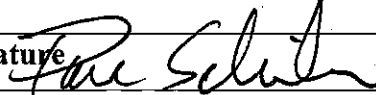


Department of Commerce

POLICY

Equal Employment Opportunity (EEO) Program Plan	
Category: Human Resources	
Director: Dore Schwinden	Signature: 
Issuing Authority: Department Director 2-15-112 (b) MCA	
First Issued: 2005	Effective Date: March 16, 2012

The Department of Commerce is committed to fostering an environment that provides Equal Employment Opportunity for our state population and all our employees.

The Department's goal is to make its workforce more closely reflect the labor force in Montana. The Department will make specific good faith efforts to identify the underutilization of women and minorities, and make the necessary changes to remove any existing barriers to their employment. The Department will also work to recruit and retain qualified minorities at all levels of employment.

An annual EEO Utilization Analysis Plan is produced and can be found at:
<http://commerce.mt.gov/content/docs/EEOProgramPlan.pdf>

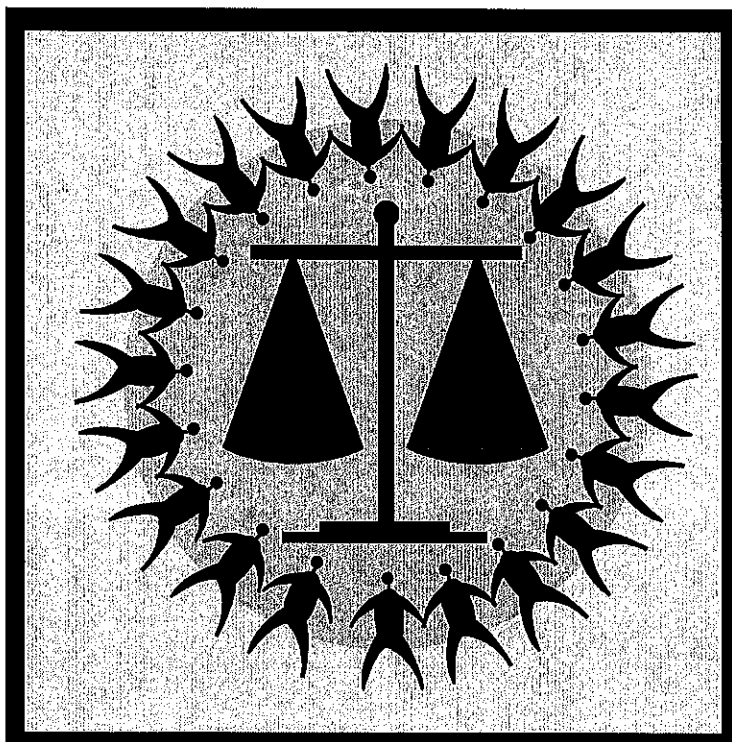
Please take the time to review this plan and be familiar with your responsibilities that are outlined.

Should you have any questions or comments do not hesitate to contact the Human Resources Manager, Marty Roos at 841-2723.

STATE OF MONTANA

DEPARTMENT OF COMMERCE

**EQUAL EMPLOYMENT OPPORTUNITY
PROGRAM PLAN**



Revised March 2012

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I. PLAN PURPOSE

The purpose of this plan is to implement and maintain an Equal Employment Opportunity (EEO) Program to ensure that the Department of Commerce does not discriminate in employment, based upon race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation or political beliefs. The Department has adopted the State of Montana's EEO Policy as the basis of its program plan. That document can be found in Appendix A. This plan applies to agencies that are administratively attached to the Department, and have the authority to hire personnel.

II. GOALS AND OBJECTIVES

The Department's goal is to make its workforce more closely reflect the labor force in Montana. The Department will make specific good faith efforts to identify the underutilization of women and minorities, and make the necessary changes to remove any existing barriers to their employment. The Department will also work to recruit and retain qualified minorities including Native American individuals and individuals with disabilities at all employment levels.

