
STATE OF MINNESOTA



MINNESOTA DEPARTMENT OF
COMMERCE

Affirmative Action Plan

August 2014 – August 2016

**85 7th Place East, Suite 500
St. Paul, MN 55101-2198**

CONTENTS

I.	EXECUTIVE SUMMARY.....	3
II.	STATEMENT OF COMMITMENT	4
III.	INDIVIDUALS RESPONSIBLE FOR DIRECTING/IMPLEMENTING THE AFFIRMATIVE ACTION PLAN.....	5
	A. Commissioner or Agency Head.....	5
	B. Affirmative Action Officer or Designee.....	5
	C. Americans with Disabilities Act Coordinator or Designee.....	6
	D. Human Resources Director or Designee.....	7
	E. Directors, Managers, and Supervisors.....	8
	F. All Employees.....	9
IV.	COMMUNICATION OF THE AFFIRMATIVE ACTION PLAN.....	9
	A. Internal Methods of Communication	9
	B. External Methods of Communication.....	10
V.	POLICY PROHIBITING DISCRIMINATION AND HARASSEMENT	10
VI.	COMPLAINT PROCEDURE FOR PROCESSING COMPLAINTS FOR ALLEGED DISCRIMINATION/HARASSMENT	11
VII.	REASONABLE ACCOMMODATION POLICY	13
VIII.	EVACUATION PROCEDURES FOR INDIVIDUALS WITH DISABILITIES.....	18
IX.	GOALS AND TIMETABLES.....	19
X.	AFFIRMATIVE ACTION PROGRAM OBJECTIVES	21
XI.	METHODS OF AUDITING, EVALUATING, AND REPORTING PROGRAM SUCCESS.....	23
	A. Pre-Employment Review Procedure/Monitoring the Hiring Process.....	23
	B. Pre-Review Procedure for Layoff Decisions.....	23
	C. Other Methods of Program Evaluation	23
XII.	RECRUITMENT PLAN.....	24
	A. Advertising Sources.....	24
	B. Job and Community Fairs.....	25
	D. Recruitment for Individuals with Disabilities.....	25
	E. Relationship Building and Outreach	26
	G. Supported Employment (M.S. 43A.191, Subd. 2(d))	26
XIII.	RETENTION PLAN.....	26
	A. Individual(s) Responsible for the Agency's Retention Program/Activities.....	26
	B. Separation Analysis by Protected Groups	26

C. Methods of Retention of Protected Groups.....	26
APPENDIX.....	28
A. Complaint of Discrimination/Harassment Form.....	28
B. Employee/Applicant Request for ADA Reasonable Accommodation Form.....	31
C. Agency Profile and Organizational Chart.....	33
D. Underutilization Analysis Worksheets.....	34
E. Separation Analysis by Protected Groups Worksheets.....	34

I. EXECUTIVE SUMMARY

DEPARTMENT OF COMMERCE
Affirmative Action Plan 2014-2016

Review revealed underutilization of the following protected group(s) in the following job categories:

Table 1. Underutilization Analysis of Protected Groups

PROTECTED GROUPS			
Job Categories	Women	Racial/Ethnic Minorities	Individuals with Disabilities
Officials/Administrators		X	X
Professionals		X	X
Protected Services: Sworn	X		
Office/Clerical			
Technicians	X		

Once approved, information about how to obtain or view a copy of this plan will be provided to every employee of the agency. Our intention is that every employee to is be aware of Commerce's commitments to affirmative action and equal employment opportunity. The plan will also be posted on the agency's website and maintained in the Human Resources Office.

This Affirmative Action Plan meets the requirements as set forth by Minnesota Management and Budget, and contains affirmative action goals and timetables, as well as reasonable and sufficiently assertive hiring and retention methods for achieving these goals.

Affirmative Action Officer Signature: *Uwela Lehmann* Date: 8/6/2014

HR Director/Designee Signature: *Cover Sugstr* Date: 8/6/2014

Commissioner/Agency Head Signature: *Mr. Roth* Date: 9/2/14

II. STATEMENT OF COMMITMENT


This statement reaffirms Department of Commerce is committed to Minnesota's statewide affirmative action efforts and providing equal employment opportunity to all employees and applicants in accordance with equal opportunity and affirmative action laws.

I affirm my personal and official support of these policies which provide that:

- No individual shall be discriminated against in the terms and conditions of employment, personnel practices, or access to and participation in programs, services, and activities with regard to race, sex, color, creed, religion, age, national origin, sexual orientation, disability, marital status, familial status, status with regard to public assistance, or membership or activity in a local human rights commission.
- This agency is committed to the implementation of the affirmative action policies, programs, and procedures included in this plan to ensure that employment practices are free from discrimination. Employment practices include, but are not limited to the following: hiring, promotion, demotion, transfer, recruitment or recruitment advertising, layoff, disciplinary action, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. We will provide reasonable accommodation to employees and applicants with disabilities.
- This agency will continue to actively promote a program of affirmative action, wherever minorities, women, and individuals with disabilities are underrepresented in the workforce, and work to retain all qualified, talented employees, including protected group employees.
- This agency will evaluate its efforts, including those of its directors, managers, and supervisors, in promoting equal opportunity and achieving affirmative action objectives contained herein. In addition, this agency will expect all employees to perform their job duties in a manner that promotes equal opportunity for all.

It is the agency's policy to provide an employment environment free of any form of discriminatory harassment as prohibited by federal, state, and local human rights laws. I strongly encourage suggestions as to how we may improve. We strive to provide equal employment opportunities and the best possible service to all Minnesotans.

Commissioner Signature: _____



Date: _____

9/2/14

III. INDIVIDUALS RESPONSIBLE FOR DIRECTING/IMPLEMENTING THE AFFIRMATIVE ACTION PLAN

A. Agency Commissioner

Mike Rothman, Commissioner

Responsibilities:

The Commissioner is responsible for the establishment of an Affirmative Action Plan that complies with all federal and state laws and regulations.

