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AFFIRMATIVE ACTION GUIDELINES

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EXECUTIVE OFFICE OF AFFIRMATIVE ACTION

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AFFIRMATIVE ACTION GUIDELINES

INTRODUCTION:

The attached guidelines have been developed to direct the creation of state agency affirmative action plans pursuant to Executive Order No. 74, as amended and revised by Executive Order No. 116 (Governor's Code of Fair Practice). The Governor's Code of Fair Practice divides the responsibility for the development and monitoring of state affirmative action plans between the Director of Affirmative Action ("Director") and the Massachusetts Commission Against Discrimination (Commission Against Discrimination ("Commission")). The Director with the assistance of the Commission bears the responsibility for providing guidelines and technical advice to state agencies in the development of their affirmative action plans. The Director shall approve or disapprove all affirmative action plans prepared by agencies and appointing authorities and conduct ongoing review of approved plans to assure that such plans are being complied with. To carry out his duties, the Director may require all affirmative action officers to submit information to himself, or his designee. And in addition, the Director shall have any additional powers that are necessary to carry out the Commonwealth's policy of non-discrimination and equal employment. Finally, the Director shall investigate instances of non-compliance with an approved affirmative action plan. And, when necessary, initiate hearings before the Equal Employment Panel, which shall have authority to impose sanctions on persons, where appropriate. Any finding of deliberate failure or refusal to implement an approved affirmative action plan shall constitute cause for dismissal.

NEED FOR AFFIRMATIVE ACTION:

In an effort to provide the necessary impetus to meet the objectives of the Federal and State legislation, affirmative action represents a more aggressive, positive action-oriented approach than a passive statement of Equal Employment Opportunity. The Higher Education Guidelines, put out by the Department of Health, Education and Welfare contain an apt description of the distinction between equal employment opportunity and affirmative action requirements for an employer:

Affirmative Action requires the (employer) to do more than ensure employment neutrality with regard to race, color, religion, sex, national origin (ancestry, age, physical disability, criminal record or mental disorder). As the phrase implies, affirmative action requires the employer to make additional efforts to recruit, employ, and promote qualified members of groups formerly excluded, even if that exclusion cannot be traced to particular discriminatory actions on the part of the employer. The premise of the affirmative action concepts is that unless positive action is undertaken to overcome discrimination, a benign neutrality in employment practices will tend to perpetuate the status quo ante indefinitely.

AGENCY AFFIRMATIVE ACTION PLAN

The affirmative action plan is the tool by which equal employment opportunity objectives can be realized. There is no such thing as a model affirmative action plan. Rather, the plan should represent an evaluation of the unique conditions, problems and practices of each agency and should outline specific steps designed to resolve identified needs and problems. Hence, the development of the plan should occur in two phases. The first phase entails a comprehensive assessment of each agency's current employment situation. The analysis consists of:

examination of the agency's work force for each large organizational unit and by geographical area by broad job classification, job title and salary for race and sex;

comparison of work force data with the availability of protected groups in the relevant labor market area to determine over or under utilization of protected groups in certain job categories, units and/or geographical areas, generally referred to as the utilization analysis;

investigation of all current personnel practices to identify both overt or covert sources of discrimination, including but not limited to agency

employment application, recruitment, job qualifications and specifications, job restructuring, interviewing procedures, hiring, orientation programs, training, career development and upward mobility, promotions, evaluations, and counseling, transfers, separations and leave of absence policy;

and an examination of all past and current Equal Employment Opportunity and Affirmative Action policies to determine their effectiveness or ineffectiveness in facilitating non-discriminatory interaction with members of protected groups. We recognize some agencies have currently operating affirmative action programs; efforts should be made to integrate current programs with the requirements outlined below.

The second phase is concerned with the development and implementation of programs with "specific result-oriented procedures" including the establishment of goals and timetables, an internal evaluation and enforcement system and a grievance procedure. Specific programs should be developed pursuant to those problem areas identified above. They should contain an identification of the problem, specific plans to rectify it, identification of the individual responsible for executing the plan and a time frame for the execution of the plans.

The Division of Personnel Administration is cognizant of its responsibilities regarding recruitment and selection. These aspects of state employment will be addressed in detail by the Division of Personnel Administration.

BASIC REQUIREMENTS OF THE AFFIRMATIVE ACTION PLAN

- I. Policy Statement
Internal/External Dissemination
- II. Assignment of responsibilities
- III. Utilization analysis
- IV. Identification of problem areas
Recruitment
Selection
Job specifications and examinations
Employment application
Interviewing
Hiring
Employee Orientation
Training
Upward Mobility
Counseling
- V. Goals and Timetables
- VI. Internal Program Evaluation
- VII. Special Programs
- VIII. Grievance Procedure

POLICY STATEMENT

The appointing authority should issue a firm statement of personal commitment to affirmative action and to the provision of equal employment opportunities to all employees and applicants in all phases of employment as set forth in the Code of Fair Practices. Relevant state and federal legal obligations and requirements for affirmative action should be outlined. The scope of affirmative action issues, the purpose and need for affirmative action, and its requirements in reference to all applicable personnel procedures should be mentioned. All protected groups or classes should be covered in this statement. The statement should include a reiteration of the importance of equal employment opportunity as an agency goal and as the mechanism by which optimum productivity can be achieved by reliance solely on merit, and not extraneous factors such as race, sex, etc. It must be stated that this program requires aggressive action to investigate and initiate change in any discriminatory employment practice or patterns and that it will provide positive benefits to the agency by more fully utilizing and developing the potential of all current employees and by expanding opportunities to a greater number of potential employees. In an effort to do this, each person involved in implementing and utilizing this program must be made aware of his or her responsibilities and that integration of this program and its requirements into daily activities is critical; and all directives relevant to affirmative action subsequent to the affirmative action plan must be complied with; and that employees will be held accountable for their affirmative action performance. A strong policy statement that affirms an awareness and belief in affirmative action issues will expedite progress in affirmative action and will provide the necessary impetus to initiate and maintain a comprehensive program. It should be kept in mind this document will be disseminated to all current employees, applicants, and sources of applicants and hence should serve the dual purpose of educating people as to the purpose and relevance of affirmative action and of making the agency's position on affirmative action clear. Finally, the statement should be dated and signed by the appointing authority.

INTERNAL/EXTERNAL DISSEMINATION

In order for the affirmative action program to be effective, the policy statement and the relevance of affirmative action issues must be communicated to all current employees, applicants, and sources of applicants at least two times a year. The plan will remain a "paper document" unless people are notified that such a program exists and what their benefits, rights, and responsibilities are under it.

INTERNAL

All managers and supervisors should be fully informed as to the requirements of the affirmative action program and its relevance to their function as managers in implementing the program. Supervisors should be well-versed in affirmative action; this can be accomplished by written communication from the appointing authority followed by an orientation program to inform those responsible for implementing the program of the agency's commitment to the program; of the legal requirements; and of their specific responsibilities under the program. Periodic meetings to clarify the responsibilities and obligations, discuss problem areas, and review progress would be helpful.