Underutilization may be caused by barriers to employment. Therefore, the Department's hiring officials will review their recruitment, selection, and promotion process as well as the on-the-job treatment of employees to ensure that women and minorities receive equal employment opportunity to secure employment and promotion.

III. UNDERUTILIZATION REVIEW

Appendix B contains a table that summarizes the Department's underutilization of women and minorities by EEO category and job groups within the category. This information comes from the Utilization Analysis Report that compares the Department's workforce to Montana's labor force by each job group. If the Department's workforce in a particular job group is less than the labor force, then the job group will be defined as underutilized.

The Department's hiring officials will strive to determine the cause of underutilization (employment barriers) and take appropriate action to remove those barriers. Employment barriers MAY BE caused by:

Recruitment Issues—The Department needs to attract qualified women and/or minority applicants in numbers proportionate to their external availability.

Selection Issues—The Department's selection rate for women and/or minorities needs to be similar to the selection rate for the other applicants.

Upward Mobility Issues—The Department needs to advance qualified women and minorities.

On-the-Job Treatment—The job conditions or the Department's performance evaluation of its employees should not have adverse impact on women and minorities.

IV. EEO PROGRAM PLAN

The Department has established the following EEO Program Plan. The Department's managers/hiring officials will strive to increase women and minority representation for underutilized positions by evaluating their recruitment and selection practices to ensure that women and minorities receive equal opportunity to secure employment. The Department will continue its efforts to recruit and retain qualified individuals with disabilities in all levels of our workforce.

A. Hiring

Prior to beginning the hiring process, the Human Resource Office will review the Utilization Analysis and the Adverse Impact Report for the job category to determine if the position is attracting qualified women and/or minority applicants in numbers proportionate to their external availability.

If the position is underutilized, the hiring official will review the EEO Plan as it relates to their Recruitment/Selection Process. This requires a job profile review to make sure the position requirements are job-related and consistent with business necessity and the safe performance of the position. Any hiring requirement that does not meet these criteria will be removed to avoid screening out qualified applicants.

The Department will make reasonable accommodations to applicants with physical and mental limitations unless such an accommodation would create an undue hardship on the Department's ability to conduct business.

B. Recruitment

The Department's recruitment goal is to increase women and minority representation in underutilized positions by attracting qualified candidates to apply for the underutilized positions. Applicant's qualifications will be reviewed to ensure qualified individuals are treated in a nondiscriminatory manner. Vacancy announcements for underutilized positions will include the statement:

Women and minorities are encouraged to apply.

The department will post all external vacancy announcements on State of Montana Employment website: <http://mt.gov/statejobs/statejobs.asp>, and will notify department employees of these opportunities through the e-mail system.

The Department will continue to partner with the Montana Job Service Workforce Centers in its recruitment efforts. The Job Service Workforce Centers provide the following services for applicants:

1. Post job openings from the State's Employment website to America's Job Bank;
2. Conduct training on how to apply for a state job;
3. Provide application materials to the public;
4. Answer general questions about vacancies and application procedures;
5. Provide proficiency testing;
6. Forward completed applications to the hiring agency; and
7. Provide classes on how to use the computer to perform basic Internet job search activities, and complete applications on-line.

The Department will continue to work with recruitment sources (organizations having effective contact with women, minority groups and persons with disabilities) to improve recruitment efforts.

The Department will encourage the employment of women, minorities, and people with disabilities who are not currently in the workforce, by offering part-time employment, internships, or summer employment when possible.

C. Compensation

The Human Resources Office will continue to use the Employee Profile to determine the appropriate level of compensation and evaluating equality in compensation within the Department. This method looks at an individual's qualifications and not gender, race, ethnicity or disability of employees to determine pay.

D. Training Programs

Managers involved in the recruitment and selection process will be trained by a Human Resource Specialist to ensure they understand the EEO Program Plan, and are committed to its intent.