Duties:

The duties of the Commissioner shall include, but are not limited to the following:

- Appoint the Affirmative Action Officer or designee and include accountability for the administration of the agency's Affirmative Action Plan in his or her position description;
- Take action, if needed, on complaints of discrimination and harassment;
- Ensure the Affirmative Action Plan is effectively communicated to all employees on an annual basis;
- Make decisions and changes in policy, procedures, or accommodations as needed to facilitate effective affirmative action and equal employment opportunity;
- Actively promote equal opportunity employment; and
- Require all agency directors, managers, and supervisors include responsibility statements for supporting affirmative action, equal opportunity, diversity, and/or cultural responsiveness in their position descriptions and annual objectives.

Accountability:

The Commissioner is accountable directly to the Governor and indirectly to the Minnesota Management and Budget Commissioner on matters pertaining to equal opportunity and affirmative action.

B. Affirmative Action Officer or Designee

Nicole Gebheim, Assistant Director of Human Resources

Responsibilities:

The Affirmative Action Officer or designee is responsible for implementation of the agency's affirmative action and equal opportunity program, and oversight of the agency's compliance with equal opportunity and affirmative action laws.

Duties:

The duties of the Affirmative Action Officer or designee shall include, but are not limited to the following:

- Prepare and oversee the Affirmative Action Plan, including development and setting of agency-wide goals;
- Monitor the compliance and fulfill all affirmative action reporting requirements;
- Inform the agency's Commissioner of progress in affirmative action and equal opportunity and report potential concerns;
- Review the Affirmative Action Plan at least annually and provide updates as appropriate;
- Provide an agency-wide perspective on issues relating to affirmative action and equal opportunity and assist in the identification and development of effective solutions in problem areas related to affirmative action and equal opportunity;
- Identify opportunities for infusing affirmative action and equal opportunity into the agency's considerations, policies, and practices;
- Participate in and/or develop strategies to recruit individuals in protected groups for employment, promotion, and training opportunities;
- Stay current on changes to equal opportunity and affirmative action laws and interpretation of the laws;
- Provide consultation, technical guidance, and/or training to directors, managers, supervisors, and staff regarding best practices in recruitment, selection, and retention, progress on hiring goals, reasonable accommodations, and other opportunities for improvement; and
- Serve as the agency liaison with Minnesota Management and Budget's Office of Equal Opportunity and Diversity and enforcement agencies.

Accountability:

The Affirmative Action Officer is accountable directly to the Human Resources Director and reports administratively and on policy issues directly to the Commissioner.

C. Americans with Disabilities Act Coordinator or Designee
Nicole Gebheim, Assistant Director of Human Resources

Responsibilities:

The Americans with Disabilities Act Coordinator or designee is responsible for the oversight of the agency's compliance with the Americans with Disabilities Act Title I – Employment and Title

II – Public Services, in accordance with the Americans with Disabilities Act - as amended, the Minnesota Human Rights Act, and Executive Order 96-09.

Duties:

The duties of the Americans with Disabilities Act Coordinator shall include, but not limited to the following:

- Provide guidance, coordination, and direction to agency management with regard to the Americans with Disabilities Act in the development and implementation of the agency's policy, procedures, practices, and programs to ensure they are accessible and nondiscriminatory;
- Provide consultation, technical guidance, and/or training to directors, managers, supervisors, and staff regarding best practices in recruitment, selection, and retention of individuals with disabilities, provisions of reasonable accommodations for employees and applicants, and other opportunities for improvement; and
- Track and facilitate requests for reasonable accommodations for employees and applicants, as well as members of the public accessing the agency's services, and reports reasonable accommodations annually to Minnesota Management and Budget.

Accountability:

The Americans with Disabilities Act Coordinator reports directly to the Human Resources Director.

D. Human Resources Director

Colleen Hegstrom

Responsibilities:

The Human Resources Director is responsible for ensuring equitable and uniform administration of all personnel policies including taking action to remove barriers to equal employment opportunity with the agency.

Duties:

The duties of the Human Resources Director include, but are not limited to the following:

- Provide leadership to human resources staff and others to ensure personnel decision-making processes adhere to equal opportunity and affirmative action principles;
- Ensure, to the extent possible, development and utilization of selection criteria that is objective, uniform, and job-related;
- Initiate and report on specific program objectives contained in the Affirmative Action Plan;

- Ensure pre-hire review process is implemented and receives support from directors, managers, and supervisors;
- Include the Affirmative Action Officer in the decision-making process regarding personnel actions involving protected group members, including hiring, promotion, disciplinary actions, reallocation, transfer, termination, and department and division-wide classification studies;
- Include responsibility statements for supporting affirmative action, equal opportunity, diversity, and/or cultural responsiveness in position descriptions and annual objectives;
- Assist in recruitment and retention of individuals in protected groups, and notify directors, managers, and supervisors of existing disparities;
- Make available to the Affirmative Action Officer and Americans with Disabilities Act Coordinator or designee all necessary records and data necessary to perform duties related to equal opportunity and affirmative action.

Accountability:

The Human Resources Director is directly accountable to the Commissioner.

E. Directors, Managers, and Supervisors

Responsibilities:

Directors, Managers, and Supervisors are responsible for implementation of equal opportunity and affirmative action within their respective areas of supervision and compliance with the agency's affirmative action programs and policies to ensure fair and equal treatment of all employees and applicants.

Duties:

The duties of directors, managers, and supervisors include, but are not limited to the following:

- Assist the Affirmative Action Officer in identifying and resolving problems and eliminating barriers which inhibit equal employment opportunity;
- Communicate the agency's affirmative action policy to assigned staff;
- Carry out supervisory responsibilities in accordance with the equal employment opportunity and affirmative action policies embodied in this plan;
- Maintain a consistent standard within the workforce so that employees are evaluated, recognized, developed, and rewarded on a fair and equitable basis;

- Include responsibility statements for supporting affirmative action, equal opportunity, diversity, and/or cultural responsiveness in staff position descriptions and annual objectives;
- To provide a positive and inclusive work environment; and
- To refer complaints of discrimination and harassment to the appropriate parties.

