practices means that employers are liable today for events and decisions of the past. Because past discriminatory practices prevented women and minorities from acquiring the necessary experience or skills to be promoted or do certain jobs, they are considered to be suffering the present effects of past discrimination.

Prima-Facie Evidence - Evidence that doesn't have to be proven because it is sufficient on its face or first appearance. For example, if all of a company's black employees work in the stockroom, all its women employees work in the office, and all its white male employees are supervisors, a compliance agency would consider this prima-facie evidence of discrimination.

Protected Class - Any group (or member of that group) specified in, and therefore protected by, the anti-discrimination laws or the affirmative action obligations of employers. The anti-discrimination laws protect individuals from discrimination because of age, color, disability,

national origin, race, religion, or sex. The groups are **racial minorities, women, persons with a disability, disabled veterans, and veterans of the Vietnam era.**

Protected Versus Affected Class (Also see **Affected Class**) - The term protected classes describes the people who have been defined by the courts to have felt the brunt of discriminatory employment practices, i.e., women, minorities, the disabled, the 40-plus age group, the Vietnam-era and disabled veterans. The term “affected classes” refers to a group of people in a specific employment situation who has been discriminated against: people with the same race, sex, color, national origin, or religion who have been denied equal employment opportunity in violation of the law.

Reasonable Accommodations

(1) Used in connection with **affirmative action** for physically disabled persons. If a physically disabled employee or applicant has the skills necessary to perform a job, an employer must make reasonable accommodations to the physical environment, equipment, schedules, or procedures that would enable the individual to function in the position.

(2) Used in connection with **discrimination** because of religion. If an employee needs to be absent for religious reasons, an employer must make reasonable accommodation to grant the employee that absence - even though it may conflict with, or differ from the employer's schedules, standards, or other business conditions, unless such absences cause employer **undue hardship**.

Selection Process - Steps involved in employment or promotion decisions. Generally includes initial screening interviews; filling out applications; tests for employment; background and/or reference checks; actual interview for employment; and decision whether or not to hire or promote the individual.

Systemic Discrimination - Does not involve any specific action against an individual employee or class of employees, but refers to personnel practices that pervade throughout the organization and have a discriminatory effect. It can exist over a long period of time in an organization and affect hundreds of people and yet not be obvious.

Timetables - The time frame (in years) set for attaining measurable **goals** in an affirmative action program.

Underutilization - Having fewer minorities or women in a particular job category than would reasonably be expected by their **availability**.

Undue Hardship - In order for an employer to legally refuse to accommodate an applicant's or an employee's physical disability or religious beliefs, the employer must be able to show that such accommodation would place a severe burden on the operation of the business. See Reasonable Accommodation.

Unlawful Employment Practice - Any policy or practice that has discriminatory intent or effect.

Veteran of the Vietnam Era - A person who served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964 and May 7, 1975. Non-disabled veterans of the Vietnam Era are a **protected class** for up to four years after discharge.

3.3 EEO LAWS

3.3.1. Federal Laws

Civil Rights Act of 1964 - as amended in 1972 and 1978, prohibits all forms of discrimination on the basis of race, color, sex, religion, or national origin. (Pregnancy was added in 1978). Title VII, a section of the act, specifically prohibits discrimination in employment. Today, most discrimination charges are filed under Title VII. It has been subject to many differing interpretations by employers, enforcement agencies, and the courts. Title VII applies to all public and private employers with 15 or more employees. (Enforcement: EEOC and DOJ)

The State and Local Fiscal Assistance Act of 1972 - Also known as the "Revenue Sharing Act", this provision of law prescribes that state and local governments receiving federal revenue-sharing are not to discriminate in employment on the basis of race, color, national origin, sex, religion, age or handicapped status.

Civil Rights Act of 1866 - protects all persons from discrimination because of their race or national origin. This law was enacted shortly after the abolition of slavery but had little effect for the first 100 years. In the last 20 years, however, individuals have won race discrimination suits under this Act. In 1987, the Supreme Court ruled that Arabs and Jews were protected under this law because they were "perceived" as a race. This law provides protection in situations not specifically covered by the C.R.A. of 1964. Unlike the 1964 Act, the 1866 law allows individuals to sue for compensatory and punitive damages, which result in much costlier settlements for employers. Individuals also do not have to follow the time requirements for filing that exist under the 1964 Act. (Enforcement: The Federal Court System)

Equal Pay Act of 1963 - gives men and women the right to earn equal pay for doing substantially the same work. This law guarantees protection from sex discrimination in wages. To correct inequities, employers must raise the wages of women to that of men. If employers are found guilty of "willful" discrimination, they may have to pay double or triple damages. Pay differences that are legal under the E.P.A. are also valid under Title VII. (Enforcement: EEOC)

Age Discrimination in Employment Act (ADEA) of 1967 - amended in 1978, 1986 and 1996 protects persons over 40 years of age from discrimination on the basis of age in any terms or conditions of employment. (Enforcement: EEOC)

Rehabilitation Act of 1973 - Section 503 of this Act covers most employers with federal contracts and sub-contracts in excess of \$10,000. It prohibits discrimination against any qualified employee or applicant because of a physical or mental disability. In addition, federal contractors and sub-contractors must take affirmative action to employ and advance qualified individuals with physical disabilities. Section 504 of the Act covers any program or activity receiving federal financial assistance. Qualified applicants and employees with physical disabilities are protected from discrimination in any employment practices under 504. (Enforcement: Office of Federal Contract Compliance Programs, OFCCP)