All employees should be notified of the agency's policy of equal employment opportunity and utilizing affirmative action as a tool to achieve that goal. This can be done by posting the policy statement on bulletin boards to which employees have access, notifying each individual employee by direct memo, staff meetings, or by distributing a notice with paychecks of the existence and availability of the affirmative action plan, and identification of the Affirmative Action Officer.

It should be stressed that agencies are responsible for maintaining routes of communication with all levels of employees; within all departments; and with any branch office, facility, or institution regardless of geographical location within its jurisdiction.

EXTERNAL

External dissemination of the affirmative action policy and plan entails communicating with groups and organizations serving protected groups. Continual contact must be maintained with all regular recruiting sources, particularly those representing protected groups. Written communication explaining the affirmative action policy will initiate a contact that must be further developed by meeting personally with the groups to determine what the relationship between the agency and the groups will be.

If the agency does any employment advertising, the policy should be disseminated to all media concerned indicating the agency is an affirmative action employer; omitting or correcting all titles indicating gender or

preference for or against any segment of the population (mailman, vets preferred, men or women only, "competent gal wanted" ambitious man needed,"); and ensuring that separate help wanted columns and advertising for men and women are not used. Any brochures or announcements used should indicate a mixture of protected groups doing different activities and should be accompanied with an affirmative action statement and/or symbol.

Include a notification of affirmative action policy to all subcontractors and others with whom the agency does business. Also, each agency should notify their unions of their affirmative action policy and its provisions.

II ASSIGNMENT OF RESPONSIBILITY

The responsibility for enforcement and implementation of the affirmative action policy and plan must be explicitly outlined. This section should cover the appointing authority and the full-time affirmative action officer and/or the affirmative action liaison official or individual assigned with affirmative action responsibilities.

APPOINTING AUTHORITY

In a state agency, the ultimate responsibility for enforcing affirmative action rests with the appointing authority. The appointing authority has the responsibility of familiarizing him or herself with affirmative action requirements and directives and assigning competent staff with the status, authority, and time to effectively design and implement the program. The appointing authority will be held accountable for the program's success or failure.

AFFIRMATIVE ACTION OFFICER

An effective means of implementing the affirmative action program must be established in each agency, regardless of size. The person assigned with the grass roots implementation and operation of the program should be directly responsible to the appointing authority and should have adequate authority to operate the program. This is a priority of utmost significance for the program's success. If the structure is designed to entrust the affirmative action program to a person lacking direct access to the appointing authority, the goals and objectives of the program will be obscured in the bureaucratic shuffle.

In this section it should be specified who the affirmative action officer is, his or her job title, to whom she or he reports, how much time will be devoted to affirmative action, and what his or her other duties consist of. It is critical that the affirmative action officer have a working relationship with agency personnel involved in activities relevant to affirmative action, such as personnel, training, counseling, etc. In those cases where the affirmative action officer has dual responsibilities directing or working in personnel functions for the agency, he or she should be aware of the problems inherent in evaluating oneself. Consideration should be given to creating alternatives to this situation, such as delegating the evaluating, reviewing, and internal monitoring functions to a person(s) outside the personnel office.

In the Appendix are copies of the job specifications for Affirmative Agency Action Officer and Affirmative Action Officer at the Secretariat level.

PERSONNEL DIRECTOR, TRAINING OFFICER, COUNSELORS, ETC.

The roles of these individuals have particular significance for a successful affirmative action program. These people should be thoroughly informed as to the affirmative action issues and their role in accomplishing affirmative action objectives. Their specific involvement will become clearer in Section IV which discusses agency employment practices.

MANAGERS AND SUPERVISORS

While much emphasis has been given to the top administrative staff in the design and enforcement of the affirmative action program, the role of managers and first line supervisors cannot be underestimated. The program will remain in the abstract without their complete understanding of its objectives and without their cooperation in achieving them. It should be made clear equal employment opportunity and affirmative action is consistent with good management and personnel principles, is a basic part of their job, and is entirely consistent with merit system requirements. Department heads and other administrators may be requested to participate in the formulation of the plan by supplying data and investigating possible sources of discrimination or problem areas in their units or divisions. First line supervisors are responsible for ensuring employees are aware of their rights and opportunities and should make their supervisors and department heads cognizant of problems or areas of dissension. It should be stated that managers and supervisors will be evaluated and monitored in their affirmative action performance on a continual basis; it also should be stated that managers and supervisors who meet all other management goals but fail to meet the affirmative action goals assigned to them by the affirmative action officer and the appointing authority will not be considered for promotion, unless this was due to circumstances beyond the manager's control. The incentive for the program will be greatly enhanced by one's affirmative action performance having a bearing on his or her career and/or economic advancement and by providing an indication that top administrators are taking affirmative action seriously.

EMPLOYEE ADVISORY COMMITTEE

Each agency will have an affirmative action advisory committee comprised of a cross-section of employees including members of protected groups from various job levels and departments. Members will be jointly selected by the affirmative action officer and the appointing authority. The affirmative action officer has the responsibility of determining the frequency of meetings and chairing the committee. The purpose of the group is: to provide a mechanism to obtain employee feedback on affirmative action efforts, including complaints; to screen new programs prior to dissemination to the balance of the agency; to review affirmative action progress periodically; request meetings to discuss pertinent issues as required; and to make recommendations for change to the affirmative action officer. The group functions could be expanded to include

Employee Advisory Committee - Continued

the provision of possible recruitment sources dealing with protected groups, dissemination of opportunities to co-workers, and reporting to the State Director of Affirmative Action when requested to do so. In this section indicate what efforts have been or are being made to create and utilize this committee; include the names and job titles or committee members.

NOTIFICATION OF RESPONSIBILITIES

The plan should make clear to all individuals referred to above exactly what their responsibilities are in regard to the affirmative action program. Each person should be notified of his or her obligations under this program and be held accountable for his or her actions. Good communication and explicit and definite descriptions of what the agency expects in regard to affirmative action performance will greatly strengthen all affirmative action efforts.

III UTILIZATION ANALYSIS

A survey and analysis of the current employment profile of each agency is the first step toward identifying problem areas and defining goals. There are two steps in conducting this analysis. The first is a comprehensive inventory of all employees by job title, job category, and salary level for each protected group and is termed workforce analysis. The second involves the determination of under or over utilization of each protected group in each category by comparing agency statistics with the availability of members of protected groups in the workforce with requisite skills.