Accountability:

Directors, managers, and supervisors are accountable directly to their designated supervisor and indirectly to the agency's Commissioner.

F. All Employees

Responsibilities:

All employees are responsible for conducting themselves in accordance with the agency's equal opportunity and Affirmative Action Plan and policies.

Duties:

The duties of all employees shall include, but are not limited to the following:

- Exhibit an attitude of respect, courtesy, and cooperation towards fellow employees and the public; and
- Refrain from any actions that would adversely affect the performance of a coworker with respect to their race, sex, color, creed, religion, age, national origin, disability, marital status, familial status, status with regard to public assistance, sexual orientation, or membership or activity in a local human rights commission.

Accountability:

Employees are accountable to their designated supervisor and indirectly to the agency's Commissioner.

IV. COMMUNICATION OF THE AFFIRMATIVE ACTION PLAN

The following information describes the methods that the agency takes to communicate the Affirmative Action Plan to employees and the general public:

A. Internal Methods of Communication

- A memorandum detailing the location of the Affirmative Action Plan and the responsibility to read, understand, support, and implement equal opportunity and affirmative action will be sent from the agency's leadership or alternatively, the Affirmative Action Officer, to all staff on an annual basis.

- The agency's Affirmative Action Plan is available to all employees on the agency's internal website at <http://intranet.commerce.mn/> or in print copy to anyone who requests it. As requested, the agency will make the plan available in alternative formats.
- Nondiscrimination and equal opportunity statements and posters are prominently displayed and available in areas frequented and accessible to employees.

B. External Methods of Communication

- The agency's Affirmative Action Plan is available on the agency's external website at <http://mn.gov/commerce/?agency=Commerce> or in print copy to anyone who requests it. As requested, the agency will make the plan available in alternative formats.
- The agency's website homepage, letterhead, publications, and all job postings, will include the statement "an equal opportunity employer."

Nondiscrimination and equal opportunity statements and posters are prominently displayed and available in areas frequented by and accessible to members of the public. Examples of posters displayed include: Equal Employment Opportunity is the law, Employee Rights under the Fair Labor Standards Act, and the Americans with Disabilities Act Notice to the Public.

V. POLICY PROHIBITING DISCRIMINATION AND HARASSMENT

Any form of work place harassment and/or discrimination is inappropriate. It is the policy of the Department that all employees have a right to a workplace free of verbal and physical harassment which is based on race, color, creed, national origin, religion, sex, sexual orientation, disability, age, marital status, status with regard to public assistance, membership or activity in a local commission.

It is the Department's policy not to tolerate any type of harassment and/or discrimination. Harassment is any verbal, physical or violent behavior which unreasonably interferes with an individual's work performance or creates a work environment which is intimidating, hostile, insulting, demeaning or personally offensive. Any form of deliberate harassment and/or discrimination will be cause for disciplinary action.

Illegal discrimination is harassment which is based on race, color, creed, national origin, religion, sex, sexual orientation, disability, age, marital status, status with regard to public assistance, membership or activity in a local commission. With regard to sexual harassment, the Department prohibits any behavior of co-workers or supervisors which is unwelcome, personally offensive, insulting and demeaning when:

- submission to such conduct is explicitly or implicitly made a term or condition of an individual's employment;
- submission to or rejection of such conduct by an individual is used in making employment decisions affecting such individuals;

- such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creating an intimidating, hostile, or offensive working environment.

The Department has an internal complaint procedure for processing discriminatory harassment. Any employee subjected to harassment should file a complaint with the AAO. The procedures are contained in the Department's Affirmative Action Plan. The Affirmative Action Plan is posted on the bulletin board and copies are available from the Human Resources Director or staff within the human resources office. If the AAO is the complainant or respondent, the Deputy Commissioner in charge of the Administration Division is designated to temporarily serve as the AAO.

As an employer, the Department may be held liable for failure to investigate allegations of harassment or failure to take prompt remedial action against an employee who is found to have engaged in harassment of other employees. Although the Department is responsible for maintaining a working environment free from discrimination and harassment, each and every employee plays a part by affirmatively raising the subject, expressing strong disapproval of inappropriate behavior and adhering to the provisions of this policy and Affirmative Action Plan. Consistent with this policy, therefore, no employee of this Department shall engage in any form of harassment of other employees. Any employee who, after investigation, is found to have engaged in any form of harassment of other employees will be subject to disciplinary action.

The Commissioner is accountable for the implementation of this policy within the Department and each manager within their division. This includes initiating and supporting programs and practices designed to develop understanding, acceptance, commitment and compliance with the framework of this policy. All employees must be informed that discriminatory harassment is unacceptable behavior, and each supervisor will be responsible for orienting all staff to the Department's policy. The AAO will rely on information from Minnesota Management & Budget to keep the Department apprised of any changes in the law or its interpretation regarding this form of discrimination. The Complaint Procedures section of this report describes the process for resolving harassment complaints.

Complaints of discrimination or harassment can be filed using the internal complaint procedure included in this Affirmative Action Plan.

VI. COMPLAINT PROCEDURE FOR PROCESSING COMPLAINTS FOR ALLEGED DISCRIMINATION/HARASSMENT

The Department of Commerce has established the following discrimination/harassment complaint procedure to be used by all employees and applicants. Coercion, reprisal, or intimidation against anyone filing a complaint or serving as a witness under this procedure is prohibited.

Responsibility of Employees:

All employees shall respond promptly to any and all requests by the Affirmative Action Officer or designee for information and for access to data and records for the purpose of enabling the Affirmative Action Officer or designee to carry out responsibilities under this complaint procedure.