E. Harassment and Discrimination Prevention

The Department has adopted the State of Montana's EEO Policy (Appendix A) prohibiting harassment and discrimination based on protections provided under EEO laws. Any person who believes they or another person has been subjected to discrimination is encouraged to report the incident or action. The complaint resolution procedure is explained in Appendix C.

F. Internal Recruitment Opportunities

The Department will strive to ensure employees are given equal opportunity for positions by:

1. Posting opportunities through the State's e-mail system;
2. Assisting employees in identifying opportunities;
3. Offering training, educational programs and job mentoring when possible.

The Utilization Analysis will be annually reviewed by the Human Resource Office in an effort to ensure that qualified women and minorities are provided opportunities at rates substantially similar to those of qualified men and non-minority employees. The Department will strive to employ and retain qualified individuals with disabilities in all levels of its workforce.

G. Termination

Exit interviews are conducted by Human Resources staff to provide the exiting employee with the opportunity to:

1. Discuss the precise reason(s) for the termination;
2. Voice any concerns the employee may have been reticent to express while employed; and,

3. Provide positive and negative comments and suggestions related to their employment experience.

The Department will review the Adverse Impact Report and the On-Line Data Warehouse information (when available), to identify if women and minorities leave our Department at rates substantially different from those of men, non-minority employees, and employees without disabilities.

V. DUTIES AND RESPONSIBILITIES FOR PROGRAM IMPLEMENTATION

A. Director:

1. Support the Department's EEO Program Plan, and hold managers accountable for adhering to it.
2. Evaluate Division Administrator's Program participation through their annual performance evaluations.

B. EEO Officer/ADA Coordinator:

1. Review and update the EEO Program Plan as necessary.
2. Implement and maintain EEO reporting and recordkeeping systems to measure the effectiveness of Department's EEO Program Plan, and to determine whether goals and objectives have been attained.
3. Continue to use the Employee Profile to ensure compensation is based on an individual's qualifications and experience.
4. Annually update the Department's Underutilization Report. Send the updated report to Division Administrators, along with a comparison of last year's with the current year's figures.
5. Assist managers in identifying what may be causing underutilization (employment barriers) and recommend appropriate action.
6. Keep management informed of the latest developments in the area of EEO.
7. Provide Manager Fact Sheet links to managers and hiring team members prior to beginning the hiring process.
8. Review the Utilization Analysis and Adverse Impact Report prior to beginning the hiring process.
9. Provide training opportunities for managers and employees in the area of EEO and Recruitment and Selection, to ensure that managers and supervisors understand their responsibility to take action to prevent the harassment of employees and applicants for employment.
10. Investigate, and attempt to resolve all EEO complaints.

C. Managers/Supervisors:

1. Responsible for implementing and adhering to the Department's EEO Program Plan.
2. Lead by example. Treat all persons in the workplace fairly; with courtesy, dignity and respect. Will promote an inclusive work environment that recognizes and values differences as a key to organizational success.
3. Ensure the Department's EEO Policy Statement and Complaint Resolution Procedure is posted on employee bulletin boards.

4. Responsible for reviewing the recruitment, selection, and promotion process to ensure they are adhering to the Department's EEO Program Plan, and make hiring decisions based on an applicants competencies and qualifications.

5. Will review the following Manager Fact Sheets:

Equal Employment Opportunity, Nondiscrimination and Harassment Policy;

<http://hr.mt.gov/content/hrpp/docs/Guides/NondiscrimHarassmtFactSheet2012>

Reasonable Accommodation;

<http://hr.mt.gov/content/hrpp/docs/Guides/ReasonableAccommodationFactSheet.doc>

Reasonable Accommodations and Equal Access Policy;

<http://hr.mt.gov/content/hrpp/docs/Guides/ReasonAccommFactSheet2012>

6. Responsible for promoting equal access to the programs, services and activities they provide for their customers.

D. Employees:

1. Treat persons in the workplace fairly, with courtesy, dignity and respect.
2. Inform supervisor, the EEO Officer or the Human Resource Office of any EEO concerns.
3. Follow the Department's EEO Program Plan.

