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Minnesota
Department of Commerce

2000-2002
Affirmative Action Report



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I. TRANSMITTAL SHEET

AFFIRMATIVE ACTION PLAN
2000-2002 FOR DEPARTMENT OF COMMERCE

1. This annual review revealed underutilization of the following protected group(s) in the following goal units: (Check each unit appropriate)

Goal Units	Protected Groups		
	Women	Minorities	Handicapped
Clerical			
Technical			
General Professional			X
Supervisory		X	X
Managerial Plan		X	X

2. This annual plan is posted on the bulletin board in a central location so that every employee is aware of the department's commitments in affirmative action for the year:

General Distribution and Employee Bulletin Board

3. This annual plan contains an internal procedure for processing complaints of alleged discrimination from employees, and each employee has been apprised of this procedure as well as our department's affirmative action goals for this fiscal year.

Catherine O'Connell
Affirmative Action Officer

March 27, 2000
Date

4. This annual plan contains clear designations of those persons and groups responsible for implementing the attached affirmative action plan as well as my personal statement of commitment to achieving the goals and timetables described herein.

James C. [Signature]

Agency Head

March 27, 2000
Date

5. This annual plan meets the rules governing affirmative action, MCAR Chapter 3905, Statutory Authority 43A.04, and contains goals and timetables as well as methods for achieving them which are reasonable and sufficiently aggressive to deal with the identified disparities.

Barcel [Signature]
Director, Office of Diversity and Equal Opportunity

3-28-00
Date

II. STATEMENT OF COMMITMENT TO EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION

As Commissioner of the Department of Commerce, I am committed to the state's policy of equal employment opportunity for all persons without regard to age, disability, race, creed, color, sex, religion, sexual orientation, national origin, membership or activity in a local commission, marital status, or status with regard to public assistance. The statewide and Department Affirmative Action Programs, which provide for the employment and retention of persons from protected groups including minorities, women and persons with disabilities, have my unequivocal approval and support. These programs are designed to ensure that all possible efforts are made to hire and retain qualified members from these groups.

It is the Department's policy not to tolerate any type of harassment. 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 will be cause for disciplinary action.

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 and adhering to the provisions of this policy and Affirmative Action Plan. The Department will not tolerate discrimination or harassment based on race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, age, sexual orientation, or activity in a local commission. I am committed to the implementation of this plan.

March 27, 2000
DATE



JAMES C. BERNSTEIN, COMMISSIONER

III. IDENTIFICATION AND DELEGATION OF AAO DUTIES AND RESPONSIBILITIES

Agency Commissioner

Responsibilities: The Commissioner is responsible for establishing the Affirmative Action Program, including goals and timetables, and ensuring its compliance with state and federal laws and amendments.

Duties: The duties of the Commissioner shall include the following:

1. designating a top executive as the Department's Equal Opportunity Officer, or acting as the Equal Opportunity Officer;
2. taking action, if needed, on complaints of discrimination and/or harassment;
3. issuing a statement affirming support of the State's equal opportunity policy for the Department and ensuring that such statement is disseminated to all employees;
4. making such decisions and changes in policy or procedure as may be needed to facilitate an effective Affirmative Action program within the Department;
5. ensuring that the AAO is provided with adequate facilities, resources and time to perform Affirmative Action responsibilities;
6. ensuring that all Department personnel are informed of their responsibilities relating to Affirmative Action;

Accountability: The Commissioner is accountable directly to the Governor and indirectly to the Commissioner of Employee Relations and the Director of the Office of Diversity and Equal Opportunity.

Equal Opportunity Officer (EOO) (Chief of Staff)

Responsibilities: The Chief of Staff serves as the Department's Equal Opportunity Officer and is responsible for administering the Affirmative Action Plan according to the law. The Equal Opportunity Officer also oversees the duties of the AAO and acts as the AAO when the AAO designee cannot act due to a potential conflict of interest (e.g. during pre-hiring when the AAO is a candidate for a position).

Accountability: The Equal Opportunity Officer is directly accountable to the Department Commissioner.

Affirmative Action Officer (AAO)
(Kate O'Connell, Electric Unit Supervisor)

Responsibility: The AAO is responsible for monitoring, directing and implementing the Department's activities and progress in Affirmative Action.

Duties:

1. preparing the narrative portion of the Affirmative Action Plan;
2. serving as a member of the pre-employment review team;
3. monitoring progress on goals and timetables;
4. monitors the agency's retention activities;
5. working with the Personnel Director in analyzing problems where protected group disparities exist in the work force;
6. assisting in the development of job-related criteria and uniform job-related questions for use in employment interviews;
7. responding when necessary to complaints, as described in the Complaint Procedure Section of this plan;
8. providing exit interview forms to employees leaving the Department and periodically summarizing for management suggestions made in forms;
9. participating in decisions involving reasonable accommodations for persons with disabilities.

Accountability: The AAO is directly accountable to the Commissioner on AA/EEO issues.

Personnel Director
(William Janisch, Administrative Services Division)

Responsibility: The Personnel Director is responsible for facilitating recruitment along with helping managers, supervisors and the AAO achieve Affirmative Action goals while complying with the laws and union contracts.

Duties:

1. informing the AAO of upcoming vacancies.
2. assisting in the development of pre-employment job-related interview criteria and questions;
3. monitoring report data regarding interviews, new hires, terminations and promotions;
4. assisting the AAO in developing internal and external work force analysis consistent with Federal census data;

Managers and Supervisors

Responsibilities: Managers and Supervisors must actively ensure compliance with statewide and agency Affirmative Action programs and ensure equal treatment of all employees.