Who May File:

Any employees or applicants who believes that they have been discriminated against or harassed by reason of race, color, creed, religion, national origin, sex, marital status, familial status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation, or age may file a complaint. Employees who are terminated are encouraged to file their internal complaint prior to their actual separation; however, complaints will be taken for a reasonable period of time subsequent to the actual separation date.

Complaint Procedure:

The internal complaint procedure provides a method for resolving complaints involving violations of the Department of Commerce's policy prohibiting discrimination and harassment within the agency. Employees and applicants are encouraged to use this internal complaint process. Retaliation against a person who has filed a complaint either internally or through an outside enforcement agency or other legal channels is prohibited. The Affirmative Action Officer or designee may contact the Office of Diversity and Equal Opportunity if more information is needed about filing a complaint.

Filing Procedures:

1. The employee or applicant completes the "Complaint of Discrimination/Harassment Form" provided by the Affirmative Action Officer or designee. Employees are encouraged to file a complaint within a reasonable period of time after the individual becomes aware that a situation may involve discrimination or harassment. The Affirmative Action Officer or designee will, if requested, provide assistance in filling out the form.
2. The Affirmative Action Officer or designee determines if the complaint falls under the purview of Equal Employment Opportunity law, i.e., the complainant is alleging discrimination or harassment on the basis of race, color, creed, religion, national origin, sex, marital status, familial status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation, or age; or if the complaint is of a general personnel concern. The Affirmative Action Officer or designee shall also discuss other options for resolution, such as the workplace mediation.
 - If it is determined that the complaint is **not** related to discrimination but rather to general personnel concerns, the Affirmative Action Officer designee will inform the complainant, in writing, within ten (10) working days.
 - If the complaint is related to discrimination, the Affirmative Action Officer or designee will, within ten (10) working days, contact all parties named as respondents and outline the basic facts of the complaint. The respondents will be asked to provide a response to the allegations within a specific period of time.
3. The Affirmative Action Officer or designee shall then investigate the complaint. At the conclusion of the investigation, the Affirmative Action Officer or designee shall notify the complainants and respondents that the investigation is completed. The Affirmative Action Officer or designee shall then review the findings of the investigation.

- If there is sufficient evidence to substantiate the complaint, appropriate action will be taken.
 - If insufficient evidence exists to support the complaint, a letter will be sent to the complainants and the respondents dismissing the complaint.
4. A written answer will be provided to the parties within sixty (60) days after the complaint is filed. The complainants will be notified should extenuating circumstances prevent completion of the investigation within sixty (60) days.
 5. Disposition of the complaint will be filed with the Commissioner of the Minnesota Management and Budget within thirty (30) days after the final determination.
 6. All documentation associated with a complaint shall be considered investigative data under the Minnesota Government Data Practices Act. The status of the complaint will be shared with the complainants and respondents. After an investigation is completed and all appeals are exhausted, all documentation is subject to the provisions of the Minnesota Government Data Practices Act.
 7. All data collected may at some point become evidence in civil or criminal legal proceedings pursuant to state or federal statutes. An investigation may include, but is not limited to, the following types of data:
 - Interviews or written interrogatories with all parties involved in the complaint, i.e., complainants, respondents, and their respective witnesses; officials having pertinent records or files, etc.; and
 - All records pertaining to the case i.e., written, recorded, filmed, or in any other form.
 8. The Affirmative Action Officer or designee shall maintain records of all complaints and any pertinent information or data for three (3) years after the case is closed.

VII. REASONABLE ACCOMMODATION POLICY

The Department encourages employing and promoting any qualified person. This policy applies to employees, current employees with disabilities, including employees seeking promotion with disabilities, and any job applicant with a disability who requests an accommodation prior to the employment interview. The Department will not deny employment or advancement in employment due to the need to make reasonable accommodations for an employee, employee seeking promotion, or job applicant with a disability, unless the Department can demonstrate that:

- a) the accommodation would impose an undue hardship on the Department;
- b) the accommodation does not overcome the effects of the person's disabilities and enables the individual to successfully perform the essential duties of the position ; or

- c) the person with a disability is not qualified to perform that particular job.

The Department will provide accommodations to qualified employees, employees seeking promotion, and job applicants with disabilities when such accommodations are directly related to performing a job or competing for a job on an equal basis. Accommodations will not be provided for an individual's personal needs which are not related to the job. The primary factor in evaluating whether an accommodation is personal or job related is whether the accommodation will enable the person to perform the job or compete for a job on an equal basis in the most cost-effective manner and in the most integrated setting possible.

Definitions and Examples

A. Persons with a Disability

A person with a disability for purposes of this policy is anyone who meets the definition as stated in the Section 504 regulations of the 1973 Rehabilitation Act as amended in 1978, Subpart A, Section 84.3 j1-2 and k104 and Chapter 363 of the state's Human rights Act. Specifically, a disabled person is anyone who has a physical or mental impairment which materially or substantially limits one or more of such person's major life activities.

B. Examples of Reasonable Accommodations

The following are some methods of providing reasonable accommodations. The Department may provide other forms of reasonable accommodation as well.

1. Equipment modification or assistive devices

The Department may provide equipment such as special telephone equipment, "talking" calculators, closed-circuit televisions, specifically designed desk and files, TDD communications equipment and other types of equipment to facilitate the performance of job duties.

2. Job site modification

To make facilities more accessible, the Department may adjust the height of desks, chairs, and other equipment, add electrical outlets, rearrange furniture and equipment, widen doorways, relocate the job site to an accessible area, provide special parking facilities, modify ventilation, heating, cooling and lighting systems, or make other types of modifications. The Department will negotiate any changes with the Golden Rule Building through Real Estate Management Division, Department of Administration to determine costs involved.

3. Job restructuring

The Department may restructure a job by modifying work hours or job duties while retaining the essential job functions. The purpose of job sharing and flexible work hours is to permit disabled employees to meet needs such as medical appointments and medical dietary requirements.