VI. EEO PROGRAM PLAN DISTRIBUTION:

A. Internal

1. Each employee will receive link to this plan during new employee orientation
2. The EEO Policy and Complaint Resolution Procedure posters will be permanently posted and conspicuously displayed in areas available to employees and applicants for employment.
3. The Department's EEO Program Plan will be posted on its intranet page.

B. External

1. The Department's EEO Program Plan will be posted on its web page.

**APPENDIX A
STATE OF MONTANA
EQUAL EMPLOYMENT OPPORTUNITY**

It is the policy of the State of Montana that state government:

- Is an equal employment opportunity employer;
- Does not discriminate in employment based upon **race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation or political beliefs**; and
- Implements and maintains an effective equal employment opportunity program that may include a written affirmative action plan.

Employees of the State of Montana have a right to work in an environment free from all forms of discrimination. The State of Montana's prohibition of discrimination includes discrimination in hiring, firing, promotions, compensation, job assignments, and other terms, conditions or privileges of employment. The State of Montana may not retaliate or allow, condone, or encourage others to retaliate against any applicant, employee, or past employee for opposing unlawful discriminatory practices, filing a discrimination complaint and/or testifying or participating in any other manner in a discrimination proceeding.

All employees with access to such information shall maintain the confidentiality of the information to the extent reasonably possible and may not release the information to anyone who does not have the right or need to know.

<p style="text-align: center;">SEXUAL HARASSMENT</p> <p>The State of Montana prohibits sexual harassment of employees, customers, clients and any other persons. There are two categories of sexual harassment:</p> <p>Quid pro quo: Sexual favors are sought in return for job benefits or opportunities. It includes being forced to resign (constructive discharge). Examples: Sexual advances that are unwelcome. The loss or threatened loss of a job for failing to comply with a supervisor's sexual demands. This may include situations that began as mutual attractions, but later ceased to be reciprocal. Employment benefits affected in exchange for sexual favors (may include situations where a third party is treated less favorably because others have agreed to sexual advances).</p> <p>Hostile working environment: Unwelcome sexual conduct that unreasonably interferes with an employee's job performance or creates an intimidating, hostile or offensive working environment. The key words are <i>unwelcome, unreasonable, and intimidating, hostile or offensive</i>. Examples: Displaying sexually suggestive objects, pictures, cartoons or posters. Verbal abuse of a sexual nature, sexually oriented jokes, innuendoes, or obscenities. Sexually suggestive letters, notes or invitations.</p> <p>Harassment not involving sexual activity or language is also discriminatory if it is sufficiently patterned or pervasive and directed at employees because of their sex. This is gender-based harassment.</p>	<p style="text-align: center;">DISABILITIES</p> <p>The State of Montana does not discriminate against any applicant or employee in hiring, firing, promotions, compensation, job assignments and other terms, privileges or conditions of employment due to physical or mental disability.</p> <p>The State of Montana provides reasonable accommodation to an otherwise qualified applicant or employee with a known disability that prevents the individual from participating in the application process, competing in the selection process, performing the essential functions of the job, and enjoying equal benefits and privileges of employment. An accommodation that is not effective, creates an undue hardship on a department, or endangers health or safety is not a reasonable accommodation.</p> <p>Any otherwise qualified applicant for employment or employee with a disability who needs reasonable accommodation shall inform the department personnel officer, his or her immediate supervisor or the department ADA coordinator of the nature of the disability and the accommodation requested.</p> <p>Some communicable diseases, for example, HIV/AIDS, are physical disabilities. The State of Montana does not discriminate against any applicant for employment or employee based upon communicable disease unless required to do so by the reasonable demands of the position.</p>
<p style="text-align: center;">OTHER HARASSMENT</p> <p>The State of Montana's policy is to provide employees with a work environment free of these forms of harassment. Harassment of employees, clients, customers, and any other persons doing business with state government because of a person's race, color, national origin, age, physical or mental disability, marital status, religion, creed, sexual orientation or political beliefs is prohibited.</p> <p>Examples of other prohibited harassment include, but are not limited to: Coercion of employees, clients, or customers in the participation or non-participation in religious activities; or ethnic slurs, repeated jokes, innuendoes, or other verbal or physical conduct because of a person's nationality, race, color, age, physical or mental disability, marital status, religion, creed, sexual orientation or political beliefs if these actions create an intimidating, hostile or offensive working environment.</p>	<p style="text-align: center;">MATERNITY</p> <p>The State of Montana may not discriminate against any applicant or employee in hiring, firing, promotions, compensation, job assignments and other terms, conditions or privileges of employment based upon a temporary disability resulting from pregnancy, childbirth, or related medical conditions.</p> <p>The State of Montana may not terminate any employee due to pregnancy or childbirth. The State of Montana shall grant a request by an employee for a reasonable leave of absence for pregnancy, childbirth or related medical conditions. The State of Montana recognizes six (6) calendar weeks as a reasonable period of recovery from the temporary disability due to childbirth.</p>
<p style="text-align: center;">EQUAL PAY</p> <p>The State of Montana may not pay unequal compensation to men and women who perform jobs that require substantially equivalent skill, effort, and responsibility that are performed under similar working conditions. Wage differentials are permitted on factors other than sex, for example, longevity, merit, and applicant or employee qualifications.</p>	<p style="text-align: center;">RELIGION</p> <p>The State of Montana shall make reasonable accommodation for religious beliefs or practices. Any otherwise qualified applicant for employment or employee who requires reasonable accommodation may inform his or her immediate supervisor or the department EEO officer of the need for a religious accommodation. An accommodation that creates an undue hardship on a department is not a reasonable accommodation.</p>