Vietnam Era Veterans Readjustment Act of 1974 - requires employers with federal contracts or subcontractors of \$25,000 or more to take "Affirmative" steps to employ and promote

qualified disabled veterans and Vietnam Era veterans, i.e., OPA, Veterans Preference. (Enforcement: OFCCP)

Civil Rights Act of 1871 - "Every person who, under color of any statute, subjects, or causes to be subjected, any citizen . . . to the deprivation of any right, shall be liable to the personal injured." (Enforcement: Court System)

Americans with Disabilities Act of 1990 (ADA) - Title I of the Americans with Disabilities Act of 1990, effective July 26, 1992, prohibits private employers, state and local governments, employment agencies and labor unions from discrimination against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions and privileges of employment. An individual with a disability is a person who:

- (1) Has a physical or mental impairment that substantially limits one or more major life activities;
- (2) Has a record of such an impairment; or
- (3) Is regarded as having such an impairment.

(Enforcement: EEOC)

Civil Rights Act of 1991 - amends Title VII of the Civil Rights Act of 1964, Section 1981 of the Civil Rights Act of 1866, The Attorney's Fees Awards Act of 1976, The Americans with Disabilities Act of 1990 and the Age Discrimination in Employment Act of 1976. It addresses such subjects as disparate impact, business necessity, bias after hiring, challenges to consent decrees, timeliness of challenges to seniority systems, mixed motives, expert witness fees, compensatory and punitive damages, jury trial, interest and filing time in action against the federal government, and "race norming" of test scores.

3.3.2. State Laws

Title 25 O.S. 1302 - It is a discriminatory practice for an employer:

(1) To fail to refuse to hire, to discharge, or otherwise to discriminate against an individual with respect to compensation or the terms, conditions, privileges, or responsibilities of employment, because of race, color, religion, sex, national origin, age, or handicap unless such action is related to a bonafide occupational qualification reasonably necessary to the normal operation of the employer's business or enterprise.

(2) To limit, segregate, or classify an employee in a way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect the status of an employee, because of race, color, religion, sex, national origin, age, or handicap unless such action is related to a bonafide occupational qualification reasonably necessary to the normal operation of the employer's business or enterprise. (Enforcement: HRC)

Title 74 O.S. 840-2.9 - "No person in the State service...shall be appointed to or demoted or dismissed from any position in the state service...because of political or religious opinions or affiliations, race, creed, gender, color, or national origin or by reason of any physical handicap" (Enforcement: OMPC)

Title 74 O.S. 840-2.1 - Requires all entities of Oklahoma State Government to formulate and implement an Affirmative Action Program, and to submit the plan report to OPM. (Enforcement: OPM)

Title 74 O.S. 954 - Prohibits any department or agency of the State of Oklahoma, or any official or employee of the same for and on behalf of the State of Oklahoma: to refuse to employ or to discharge any person otherwise qualified, on account of race, color, creed, national origin, age, handicap, or ancestry; to discriminate for the same reasons in regard to tenure, terms or conditions of employment; to deny promotion or increase in regard to tenure, terms or conditions of employment; to deny promotion or increase in compensation solely for these reasons; to publish an offer of employment based on such discrimination; to adopt or enforce any rule or employment policy which so discriminates as to any employee; or to seek such information as to any applicant or employee or to discriminate in the selection of personnel for training solely on such basis. (Enforcement: OMPC)

Title 74 O.S. 840-4.12 - Promotional and entrance examinations - Persons with severe disabilities - Special disabled veterans - Optional hiring procedure for affirmative action goals.

(1) Allows special disabled veterans to elect to be considered for employment either under 74 O.S. 840-4.12 or Sections 401 through 404 of Title 72 of the Oklahoma Statutes.

(2) Except for the requirement of minimum qualifications specified in applicable job specifications, such severely disabled persons shall be exempt from entrance examinations and hiring procedures administered by OPM.

(3) The optional hiring procedure for affirmative action goals (aka Fair Employment Practices Act) permits agencies of state government to employ protected group members, i.e., Females, Blacks, Hispanics, Asian/Pacific Islanders and American Indians/Alaskan Natives in competitive and non-competitive jobs. Use of this provision is contingent upon the establishment of an appropriate goal in the agency's AAP and that a manifest imbalance exists which justifies remedial action under the act.

(Enforcement: No enforcement authority as the act is permissive)

3.4 OPM Declaratory Ruling Regarding Affirmative Action Plans (January 12, 1999)

Ruling – A state agency authorized 15 or more FTE must include a utilization analysis in its affirmative action plan. If the state agency is authorized between 15 and 200 FTE, the agency must use the “80% method” to determine whether underutilization exists, unless the Administrator approves another method. However, nothing prohibits a state agency from including additional information, such as a determination of the degree of underutilization. A state agency may use the “Final Availability” from the “Availability Analysis”, in determining the degree of underutilization. A determination of the degree of underutilization is not required by the Merit Rules, but may be helpful to state agencies in setting appropriate goals and timetables as required by Merit Rule 530:10-3-33.11.

3.5 Attorney General’s Opinion Regarding the Judicial System (2001-16)

In 2001, the Oklahoma Attorney General determined that the Administrative Director of the Courts would be required to submit to the Office of Personnel Management affirmative action plans for the judicial branch of State government pursuant to Title 74 O.S. 840-2.1, if directed to do so by order of the Supreme Court of Oklahoma’s Administrator of the Courts.