WORKFORCE ANALYSIS

The workforce analysis should be conducted separately by race and sex and should be cross-indexed to determine the extent of under or over-utilization of minority men and minority women. Initially, the survey will determine the status of Blacks, Hispanos (including persons of Mexican, Puerto Rican, Cuban, Latin American or Spanish descent and all Spanish-surnamed native American persons) oriental, Cape Verdeans, and women. Agencies will not be required to collect data on the additional protected groups (those individuals protected under Massachusetts law on the basis of national origin, ancestry, religion, marital status, physical disability, criminal record, mental disorder, and age) for the July 30 deadline, due to the lack of statistics on these groups with which to compare for a determination of over or under-utilization. The AAPO will continue researching the availability of normative data and agencies will be advised whether or not a work force analysis will be required for these additional protected groups on September 1. When the normative data is available, agencies will be expected to conduct a work force analysis for all protected groups. However, agencies are expected to provide affirmative action to all members of protected groups as required by law. If an agency serves as the central office for a department with institutions and/or major subdivisions, a separate work force analysis should be prepared by each major organizational unit and by each geographical area (use Labor Market Area breakdowns and determined by the U.S. Department of Labor.) Specific details and suggested forms on how to conduct this analysis are available in the Appendix.

IDENTIFY AREAS OF UNDER OR OVERUTILIZATION

This step involves a survey to determine whether any group is represented disproportionately in comparison to its presence in the work force. Generally, women are overrepresented in the office/clerical category and under-represented in the officials/administrators and skilled craftworkers categories. Minorities are usually under-represented in officials/administrators, technicians and skilled craft. Each agency should examine its profile to determine where the majority of protected group members are. In those areas where these groups are underutilized or

Identify Areas of Under or Overutilization - Continued

are caught in deadend, low-paying positions, goals will be set to establish an equitable representation by job category.

To determine the extent of under or overutilization, a comparison must be made between the profile of the current agency workforce and the availability of each protected group for those jobs where underutilization occurs. By comparing the availability data with current employees, the agency can determine how representative its workforce is.

IV IDENTIFICATION OF PROBLEM AREAS

Once the agency determines that underutilization or overutilization exists within the agency the employer must identify the policies or practices which perpetuate the inequities. The agency must undertake a comprehensive review of each of its phases of employment from recruitment to termination. When one of these areas is identified as contributing to the underutilization or overutilization of protected group members, specific measures must be designed to eradicate the practice. The process of identifying problem areas should be conducted by organizational unit and job classification. At a minimum the following aspects of employment must be addressed: job qualifications, job specifications, recruitment, job structuring, orientation, training, counseling, upward mobility, grievance procedure and evaluation.

Chap. 835 of the Acts of 1974 established the Division of Personnel Administration in the Executive Office of Administration and Finance to consolidate the responsibilities of the Personnel Department, including recruitment, appointment, and examination; however, joint cooperation between the Personnel Department and each state agency is necessary for the successful administration of equitable personnel policies. In addition, some terms and conditions relevant to affirmative action issues are determined by law, such as pregnancy leave, layoff and transfer procedures, insurance programs, leaves of absences, etc. Agencies should examine internal procedures for administering these regulations and policies developed pursuant to them to ensure they are applied fairly to all persons.

RECRUITMENT

State current recruitment practices, indicating what jobs are recruited for (by job title and job category); enclose a copy of any advertising brochures, or posters used, and include a list of those groups, organizations, and media communicated with and a brief description of your relationship with them. If the accumulation of such information is too bulky to submit with the plan, this information should be available to be reviewed during on-site audits conducted by the State Director of Affirmative Action.

Include a description of any future recruitment efforts to members of protected groups. Relationships should be established and maintained with community action agencies, schools, groups representing protected classes, such as NOW, NAACP, National Alliance of Businessmen, etc. All recruitment sources should be notified that nondiscrimination and affirmative action are a critical part of the agency's personnel program.

Agencies should also consider the utilization of current minority and female employees to refer other persons; use of the Employee Advisory Committee as a recruitment source; use of summer work, work study, or cooperative education programs to help train and employ members of protected groups with the longrange goal of providing career opportunities.

Recruitment - Continued

within state service; use of public service time offered by radio stations; publishing recruitment literature in Spanish; etc.

Also, provisions should be made to monitor recruitment sources, such as requesting all applicants to complete a form indicating where they learned of the job opening or employment opportunity within the agency.

SELECTION

Job specifications and Examinations:

One of the obstacles facing protected groups is the use of unrealistic job requirements. These constitute artificial barriers to employment and often have a disparate effect upon protected groups. Court decisions such as Griggs vs. Duke Power Company have addressed this issue and mandated that employers eliminate artificial barriers. This entails a review of all selection procedures with particular emphasis on job specifications and descriptions.

In this section, indicate job analyses completed for the purpose of reviewing, changing, or establishing job specifications. If there have been difficulties in completing job analyses, indicate as such.

State agencies are responsible for ensuring the job specifications are accurate. A continuous review program should be established jointly and in cooperation with the Division of Personnel Administration. All specifications should be examined periodically to ensure that:

- a. Specifications contain an accurate description of job duties
- b. Entrance requirements are minimum qualifications and are job-related. Experience requirements should be sufficiently broad to allow opportunity to transfer into another agency and/or cross from non-professional to professional jobs.
- c. Restrictions on age, sex, physical or mental disability, etc. are omitted unless they have been shown to have a direct relationship with the job
- d. There is consistency between the general statement of duties, minimum qualifications, and experience and training requirements.

To do this, agencies will be required to:

- a. Establish standards for satisfactory performance of the duties of each job
- b. Collect and furnish data to aid the State Personnel Department in validating selection procedures
- c. Ensure that all selection devices used by the agency internally are job-related (interviews, tests, employment application, etc). The U.S. Civil Service Federal Personnel Manual can provide guidance in this area.
- d. Provide test-taking training and materials to facilitate the test-taking process for those unaccustomed to merit system procedures and/or those returning to the workforce.

- e. Supply the Personnel Department with personnel for job studies, brainstorming sessions, reviewing and writing questions, oral examinations, etc.

Employment Application:

Include a copy of the agency employment application if applicable. Describe how the application is used, at what point applicants are required to complete it, whether applicants for all positions complete it or just for select positions (include information on noncompetitive positions), and who has access to the application.

Many pre-employment questions commonly asked on employment applications are not job-related and tend to have a disparate effect on members of protected groups. All application forms will be reviewed to determine whether the information solicited is necessary to determine job qualifications for the job applied for; is posed in a non-discriminatory fashion; and is used appropriately. The forms themselves should be simple in format and should be available in Spanish for those with limited English-speaking ability where a high degree of facility with the English language is not a job-related requirement.

Interviewing:

Describe all current interviewing procedures utilized in selecting and promoting employees including who conducts such interviews, what format is followed, the criteria used for determining who will be interviewed, whether or not the affirmative action officer or liaison conducts interviews, sits in on interviews, or monitors interviews.