If you are considering reporting a complaint, you can: Use your department's complaint resolution procedure. File a complaint with the Human Rights Bureau, Department of Labor and Industry (PO Box 1728, Helena, MT 59624-1728, phone 1-800-542-0807). Complaints with the Human Rights Bureau will be accepted within 180 days of the act, or an extended 120 days if you are using an internal complaint procedure.

If you are not personally a victim of discrimination, but observe actions against other employees that you believe to be discrimination, you are encouraged to bring it to the attention of your EEO Officer or ADA Coordinator.

Marty Roos - EEO Officer
Room 205
301 South Park Avenue
Helena, MT 59620
406-841-2723

Diane Larson - ADA Coordinator
Room 212
301 South Park Avenue
Helena, MT 59620
406-841-2718

APPENDIX B

DEPARTMENT OF COMMERCE						
Under-utilization Comparison Report 2009-2012						
EEO Categories and Job Groups	Underutilization Nov-09		Underutilization Dec-10		Underutilization Jan-12	
	Female	All Minority	Female	All Minority	Female	All Minority
Officials and Administrators Category:						
Occupational Group Code 000: Agency Head; BOI Administrators	-1	OK	-1	OK	-1	OK
Occupational Group Code 131: Administrative Specialists (PB7)	-1	OK	OK	OK	OK	OK
Professional Category:						
Occupational Group Code 000: BOI - Professionals	-3	-1	-3	-1	-3	-1
Occupational Group Code 131: Human Resource Specialist; Administrative Specialist (PB 5&6); Business Development Specialist	OK	-2	OK	-3	OK	OK
Occupational Group Code 132: Accountant; Financial Analyst	-2	-3	-2	-3	-1	-3
Occupation Group Code 231: Lawyer	OK	OK	-1	OK	-1	OK
Occupational Group Code 254: Curator; Museum Exhibit Specialist	-1	-1	-1	-1	-1	OK
Occupational Group Code 273: Public Relations Specialist	OK	-1	OK	-1	OK	-1
Technicians Category:						
Occupational Group Code 433 Accounting Technician	-1	OK	-1	OK	OK	OK
Occupational Group Code 436: Administrative Assistant	-1	-2	OK	-2	OK	-1
Office/Clerical Category:						
Skilled Craft Category:						
Occupational Group Code 499: Maintenance Worker	-1	OK	OK	OK	OK	OK
Department Total	OK	-10	OK	-9	OK	8