4. *Support services*

The Department will provide support services such as interpreters for individuals with hearing-impairments, readers for persons with visual impairments, or special attendants for those needing such service, when it is clearly demonstrated that these services are cost-effective and are required for a disabled employee's performance of the essential functions of the job. The Department may also provide support services for job applicants during the interview process. The Department may directly or on a contractual basis provide the training necessary to allow staff members to provide support services when such training and services are administratively feasible.

C. *Undue Hardship*

In determining whether or not providing a reasonable accommodation would impose an "undue hardship," the Department will consider at least the following factors:

1. overall size of the program (i.e., number and type of facilities, size of budget);
2. type of the operation including the composition and structure of the work force;
3. nature and cost of the accommodation needed;
4. reasonable ability to finance the accommodation; and
5. documented good-faith efforts to explore less restrictive or less expensive alternatives including consultation with the disabled person or with knowledgeable disabled persons or organizations.

Definition of Undue Hardship

An undue hardship is an action that is unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of this agency.

Purchase and Maintenance of Accommodations

- A. The person requesting reasonable accommodations will suggest appropriate accommodations. However, the Department may provide another accommodation equal or superior in effectiveness to the one proposed in practicality, usefulness, or cost-effectiveness.
- B. All tangible accommodations which the Department purchases will be the property of the State of Minnesota and will be used only for job-related functions. The Department will

be responsible for maintaining the equipment. Projected maintenance costs will be a factor in the initial decision to provide accommodations.

Request for Reasonable Accommodation from Current Employees and Employees Seeking Promotion

To request a reasonable accommodation:

1. The supervisor or Affirmative Action Officer and the employee with a disability consult to determine the need for the accommodation and to discuss alternatives such as job restructuring, job site modification, and assistive devices.
2. In cases requiring management approval, the employee with a disability and supervisor submit a written request for a reasonable accommodation to the Affirmative Action Officer. The request should include a justification for the accommodation, a statement of limitations, and general alternatives to the requested accommodation. The request may include other pertinent information as well. See attached form labeled "Employee Request for Reasonable Accommodation."
3. Within 10 working days, the Affirmative Action Officer will request and gather information regarding availability and cost.
4. The Department may request medical documentation to support the request for a reasonable accommodation.
5. The AAO makes a recommendation to the agency Commissioner. The Commissioner considers the available alternatives and decides whether or not to grant the requested accommodation. The Commissioner provides the decision in writing to the AAO, the supervisor and the employee within 10 working days of making the determination.
6. If the Commissioner approves the accommodation, the AAO writes a Reasonable Accommodations Agreement Form and obtains necessary signatures.
7. The Department submits appropriate purchasing documents to the purchasing agent if equipment, furniture, or other assistive devices must be purchased.

Appeals

1. An employee who is dissatisfied with the reasonable accommodation decision can appeal in writing to the AAO within 30 working days of the decision. The appeal should state why the employee disagrees with the decision and propose an alternative solution. The employee will provide a copy of the appeal to the AAO and the manager.
2. Within 30 days, the AAO collects and reviews all necessary documentation, then makes a recommendation to the Commissioner.

3. The Commissioner will review the appeal and make a final determination within 15 working days of receiving the recommendation. The Commissioner will provide the decision to the employee, the manager, and the AAO.
4. Any employees who are still dissatisfied with the decision may file with federal, state, and local human rights agencies. The AAO will provide employees and compliance agencies with information as needed in the appeal or investigation process. Provision of information will comply with the Minnesota Government Data Privacy Act.

Request for Reasonable Accommodations for Job Applicants

1. Initial communication with each job applicant will indicate that the Department is willing to make reasonable accommodations to known disabilities. The Department will invite the applicant to request the needed accommodation.
2. All requests for reasonable accommodations will be given to Nicole Gebheim, Affirmative Action Officer. In order to ensure that the accommodation is provided at the interview, requests will be handled in a timely manner.
3. The AAO will contact the job applicant to discuss the needed accommodation and possible alternatives.
4. If the agreed-upon accommodation is necessary, the AAO will request approval of the accommodation from the Commissioner.
5. If the Commissioner approves the accommodation, the AAO will take the necessary steps to see that the accommodation is provided.
6. If the requested accommodation is denied, the AAO will advise the applicant of the right to file a complaint with the Department of Human Rights alleging violation of the Minnesota Human Rights Act.

Funding Source

The Department will fund reasonable accommodations which will not impose an undue hardship on the agency.

Policy Dissemination

This policy will be disseminated as a part of and in the same manner as the Department Affirmative Action Plan.

VIII. EVACUATION PROCEDURES FOR INDIVIDUALS WITH DISABILITIES

A copy of the agency's weather and emergency evacuation plans can be found at:
I:\AD\Safety Committee

Directors, managers, and supervisors should review the emergency evacuation procedures with staff, including informing all staff that if additional assistance may be needed, and individuals with disabilities should contact the agency contact(s) below to request the type of assistance they may need.

Tim Jahnke, Administrative Services Director 651-539-1501 Tim.Jahnke@state.mn.us

Karen Santori, Management Analyst Supervisor, 651-539-1530 Karen.Santori@state.mn.us

Evacuation Options:

1. In an evacuation, an audio alarm will sound and strobe lights will be activated.
2. Commerce workspace is divided into zones. Each zone has assigned fire wardens responsible for the evacuation of that zone.
3. In addition to the wardens there at least two helpers assigned to someone needing assistance.
4. When the alarm sounds, the helpers should direct those needing assistance to a "waiting area" close to the stairwell but without hindering the evacuation of others.
5. Once the floor is clear, those needing assistance may move into the stairwell if threatened by smoke or flames.
6. One helper should stay with the evacuees and the other helper should proceed down the stairs and report the name and location of those needing assistance to the stairwell coordinator.
7. The helper should then proceed to 401 Robert Street.
8. The name and location of those waiting for evacuation assistance is reported to the fire department, even in a practice drill.
9. Remember: SPFD will evacuate individuals needing assistance in the event of an actual emergency.
10. Definition of staff needing assistance: someone with any temporary or permanent condition that could interfere with his/her ability to quickly evacuate the building.