In analyzing potential sources of discrimination, review all questions to ensure they are posed in a non-discriminatory fashion --- that is, the questions posed are necessary to determine job qualifications and interests and are asked of all individuals being interviewed and not just members of protected groups (such as women being asked about their marital status, children, plans to leave or get pregnant, etc.) To achieve this, the interviewing procedure should be standardized; and all

Interviewing - Continued

applicants should be informed of the appointment process, and of the time frames for each phase of the selection process relevant to them.

Records for all persons interviewed should be maintained as discussed below.

Hiring:

Agencies should analyze all hires within the past fiscal year by race and sex, job category, and salary to determine where new employees have been placed. This data will serve as a basis for measuring affirmative action progress.

Agencies should also indicate any hiring records currently kept; who makes the final hiring decision; and how the affirmative action officer is involved in the hiring process.

Records for all persons interviewed, accepted, or rejected for each new hire and promotion by race and sex should be maintained on all future applicants and reviewed by the affirmative action officer to detect patterns of discrimination, to help pinpoint sources of discrimination, and to measure progress. The reason not hired should be recorded for each person. In this section, efforts that have been or are being undertaken to do this should be described.

EMPLOYEE ORIENTATION

Familiarizing a new employee with the conditions, opportunities, benefits, rights, policies, and procedures of employment is one precondition for employee satisfaction and is consistent with good personnel management. This orientation may entail the distribution of written information, consolidation of information into an orientation booklet, or verbal presentation. Oral information alone cannot be relied upon although some type of Oral explanation accompanying written literature is advisable in the initial interview with the employee. In this section, describe all efforts planned and undertaken to initiate new employees into departmental procedures and opportunities.

TRAINING

Although many people view affirmative action as a program in existence primarily to hire and promote members of protected groups it is in fact much more. One of the most urgent post employment issues is that of training. Many times employees are given very little instruction which would impart the skill, knowledge and ability necessary to prepare them for positions of greater responsibility. In order to preclude a situation in which employees are denied the tools to better their employment opportunities the agency must conduct a systematic review of their training practices and needs. Listed below is a point by point recommendation for agencies to follow in evaluating their training situation.

- a. Describe current training procedures - include training in career development, human relations, affirmative action etc., and list available training resources.
- b. Identify training needs in the above areas by job series or position. Describe proposals for meeting these needs. Special should be paid to those individuals caught in traditionally "dead-end" jobs.
- c. Identify programs and include a breakdown of program participants by race, and sex.
- d. Special attention should be given to training in affirmative action for supervisors, managers, and administrators to ensure understanding and support of the affirmative action program at all levels. List specific and practical training plans in this area, including orientation to affirmative action plan, awareness training in potential work situation conflicts, and human relations training.
- e. Policies on tuition reimbursement and educational leave should be communicated to all employees and should be applied in a nondiscriminatory fashion.

Training - Continued

- f. Consideration should be given to utilizing other public and private training programs, including in-service training, for employees to supplement internal on-the-job training or orientation programs.
- h. Cite method and assurance that training opportunities will be communicated to all employees.

UPWARD MOBILITY AND PROMOTIONS

An integral principle of affirmative action is the concept of upward mobility. A progressive personnel system should offer an employee a clearly defined description of each position on the career ladder; an insight into the career opportunities that exist; clear realistic requirements for ascension to each promotional position and forthright communication to the individual employee describing his/her opportunities within the agency. In order to determine whether the aforementioned exist in your agency you should undertake a review of present agency conditions. The following steps are designed to assist you in that review:

- a. List the current job series being utilized.
- b. Indicate the career ladder for each series including requirements for promotion within each series.
- c. Review all career ladders in terms of job restructuring to insure that promotional opportunities are open to all employees, particularly those in dead-end areas where women and minorities are frequently over-represented, such as the clerical series or low-paying, low-skilled jobs. Trainee, aid, or paraprofessional classes with minimum qualifications should be established. Career ladders should be designed to provide movement from such entry level positions into higher classes based on experience obtained on the job, and should limit requirements that cannot be obtained on the job, such as academic requirements and degrees.
- d. Maintain a skills bank based on the survey conducted of current employees as part of the utilization analysis. This should be routinely updated and efforts should be made to fully utilize each employee.
- e. Create career development plans for those individuals who are underutilized and/or who possess potential for advancement and assure proper placement of individuals as new skills are acquired.
- f. Promotional requirements should be evaluated for any discriminatory patterns such as emphasis on seniority or other nonmerit factors.
- g. State the methods used in employee evaluations, and the frequency of evaluations.

Upward Mobility and Promotions - Continued

- h. Analyze all promotions and transfers within the past year and maintain records on all persons promoted and transferred in the future by race and sex.
- i. Maintain record of all terminations to determine patterns in turnover. Cite reason for termination including transfers to other departments, resignations, dismissals, unsuccessful completion of the 6-month working test period, etc. This information may be obtained by an exit interview and/or by a followup questionnaire.

COUNSELING

One phase of employment which is frequently overlooked is counseling. Ideally employees should be counseled upon entry, upon evaluation, and upon termination. In addition it is critical that the agency establish a mechanism for periodic career counseling, and provide a referral service for those employees with emotional/personal problems and/or for those employees seeking professional help. Each state agency should list in detail its present counseling procedures, including any specialized programs such as an Employees Assistance Program, full-time counselors, or peer counselors. A review of these procedures must be undertaken to assure the completeness of counseling within the agency. In the event that these procedures are lacking, programatic goals for rectifying any inadequacies must be established and included in the agency affirmative action plan.

V. GOALS AND TIMETABLES

The establishment of goals and timetables is critical for the success of any affirmative action plan. They can be utilized most effectively as a yardstick against which the effectiveness of individual programs may be measured. Using this method ineffective programs can be identified and then extensively reviewed to determine the causes for their failure. Similarly, effective programs once identified can be maintained and perhaps expanded. The results of past discrimination are usually represented by the lack of utilization of protected group members in the workforce. Consequently, while the intention of an affirmative action program may be positive, the emphasis is on achieving concrete results and increased representation in the workforce. Numerical goals are the means by which these results can be measured.

NUMERICAL GOALS

The following section is intended to give guidance in the method of establishing numerical goals and timetables. It is important at this point to differentiate between goals and quotas. The term "goal" is used in these guidelines to mean a realistic objective which an agency endeavors to achieve on a timely basis within the context of the merit system of employment. A "quota" (often court imposed) would restrict opportunities for employment, growth, and development to members of particular groups by establishing a required number or proportionate representation which agency managers would be obliged to attain without regard to merit system requirements. The establishment of goals to be achieved over a reasonable period of time is a useful management concept and should be used where they will contribute to the resolution of equal employment opportunities problems. Affirmative action to attain goals must be carried out in the context of the merit system for Public Employment. The merit system is designed to assure a fair opportunity for all persons. The establishment of reasonable employment goals, as distinguished from mandatory quotas in connection with minority employment is compatible with this principle,

PROGRAMMATIC

While numerical goals are usually related to hiring and promotional opportunities and seek to increase the representation of protected groups in a labor force or specific job class, programmatic goals generally relate to the attainment of a conceptual objective, such as revising the agency employment application by a specific date. This section should include a statement of each problem identified in Section IV, what steps will be taken to deal with the problem, how they will be done, by when, by whom (name and job title), and what type of followup will be used to measure progress at each step.