APPENDIX C
STATE OF MONTANA
NONDISCRIMINATION-EQUAL EMPLOYMENT OPPORTUNITY
COMPLAINT RESOLUTION PROCEDURE

The State of Montana is an equal employment opportunity employer and prohibits discrimination based on race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation or political beliefs unless based on a bona fide occupational qualification (BFOQ). The State also prohibits discrimination in providing services, activities and programs unless providing a reasonable accommodation or reasonable modification would cause an undue hardship.

The State of Montana is committed to resolving complaints of discrimination in a fair and timely manner. The complaint resolution procedure is a dispute resolution process used when an applicant, client, customer or employee alleges that discrimination has taken place. Management must investigate when reports are received. Complaints concerning disability discrimination are submitted to the agency Americans with Disabilities Act (ADA) Coordinator. All other complaints are submitted to the agency Equal Employment Opportunity (EEO) Officer. This complaint resolution procedure may not cover members of a collective bargaining unit unless it is stipulated in the bargaining agreement.

Complainant's Responsibility:

Any applicant, client, customer, or employee who believes he or she or another person has been subjected to a discrimination of the equal employment opportunity policy is encouraged to report the incident(s) or action(s) to management as soon as possible after the alleged discrimination occurs. Early reporting is encouraged, because management's ability to investigate and act on reports diminishes with time.

Management's Responsibility:

1. Any supervisor who receives a report of an alleged discrimination shall immediately notify the agency EEO Officer or ADA Coordinator.
2. Upon receipt of a report alleging discrimination, including sexual harassment, the agency shall take all appropriate steps to prevent the alleged conduct from continuing pending completion of the investigation. The agency will determine the steps to be taken by balancing the rights of the alleged victim, including the severity of the alleged conduct, and the rights of the alleged harasser.
3. The EEO Officer or ADA Coordinator shall initiate an investigation or select another appropriate management representative to initiate the investigation no later than 10 working days after receiving notice of the alleged discrimination. The investigation shall include verification of the report, a recommended course of action, and written documentation of the investigation. The investigator shall submit the results of the investigation to department or agency personnel officer. The factual report shall remain confidential and may not be disseminated except to persons having a need or right to know which outweighs the privacy rights of the persons involved.
4. Within 5 working days of receiving the investigator's factual report, the agency will, in writing, inform the complainant, any employees directly involved, their immediate supervisors, and the EEO Officer or ADA Coordinator of the results of the investigation and the agency's decision.

5. If the investigation establishes that there is insufficient evidence to find that illegal discrimination occurred, the agency will inform all parties involved that no action will be taken. If the investigation establishes that discrimination occurred, the agency will take appropriate action, including, but not limited to, disciplinary measures pursuant to the agency's disciplinary policy, which may include termination. The agency will, in writing, inform the complainant only that an action was taken, not the details of the action.
6. Neither the agency management nor any employee will retaliate against any employee for filing a discrimination complaint or for participating in any way in a complaint procedure.

OTHER COMPLAINT FILING OPTION (1) An applicant, client, customer, or employee may concurrently file a complaint of unlawful discrimination with the Human Rights Bureau (PO Box 1728, Helena, MT 59624-1728, phone 1-800-542-0807.) The complaint must be filed either:

- a. within 180 days of the alleged incident; or
- b. if the employee initiates action to resolve the alleged discrimination in accordance with this procedure or contract grievance procedure, within 300 days of the alleged incident.

Marty Roos - EEO Officer

Room 205
301 South Park Avenue
Helena, MT 59620

Diane Larson – ADA Coordinator

Room 212
301 South Park Avenue
HELENA, MT 59620