GOALS AND TIMETABLES

Through the utilization analysis, the agency has determined which job categories are underutilized for women, minorities, and individuals with disabilities within the agency and has set the following hiring goals for the next two years (Reference Table 2).

Table 2. Underutilization Analysis and Hiring Goals for 2014-2016

Job Categories	UNDERUTILIZATION – # OF INDIVIDUALS			HIRING GOALS FOR 2014-2016		
	Women	Racial/ Ethnic Minorities	Individuals With Disabilities	Women	Racial/ Ethnic Minorities	Individuals With Disabilities
Officials/Administrators		1	2		1	1
Professionals	8	4	1	5	2	1
Protected Services: Non-sworn	3			3		
Office/Clerical						1
Technicians	5			2		

Availability:

The agency determined the recruitment area to be metropolitan availability. In conducting its underutilization analysis, the agency used the two factor analysis. The agency determined it was best to use this type of analysis because it gave Commerce the ability to take into consideration both internal and external availability.

Underutilization Analysis worksheets are attached in the appendix. Numbers less than 10 are indicated with "<10" in accordance with Minnesota Management and Budget's guidance on data privacy.

Women:

At the agency, the population of women has improved in the following job categories: Officials/Administrators and has not improved in the following job categories: Professionals, Protective Services, and Technicians. Additional efforts to recruit women based on retirements and expansion will be made by the agency in order to meet these goals.

Minorities:

At the agency, the population of minorities has remained the same or has not improved in the following job categories: Technicians. With the current workforce at a high percentage for retirement, it has been difficult to improve the goals from 2012-2014. Protective Services, though improved, was by one (1).

Individuals with Disabilities:

At the agency, the population of individuals with disabilities has not improved in the following job categories: Officials/Administrators, Professionals. Additional efforts for the plan year of 2014-2016 will be made to reach out to those networking opportunities to recruit individuals with disabilities. It should be noted due to retirement and other employment opportunities; we were not able to retain in this area.

IX. AFFIRMATIVE ACTION PROGRAM OBJECTIVES

In pursuing the agency's commitment to affirmative action, the agency will take the following actions during 2014-2016:

Objective #1: To recruit affirmatively for all positions.

Action Steps:

- a) Ensure that all job postings, Department literature, official correspondence and the website communicate that the Department is an Equal Opportunity Employer,
- b) Monitor vacancies and employment opportunities.

Evaluation:

This objective set for 2012-2014 provided additional efforts have been made to reach out affirmatively. All postings are communicated on the MMB Diversity email list; each posting

communicates Commerce as EOE, additional efforts communicated to supervisors on areas of disparity.

Objective #2: To revise the affirmative action plan.

Action Steps:

- a) Coordinate the development of goals and program objectives for the following year.

Evaluation:

The 2012-2014 published plan has been revised in accordance of the Minnesota Management and Budget template implemented through the Director and Officer of Affirmative Action.

Objective #3: To ensure that new and current employees are aware of the Department's affirmative action policies.

Action Steps:

- a) Provide new employee orientation on Affirmative Action policies and objectives.
- b) Provide all employees information on policies and practices related to Affirmative Action annually.

Evaluation:

Orientation meetings with new employees, notify current employees where current AAO plan is posted.

Objective #4: To update management and staff on issues affecting protected groups.

Action Steps:

- a) Disseminate current information on protected groups.
- b) Encourage managers to attend seminars on topics related to affirmative action.

Evaluation:

A memo on new developments will be issued as need arises, forward all information regarding affirmative action seminars to management and staff.

Objective #5: To investigate sources for recruitment.

Action Steps:

- a) Resources and available consultation services with Statewide Recruiter from Minnesota Management and Budget will be utilized.

Evaluation:

Attendance to Statewide Recruitment meetings, meetings and communication with Statewide Recruiter, utilization of the state of MN LinkedIn site through MMB. All new resources continue to be communicated to hiring managers and supervisors.

X. METHODS OF AUDITING, EVALUATING, AND REPORTING PROGRAM SUCCESS

A. Pre-Employment Review Procedure/Monitoring the Hiring Process

The agency will evaluate its selection process to determine if its requirements unnecessarily screen out a disproportionate number of women, minorities, or individuals with disabilities. The agency will use the monitoring the hiring process form for every hire to track the number of women, minorities, and individuals with disabilities, in each stage of the selection process. Directors, managers, and supervisors will work closely with human resources and the Affirmative Action Officer in reviewing the requirements for the position, posting the position, and interviewing and selection to ensure that equal opportunity and affirmative action is carried out. Directors, managers, and supervisors will be asked to document their hiring decisions and equal opportunity professionals will review for bias.

Any time the agency cannot justify a hire, the agency takes a missed opportunity. Agency leadership will be asked to authorize the missed opportunity. The agency will report the number of affirmative and nonaffirmative hires as well as missed opportunities to Minnesota Management and Budget on a quarterly basis.

When candidates are offered interviews, employees scheduling interviews will describe the interview format to the candidate and provide an invitation to request a reasonable accommodation for individuals with disabilities to allow the candidate equal opportunity to participate in the interview process. For example, describe if interview questions are offered ahead of time or what technology may be used during the interview process. This allows for an individual with a disability to determine if they may need a reasonable accommodation in advance of the interview.

All personnel involved in the selection process will be trained and accountable for the agency's commitment to equal opportunity and the affirmative action program and its implementation.

B. Pre-Review Procedure for Layoff Decisions

The Affirmative Action Officer, in conjunction with the agency's human resources office, shall be responsible for reviewing all pending layoffs to determine their effect on the agency's affirmative action goals and timetables.

If it is determined that there is an adverse impact on protected groups, the agency will document the reasons why the layoff is occurring, such as positions targeted for layoff, applicable personnel policies or collective bargaining agreement provisions, or other relevant reasons. The agency will determine if other alternatives are available to minimize the impact on protected groups.