HIRING GOALS

Those areas of over or underutilization identified in the section on Utilization Analysis are the basis for setting numerical goals. The long-range goal will be to achieve parity in the agency employment profile with the representation of protected groups with available skills in the Labor Market Area usually the source of recruitment. The statistics used in determining this will vary depending on geographical location and the type of job recruited for, as discussed in Section III when determining over or underutilization. Short range goals should be established for increasing representation of those groups underutilized in each job category. Goals should be established for each area where underutilization was found, by race and sex. The agency should consider projected vacancies, turnover rates, openings, and the possibility of new hires by job title to determine the likelihood of increasing the representation of protected groups in each job category. Timetables should be specific, should be set for a fixed period of time, usually yearly, and should take into consideration the level of disparity between the agency's current situation and the goal for the appropriate job category. Goals should be realistic and should be established for Hispanics, Blacks, native Americans, Orientals, Cape Verdeans and women. If an agency would like to consider additional protected groups, this is recommended.

PROMOTIONAL GOALS

Often movement from one job category to another requires experience in a previous position for a specified length of time and recruitment for these positions will be predominantly, if not entirely, internal. Hence promotional goals must be based upon slightly different criteria due to the nature of the agency's existing workforce. As hiring goals are met and the agency's workforce changes to more equitably meet an adequate representation of protected groups, the opportunity to promote protected group members from the labor force will increase. Therefore, it seems reasonable to suggest that the attainment of promotional goals will be tied closely to the success of the agency's hiring goals. The effort here should be to provide opportunities for those individuals currently in the system; hiring is not enough without a program of follow-through. The following is our suggested method for establishing promotional goals:

- a. Goals for the promotion of current employees must be derived separately by race, and sex.
- b. A survey must be taken to determine the percentage of females and minorities in the "base position" from which promotions will be made.
- c. These percentages will be applied to the number of promotional openings and the resultant number will be the goal for a given position. As with the hiring goals anticipated vacancies, turnover rates, and the agency's ability to train must be considered.

Promotional Goals - Continued

If the base positions from which promotions are made is not representative, the use of open-competitive examinations should be considered in order to widen the potential pool of applicants.

VI INTERNAL PROGRAM EVALUATION

A critical part of any affirmative action plan is the development of a means to evaluate the success of agency programs. The following points should be considered when you begin to develop this section of the agency plan:

- a. Develop a reporting system to monitor affirmative action progress. The forms referenced throughout the plan may be used to internally monitor agency employment practices; to determine whether problem areas were adequately identified; and whether the specific action steps helped resolve these problems. A narrative report should accompany them.
- b. All reports from division, sections, facilities, etc. will be reviewed by the affirmative action officer, the Employee Advisory Committee, and the appointing authority to determine what efforts are being undertaken and to make a recommendation for change.
- c. Establish a system for evaluating supervisor's performance in affirmative action. A well-integrated system should have a mechanism for rewarding and reinforcing those individuals who contribute toward making Affirmative Action a reality in each agency.
- d. Assess the overall effectiveness of Affirmative Action policies and make necessary recommendations to the appointing authority for changes, for increased enforcement, and for additional funding, etc. Attention should be paid toward measuring concrete results and identification of barriers to achieving goals.
- e. Maintain overall programmatic progress reports on a quarterly basis. These records should be included in the plans to be submitted March 1 and September 1, and may also be monitored on a quarterly basis. Agencies are encouraged to utilize the section on Special Problems/contingencies to describe any obstacles they have faced in implementing their affirmative action plans.

VI Internal Program Evaluation - Continued

- f. The affirmative action program should be reviewed on an on-going basis and evaluated annually, to correspond with the July 1 submission date. New objectives and goals should be designed to meet the agency's changing employment situation.
- g. The affirmative action officer should maintain continual contact with the appointing authority regarding the program's progress, results achieved, identification of any barriers in achieving objectives, and designing a format for dealing with these barriers. This section should outline what strategies will be taken to ensure the above actions are completed.

VII COMPREHENSIVE PROGRAMS

Within the framework of agency plans there exist an opportunity to develop innovative approaches which will assist minorities and women to gain full participation in the system. Programs which utilize non-competitive positions for entry, offer training for advancement, and have a well defined career ladder offer great opportunities for employees and the employer. In addition summer employment programs can be helpful in introducing minorities and women to all types of state employment. A comprehensive follow up will also result in positive public relations and ultimately a source of recruitment for full-time positions in the future. In this section, agencies should describe any similar programs currently being operated or planned such as youth programs, summer employment programs, apprenticeship or interim programs, work-study programs etc. It should be stressed these programs are not isolated events but rather necessary parts of a continuum by which opportunities can be provided to all persons

VIII GRIEVANCE PROCEDURE

Each state agency should establish a procedure to handle allegations of discrimination. This procedure should address only allegations of discrimination and will supplement the State's Employee Relations Grievance Procedure. In addition this procedure should be available to all state employees regardless of status. This section of the agency plan should describe in detail the grievance procedure and should include the following:

- a. Training in counseling and grievance investigation for agency counselors (full or part-time).
 - b. A mechanism for confidential counseling and informal resolution at the agency level where possible.
 - c. A written and enforceable assurance that the complainant's rights will be protected.
 - d. Notification to employees that an agency grievance procedure is available. This should include a 90 day time limit for filing grievances within the agency to ensure that legal options for filing complaints with enforcement agencies are still available.
-
- e. Notification to employees of legal options to grieve (MCAD, EEOC Wage and Fair Division, etc.) and the procedures and time frames within which to file a complaint.
 - f. Provision to maintain all records of grievances and disposition and to examine these records on a regular basis to detect any patterns in the nature of the grievances.

APPENDIX

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SUMMARY OF LEGISLATION

FEDERAL:

Fifth Amendment to the U.S. Constitution (1791). Provides due process of the law against Federal deprivation of individual rights.

Thirteenth Amendment to the U.S. Constitution (1865). Abolished slavery.

Fourteenth Amendment to the U.S. Constitution (1868). Equal protection of laws to all citizens.

Civil Rights Act of 1866. Enacted pursuant to the 13th Amendment: all persons have the same right to make and enforce contracts (generally applicable to racial discrimination only).

Civil Rights Act of 1871. Enacted pursuant to the 14th Amendment: provides the right of a civil action for the deprivation of rights, privileges, or immunities secured by the Constitution (generally applies to sex as well as race and national origin).

Civil Rights Act of 1964 Title VI. Prohibited discrimination on the grounds of race, color, or national origin under any federally assisted program or activity which has employment as its primary objective.

Civil Rights Act of 1964, Title VII., as amended. (Equal Opportunity Act of 1972). Extended coverage to include state and local governments; identifies violations of the act including failure or refusal to hire or discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of race, color, religion, sex, or national origin; and prescribed procedures used by the Equal Employment Opportunity Commission in processing complaints under this act.

EEOC Guidelines: Issued pursuant to Title VII

Guidelines on Employee Selection Procedures

Guidelines on Discrimination Because of Sex

Guidelines on Discrimination Because of National Origin

Guidelines on Discrimination Because of Religion

Executive Order 11246 (as amended by Executive Order 11375). Prohibits employment discrimination because of race, color, religion, national origin, or sex with employers with federal

contracts or subcontracts or federally assisted construction contracts or subcontracts in excess of \$10,000; requires firms with contracts of \$50,000 or more and 50 or more employees to develop a written affirmative action plan for each of their facilities anywhere in the country. Responsibility for enforcement is delegated by Office of Federal Contract Compliance (OFCC), U. S. Labor Department to the administering federal agency. Guidelines to clarify the legislation and to facilitate the development of agency affirmative action plans were developed:

Obligations of Contractors and Subcontractors. Sets forth rules for equal employment opportunity by government contractors

Revised Order No. 4. Applicable to non-construction contractors with 50 or more employees and a contract exceeding \$50,000; specifies procedures for developing affirmative action plan including data by job classification, policy statement, assignment of responsibilities, examination of all personnel practices, identification of areas of underutilization, and development of goals and timetables.

Revised Order No. 14. Sets forth standardized evaluation procedures for non-construction contractors.

Sex Discrimination Guidelines

Testing and Selection of Employees by Government Contractors

Religion and National Origin

HEW Higher Education Guidelines. Delineates HEW's policies and procedures in developing affirmative action plans in institutions of higher education.

Other Legislation:

Equal Pay Act of 1963

Age Discrimination in Employment Act of 1967

Educational Amendments of 1972, Title IX

Rehabilitation Act of 1973

STATE:CONSTITUTION OF MASSACHUSETTS

Part 1, Article 1 - "All men are born free and equal and have certain ... unalienable rights; among which ... that of seeking and obtaining their safety and happiness..."

Part 1, Article 3 - "... (A)ll religious sects and denominations, ... shall be equally under the protection of the law..."

GENERAL LAWS OF MASSACHUSETTS

Chapter 151B § 1 et seq. - Unlawful Discrimination Against Race, Color, Religious Creed, National Origin or Ancestry

Chapter 151C § 1 et seq. - Fair Educational Practices

Chapter 149 § 105A et seq. - Discriminatory Wage Rates Based On Sex Penalized

Chapter 272 § 98 - Discrimination in Admission to, or Treatment in, Place of Public Accommodation

Chapter 272 § 98A - Discrimination in Employment on Public Works or in Public Relief or Welfare

GOVERNOR'S CODE OF FAIR PRACTICE

Executive Order No. 74 - Affirmative Action in the Executive Department of the Commonwealth of Massachusetts in all its decisions programs and activities.

Executive Order No. 116 - Affirmative Action in the Executive Department

AFFIRMATIVE ACTION OFFICER I

MINIMUM QUALIFICATIONS REQUIREDKNOWLEDGE, SKILL AND ABILITY:

Thorough knowledge of the employment problems of minorities, females and other affected groups; considerable knowledge of the elements of an affirmative action plan; knowledge of the scope and responsibility of affirmative action organizations; knowledge of Equal Employment Opportunity laws, regulations, and guidelines; knowledge of interviewing and counseling techniques; knowledge of affirmative action recruitment methods; some knowledge of social psychology and its application; ability to develop and implement affirmative action plans; investigatory ability; ability to compile, analyze and evaluate personnel records, and statistical charts and graphs; ability in written and oral expression; and ability to deal effectively with others.

EXPERIENCE AND TRAINING:

Four (4) years' employment in personnel administration or in a related field or in an affirmative action program, equal employment opportunity program or community organization dealing with employment problems.

NOTE: Undergraduate study in a college or university may be substituted for a maximum of three (3) years' experience on the basis of one (1) year of college credit (30 semester hours) for each year of experience.

PRINCIPAL ACCOUNTABILITIES:

1. Timely and effective interaction with minority and women's groups and other affected groups.
2. Effective recruiting.
3. Accurate monitoring of the implementation of agency affirmative action plans.
4. Timely assessment of employment problems.
5. Suitability of employment for individuals referred.

V
AFFIRMATIVE ACTION OFFICER II

Suggested Under Sec/or Asst. Sec Level

SUMMARY OF CLASS:

This class is accountable for performing supervisory or administrative duties relating to the State affirmative action program.

SUPERVISION RECEIVED:

Works under general supervision of an administrative official of cabinet rank.

SUPERVISION EXERCISED:

May supervise clerical or technical staff assigned to section.

GENERAL STATEMENT OF DUTIES:

In the Affirmative Action Program Office develops and implements the plan of action to eliminate discriminatory practices and insure equal opportunity for any agency with a program of moderate size; supervises a specialized segment of a large and complex equal opportunity program; processes all complaints and personally conducts the more difficult investigations of alleged discrimination; assists in designing training programs appropriate to particular problems; provides Federal, State, and departmental officials with necessary information concerning equal opportunity program requirements; monitors on-going equal opportunity programs; counsels minorities, women and members of other affected groups in such areas as career mobility and training; does related work as required.

In all other State agencies develops and implements an affirmative action plan to insure equal employment opportunity within a major State agency; reviews agency staffing to determine employment status of minority and women employees and employees of other affected groups; reviews and evaluates data and statistics collected pertaining to employment studies of members of affected groups and makes recommendations to ameliorate inadequate staffing patterns; prepares monthly and quarterly reports for State agencies monitoring agency affirmative action programs; informs employee organizations and community organizations representing affected groups when jobs are available; may write announcements and advertisements for publication in media and organizations dealing with affected groups; supervises investigation of any/all complaints and personally handles the more difficult cases of alleged discrimination; discusses goals of equal employment opportunity with agency administrators and supervisors to develop an awareness of problems; may instruct members of affected groups in practical trade and office skills; may conduct cultural awareness training sessions to enhance understanding and communication between affected groups and all others; may supervise the investigation of the employment and personnel practices or recipients of contracts awarded by the agency; discusses the goals of equal opportunity with agency administrators and supervisory personnel to develop an awareness of problems; does related work as required.