C. Other Methods of Program Evaluation

The agency submits the following compliance reports to Minnesota Management and Budget as part of the efforts to evaluate the agency's affirmative action program:

- Quarterly Monitoring the Hiring Process Reports;
- Biannual Affirmative Action Plan;
- Annual Americans with Disabilities Act Report;

The agency also evaluates the Affirmative Action Plan in the following ways:

- Monitors progress toward stated goals by job category;
- Analyzes employment activity (hires, promotions, and terminations) by job category to determine if there is adverse impact;
- Analyzes compensation program to determine if there are patterns of discrimination;
- Reviews the accessibility of online systems, websites, and ensures that reasonable accommodations can be easily requested; and
- Discusses progress with agency leadership on a periodic basis and makes recommendations for improvement.

XI. RECRUITMENT PLAN

The objective of this recruitment plan is to ensure the agency's recruitment programs are publicly marketed, attract, and obtain qualified applicants, enhance the image of state employment, and to assist in meeting the affirmative action goals to achieve a diverse workforce.

Recruitment costs incurred during the 2012-2014 plan year total: **\$49,096.31**

Below are various recruitment methods or strategies utilized by the agency during the past year and plans for the upcoming plan years 2014-2016.

A. Advertising Sources

All vacancies were posted on the MMB website, MMB Diversity job board, Star Tribune online, Commerce News & Notes (internal communication) and Minnesotaworks.net. Other areas of advertising were Minnesota State Colleges and Universities career center websites, such as: Mankato State, Winona State University, Bemidji State. University of Minnesota Goldpass continues to be utilized, in addition, Hamline University, St. Thomas and William Mitchell. An attempt to utilize InDEED.com was determined to be unnecessary to pay for since it has an automatic search engine and pulls our postings without a request. Free versions of

LinkedIn.com were utilized, including the State of Minnesota account. While there were “hits” to the posting, the applicant roster did not appear to improve, specifically for an Actuary position.

B. Job and Community Fairs

One job fair was attended that did not result in a collection of candidates and did not have the specialized applicants we were seeking. Additional efforts will be made to attend a cost effective job fair that fits the needs of Commerce.

C. Recruitment for Individuals with Disabilities

Additional efforts need to be made in the area of recruitment for individuals with disabilities. The human resources team will look into advertising positions in the local ACCESS. We will continue to communicate that this protected group is encouraged to apply on all of our job postings.

Recruitment Plan

- 1) Review of job postings for physical and sensory requirements and ensure that qualifications in job postings are inclusive and do not pose any unnecessary barriers.
 - a. Our agency will review all job postings for physical and sensory requirements and determine if the qualifications for the position are job-related and consistent with business necessity. Additionally, our agency will edit language pertaining to physical and sensory requirements and change this language to reflect more inclusive language for job qualifications.
- 2) Self-Identification
 - a. At the time of application and once a year, our agency will communicate to our employees that we collect summary data related to the number of individuals who have applied for positions and who are in our workforce. We will inform employees that we collect this summary data to make determinations about where we need to improve in terms of recruitment, selection, or retention of individuals with disabilities.
- 3) Supported Employment (M.S. 43A.191, Subd. 2(d))
 - a. The agency supports the employment of individuals with disabilities and will review vacant positions to determine if job tasks can be performed by a supported employment worker. We will work with community organizations that provide employment services to individuals with disabilities to recruit for these positions.
 - b. Implement and ensure that reviews of positions are taking place. We will work with VRS or the MMB State ADA Coordinator to assist us in our efforts.
- 4) Reasonable Accommodations
 - a. We will prominently display on our career site that we will provide reasonable accommodation to qualified individuals with a disability who apply for our positions where needed. Once hired, we will educate employees, supervisors, and managers on accommodating employees in the workplace.
- 5) Strategic Partnerships
 - a. Our agency will build strategic partnerships with DEED - Vocational Rehabilitation Services (“VRS”), DEED - State Services for the Blind (“SSB”), and other state agency

partners to conduct job evaluations and to assist in recruitment or referral of candidates to open positions. Our agency will work to inform VRS or SSB when a position is posted or prior to a posting, if possible, about the positions. Additionally, we will post positions for at least 7 days to ensure equal opportunity to apply for the position.

6) Self-Analysis

- a. Our agency will conduct periodic self-checks to determine if our systems or documents are accessible, language in our job postings is inclusive, and reasonable accommodations have been provided and staff have been trained on how to provide reasonable accommodations.

7) Reporting

- a. Our agency will conduct a quarterly analysis of the number of individuals with disabilities who have applied for positions and the number of individuals with disabilities hired.

E. Relationship Building and Outreach

This year and the past year we have reached out to state colleges and universities in order to fill over 20 student workers for both summer of 2013 and summer of 2014. This has given opportunity and experience to the community students. We have also contacted and will continue to reach out to programs in the St. Paul and Minneapolis area that include Right Track and STEP-UP Achieve.

F. Supported Employment (M.S. 43A.191, Subd. 2(d))

The agency supports the employment of individuals with disabilities and will review vacant positions to determine if job tasks can be performed by a supported employment workers. We will work with community organizations that provide employment services to individuals with disabilities to recruit for these positions.

XII. RETENTION PLAN

The agency is committed to not just the recruitment of women, minorities, and individuals with disabilities, but also to the retention of these protected groups.

A. Individual(s) Responsible for the Agency's Retention Program/Activities

Colleen Hegstrom, Director of Human Resources, 651.539.1502, colleen.hegstrom@state.mn.us

B. Separation Analysis by Protected Groups

The separation report shows an increase of retirements from FY13 to FY14 from 10 to 19. This would be consistent with the overall State of Minnesota's number one reason for separations. The upswing of the economy in St. Paul has resulted in the loss of employees resigning for new opportunities.