AFFIRMATIVE ACTION OFFICER II

MINIMUM QUALIFICATIONS REQUIREDKNOWLEDGE, SKILL AND ABILITY:

Thorough knowledge of the employment problems of minorities, females, and other affected groups; considerable knowledge of the elements of affirmative action program; considerable knowledge of Equal Employment Opportunity laws, regulations, and guidelines; knowledge of the scope and responsibility of affirmative action organizations; knowledge of interviewing and counseling techniques; knowledge of merit-system selection process including recruitment, examination, classification and certification; some knowledge of social psychology and its application; ability to develop and implement affirmative action plans; investigatory ability; ability to compile, analyze and evaluate personnel records and statistical charts and graphs; ability in written and oral expression; ability to deal effectively with others; supervisory ability.

EXPERIENCE AND TRAINING:

Five (5) years' employment in personnel administration or in a related field or in an affirmative action program, equal employment opportunity program, or community organization dealing with employment problems.

NOTE: Undergraduate study in a college or university may be substituted for a maximum of three (3) years' experience on the basis of one (1) year of college credit (30 semester hours) for each year of experience.

PRINCIPAL ACCOUNTABILITIES:

1. Effective supervision of affirmative action activities.
2. Effective and clear communication with client groups to overcome problems and to gain confidence.
3. Effective and timely designing of corrective action programs to insure compliance with affirmative action goals.
4. Appropriate and timely recommendation of courses of action having major impact on public personnel management system.

PROCEDURE FOR CONDUCTING A WORKFORCE ANALYSIS

A workforce Analysis entails:

1. Listing of each job title:
 - a. List by career ladders from highest paid title to lowest paid.
 - b. A separate list should be provided for each career ladder or line of progression.
 - c. Include all job titles, including managerial titles, as they appear in the Compensation Plan.
 - d. Titles with no career ladders should be listed in a separate list. If entry level positions have a number of career avenues, indicate the specific career ladders available.

2. For each job title, the following information is needed:
 - a. Salary range
 - b. EEO-4 category:
 1. Officials/Administrators
 2. Professionals
 3. Technicians
 4. Protective Service
 5. Paraprofessionals
 6. Skilled Craft
 7. Office/Clerical
 8. Service Maintenance
 - c. Cross-index employees by race and sex to obtain the number and percentage of Black men & women, Hispanic men and women, native Americans, Orientals, Cape Verdeans, and white men and women in each job title.
 - d. Total male employees (number, percentage of total employees in the job and percentage of agency total employees).
 - e. Total female employees as above.
 - f. Total Hispanic as above.
 - g. Total Blacks as above.

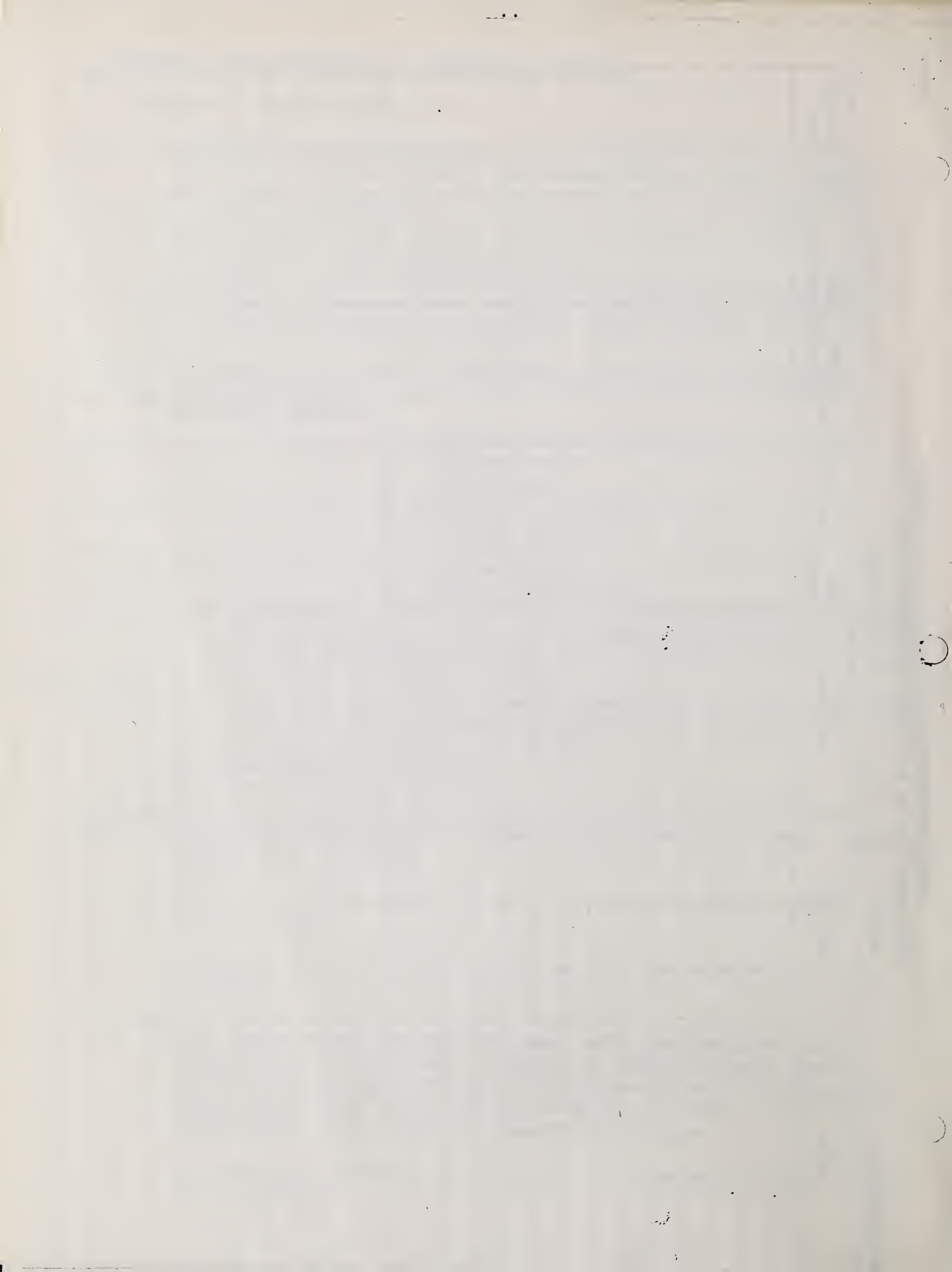
3. Include an organizational chart of the agency and where career ladders are utilized.

4. Indicate average salary in each job category cross-indexed by race and sex.

5. Include a profile of the agency salary cross-indexed by race and sex.

6. The above should be done for each major geographical unit, institution or division. Listing of towns by Labor Market Area may be obtained by using the General Social and Economic Characteristics, U.S. Dept. of Commerce, Bureau of the Census, Washington, D.C. 20233, Commerce Publication.