C. Methods of Retention of Protected Groups

- A. Creating and implementing employee resource groups;
- B. Creating more opportunities for training and professional development around cultural competence, unconscious bias, disability awareness, etc.;
- C. Ensuring accessibility of electronic systems, physical office spaces, and other aspects of the employment experience;
- D. Conducting engagement surveys;
- E. Creating and implementing networking and mentoring opportunities; or
- F. Implementing a welcoming onboarding process.

APPENDIX

A. Complaint of Discrimination/Harassment Form

COMPLAINT OF DISCRIMINATION/HARASSMENT FORM

Department of Commerce
85 7th Place E, Suite 500
St. Paul, MN 55101
651.539.1502

PLEASE READ BEFORE COMPLETION OF FORM

Any complaint of discrimination/harassment is considered confidential data under Minnesota Statute 13.39, Subd. 1 and 2. This information is being collected for the purpose of determining whether discrimination/harassment has occurred. You are not legally required to provide this information, but without it, an investigation cannot be conducted. This information may only be released to the Affirmative Action Officer or designee, the complainant, the respondent and appropriate personnel.

Complainant (You)		
Name	Job Title	
Work Address	City, State, Zip Code	Telephone
Agency	Division	Manager/Supervisor's Name

Respondent (Individual Who Discriminated Against/Harassed You)		
Name	Job Title	
Work Address	City, State, Zip Code	Telephone

Respondent (Individual Who Discriminated Against/Harassed You)

Agency	Division	Manager/Supervisor's Name
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The Complaint

Basis of Complaint (Place an "X" in the box for all that apply):

<input type="checkbox"/> Race	<input type="checkbox"/> Disability	<input type="checkbox"/> Sexual Orientation
<input type="checkbox"/> Sex (Gender)	<input type="checkbox"/> Marital Status	<input type="checkbox"/> Status with Regard to Public Assistance
<input type="checkbox"/> Age	<input type="checkbox"/> Familial Status	<input type="checkbox"/> Membership or Activity in a Local Human Rights Commission
<input type="checkbox"/> Color	<input type="checkbox"/> National Origin	<input type="checkbox"/> Religion
<input type="checkbox"/> Creed		

Date most recent act of discrimination or harassment took place:

If you filed this complaint with another agency, give the name of that agency:

Describe how you believe that you have been discriminated or harassed against (names, dates, places, etc.). Use a separate sheet of paper if needed and attach to this form.

Information on Witnesses Who Can Support Your Case

Name	Work Address	Work Telephone
1.		
2.		
3.		

Additional witnesses may be listed in "Additional Information" or on a separate sheet attached to this form.

This complaint is being filed on my honest believe that the State of Minnesota has discriminated against or harassed me. I hereby certify that the information I have provided in this complaint is true, correct, and complete to the best of my knowledge and belief.

Signatures	
Complainant Signature	Date
Affirmative Action Officer Signature	Date

B. Employee/Applicant Request for ADA Reasonable Accommodation Form



STATE OF MINNESOTA – COMMERCE

EMPLOYEE/APPLICANT REQUEST FOR ADA REASONABLE ACCOMMODATION FORM

The State of Minnesota is committed to complying with the Americans with Disabilities Act ("ADA") and the Minnesota Human Rights Act ("MHRA"). To be eligible for an ADA accommodation, you must be 1) qualified to perform the essential functions of your position and 2) have a disability that limits a major life activity or function. The ADA Coordinator/Designee will review each request on an individualized case-by-case basis to determine whether or not an accommodation can be made.

Employee/Applicant Name:	Job Title:
Work Location:	Phone Number:

Data Privacy Statement: This information may be used by your agency human resources representative, ADA Coordinator or designee, your agency legal counsel, or any other individual who is authorized by your agency to receive medical information for purposes of providing reasonable accommodations under the ADA and MHRA. This information is necessary to determine whether you have a disability as defined by the ADA or MHRA, and to determine whether any reasonable accommodation can be made. The provision of this information is strictly voluntary; however, if you refuse to provide it, your agency may refuse to provide a reasonable accommodation.

Questions to clarify accommodation requested.

1. What specific accommodation are you requesting?

2. If you are not sure what accommodation is needed, do you have any suggestions about what options we can explore.
 - a. If yes, please explain.

Questions to document the reason for the accommodation request *(please attach additional pages if necessary)*.

1. What, if any job function are you having difficulty performing?

**State of Minnesota – Commerce
Reasonable Accommodation Request Form, Page 2**

2. What, if any employment benefit are you having difficulty accessing?

3. What limitation as result of your physical or mental impairment is interfering with your ability to perform your job or access an employment benefit?

4. If you are requesting a specific accommodation, how will that accommodation be effective in allowing you to perform the functions of your job?

Information Pertaining to Medical Documentation

In the context of assessing an accommodation request, medical documentation may be needed to determine if the employee has a disability covered by the ADA and to assist in identifying an effective accommodation.

The ADA Coordinator or designee in each agency is tasked with collecting necessary medical documentation. In the event that medical documentation is needed, the employee will be provided with the appropriate forms to submit to their medical provider. The employee has the responsibility to ensure that the medical provider follows through on requests for medical information.

This authorization does not cover, and the information to be disclosed should not contain, genetic information. "Genetic Information" includes: Information about an individual's genetic tests; information about genetic tests of an individual's family members; information about the manifestation of a disease or disorder in an individual's family members (family medical history); an individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; and genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

Employee/Applicant Signature:	Date:
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C. Agency Profile and Organizational Chart

Under the leadership of Commissioner Rothman, the Commerce Department is responsible for consumer protection, regulation of financial service industries including insurance, state-chartered banks, credit unions, securities, and real estate. The Department licenses franchises, collection agencies, and currency exchanges.

The Commerce Department is also responsible for enforcement of Public Utilities Commission (PUC) rules and orders, regulation of natural gas and electric public utilities, energy conservation standards and information programs, low-income home energy assistance and weatherization, regulation of telephone companies, the administration of Telecommunications Access Minnesota (TAM), petrofund, and unclaimed property programs.