7. A summary of employee distribution by geographical area should be included.



EXAMPLES OF AFFIRMATIVE ACTION ACTIVITIES

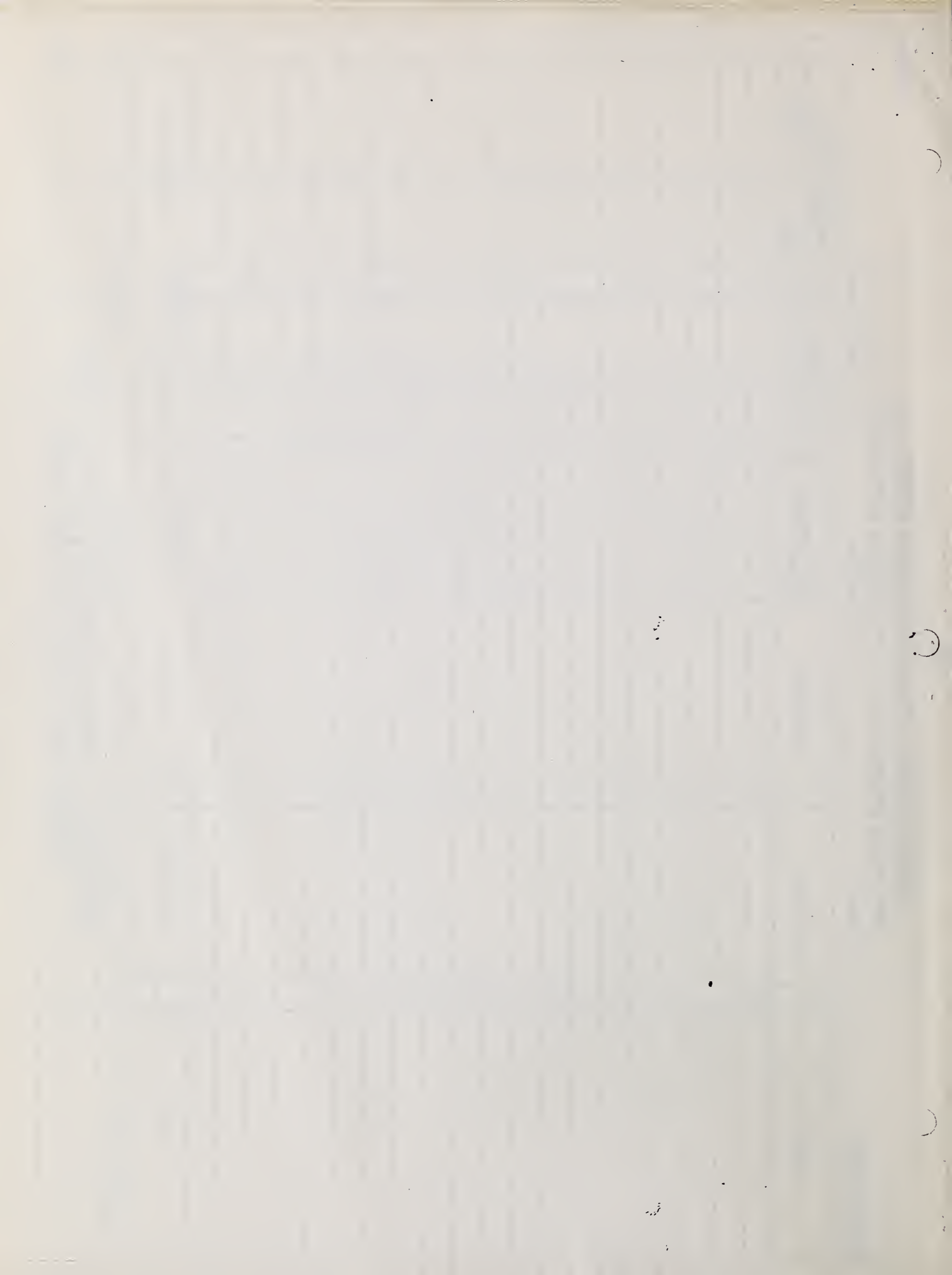
INTERNAL

- DEVELOPMENTAL TRAINING (AAP#4) *
- ASSESSMENT PROGRAMS (AAP#3) *
- TUITION AID PLAN (AAP#3) *
- JOB COUNSELLING
- CAREER COUNSELLING
- OFF-JOB SPECIALIZED TRAINING
(Typing, Test Preparation, Conversational Spanish)
- ROTATIONAL ASSIGNMENTS
- TEMPORARY MANAGERIAL ASSIGNMENTS
- PROGRAMS TO STIMULATE INTEREST IN
NON-TECHNICAL ASSIGNMENTS

EXTERNAL

- PROJECT SATURDAY/PROJECT INTAKE
- REMEDIAL TRAINING
- JOB FAIRS
- CAREER DAYS
- MEETING WITH GUIDANCE COUNSELLOR
- MINORITY AND FEMALE ORGANIZATION CONTACTS
- MEMBERSHIPS
- CONTRIBUTIONS
- ACCESS CARD IN SPANISH
- SPECIAL RECRUITMENT EFFORTS

* Use Appropriate AAP Report Form to Record These Activities.



MANAGEMENT EMPLOYEES --- NON-MANAGEMENT EMPLOYEES

Record all employees - management and non-management

ATTENDANCE AT FORMAL DEVELOPMENTAL TRAINING (AAP #4)

Record separately, those management and non-management employees attending formal training courses. Do not include initial training courses.

SELECTED FORCE ADDITIONS:

Additions -- Resignations -- Dismissals -- Retirements

Record all management and non-management additions, resignations, dismissals, and retirements.

Additions will include new hires, transfers, promotions, retirements, returns for leaves of absence, military leaves, or any other reason.

Retirements, non-management only, represent personnel returning to original department, within six months, after having been granted a transfer. A retirement represents a force loss for the losing department and a force addition for the receiving department.

TUITION AID (AAP #3)

Record all employees, management and non-management, taking advantage of G.I. #57.

PROMOTABLES

Within Management - Record management personnel ready now for a promotion to the next full management level.

To Management - Record non-management personnel ready now for a promotion to management.

ATTENDANCE AT ASSESSMENT PROGRAMS (AAP #3)

MANAGEMENT NON-MANAGEMENT

Record those management employees attending the Management Assessment Program, and those non-management employees participating in the MIP sessions.

PROMOTIONS

Within Management - Record full level promotions only.

To Management - Record all promotions of non-management personnel to management.

AFFIRMATIVE ACTION PROGRAM PROGRESS REPORT BY JOB CLASSIFICATION

SECRETARIAT AGENCY LOCATION Report Period

Job Classification	Total Employees	MALE						FEMALE					
		Total Male	White	Black	SSA	American Indian	Asian & Other	Total Female	White	Black	SSA	American Indian	Asian & Other
16	Ultimate Goal %												
	Int. Target %												
	Current Profile #												
	Current Profile %												
17	Ultimate Goal %												
	Int. Target %												
	Current Profile #												
	Current Profile %												
18	Ultimate Goal %												
	Int. Target %												
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