Duties:

1. assisting the Department's AAO in identifying and resolving problems and eliminating barriers which inhibit equal employment opportunity;
2. working closely with the Department's Personnel Director, AAO, and the Minnesota Department of Employee Relations to ensure that all selection criteria are job-related;
3. choosing candidates for new positions or promotional opportunities on the basis of training, experience, the Department's affirmative action goals, and the pre-hiring review process;
4. recruiting and hiring protected class persons with assistance from the Personnel Director and AAO;
5. estimating staffing needs and vacancies for their divisions in the coming year and setting goals consistent with the Department's affirmative action goals and timetables;
6. responding to requests for information related to discrimination complaints within ten working days;
7. assuring that no reprisals are made against any employee for filing a discrimination complaint;
8. making all employees aware of training and improvement programs when appropriate.

Accountability: The managers are directly (and supervisors are indirectly) accountable to the Commissioner. All managers and supervisors will be evaluated on the results of their affirmative action efforts as they would be on any other program or production-related area.

IV. COMMUNICATION OF THE AFFIRMATIVE ACTION PLAN

A copy of the Department Affirmative Action Policy is posted in the Department Posting/Copier Room at the Department of Commerce, 121 7th Place East, St. Paul, Minnesota 55101-2145.

A copy of the Department Affirmative Action Plan is available for the public in the Department lobby and reception areas.

The availability of the Department Affirmative Action Plan is referenced in the Commissioner's Statement of Commitment to Equal Opportunity and Affirmative Action which is published in the Department Employee Manual.

Copies of the Department Affirmative Action Plan may be requested from the Department Equal Opportunity Officer, Affirmative Action Officer, or the Personnel Director.

The Department will use job postings, letterhead and website postings to inform the public that the Department is an "Equal Opportunity Employer."

V. COMPLAINT PROCEDURES

Internal Discrimination Complaint Procedure

The Department of Commerce has established the following discrimination complaint procedure to be used by all employees, applicants or eligibles. 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 designee for information and for access to data and records for the purpose of enabling the Affirmative Action Officer designee to carry out responsibilities under this complaint procedure.

Who May File

Any employee, applicant or eligible of the Department of Commerce who believes that s/he has been discriminated against by reason of race, color, creed, religion, national origin, sex, marital 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.

The Complaint Procedure

The internal complaint procedure provides a method for resolving complaints involving violations of the Department of Commerce's nondiscrimination policy within the agency. Employees, applicants and eligibles are encouraged to use this internal complaint process. Retaliation against a person who has filed a complaint either internally or through an outside enforcement agency¹ or other legal channels is prohibited. (Note: these agencies have time limits for filing complaints, so individuals should contact these agencies for more information.)

Filing Procedures

1. The employee, applicant or eligible completes the "Complaint of Discrimination Form" provided by the Affirmative Action Officer designee. Employees are encouraged to file a complaint within a reasonable period of time after the individual becomes aware that a situation(s) may involve discriminatory harassment. The Affirmative Action Officer designee will, if requested, provide assistance in filling out the form. The Affirmative Action Officer designee may

¹ e.g. the Minnesota Department of Human Rights or the federal Equal Employment Opportunities Commission.

contact the Office of Diversity and Equal Opportunity if s/he wants information about filing a complaint.

2. The Affirmative Action Officer 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, 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 Office designee shall also discuss other options for resolution, such as the Workplace Mediation Pilot Project.
 - A. 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.
 - B. If the complaint is related to discrimination, the Affirmative Action Officer designee will, within 10 working days, contact all parties named as respondent(s) and outline the basic facts of the complaint. The respondent(s) will be asked to provide a response to the allegations within a specific period of time.
3. The Affirmative Action Officer designee shall then investigate the complaint. At the conclusion of the investigation, the Affirmative Action Officer designee shall notify the complainant(s) and respondent(s) that s/he has completed the investigation. The Affirmative Action Officer designee shall then review the findings of the investigation.
 - A. If there is sufficient evidence to substantiate the complaint, appropriate action will be taken.
 - B. If insufficient evidence exists to support the complaint, a letter will be sent to the complainant(s) and the respondent(s) dismissing the complaint.
4. A written answer will be provided to the parties within sixty (60) days after the complaint(s) is filed. The complainant(s) will be notified should extenuating circumstances prevent completion of the investigation within sixty (60) days.
5. Dispensation of the complaint will be filed with the Commissioner of the Department of Employee Relations within thirty (30) days of 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 complainant(s) and respondent(s). 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:
 - A. Interviews or written interrogatories with all parties involved in the complaint, e.g., complainant(s), respondent(s) and their respective witnesses; officials having pertinent records or files, etc.
 - B. All records pertaining to the case, i.e., written, recorded, filmed, or in any other form.
8. The Affirmative Action Officer designee shall maintain records of all complaints and any pertinent information or data for three (3) years after the case is closed.

Department of Commerce
 121 7th Place East, Suite 200
 St. Paul, MN 55101
 651-296-7107

COMPLAINT OF DISCRIMINATION

Please Read Before Completion of Form

Any complaint of discrimination is considered confidential data under Minnesota Statute 13.39, subs. 1 and 2. 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 designee, the complainant, the respondent, and the appropriate personnel.

Complainant (You)		
Name	Job Title	
Work Address	City, State, Zip Code	Telephone ()
Agency	Division	Manager
Respondent (Person Who Discriminated Against You)		
Name	Job Title	
Work Address	City, State, Zip Code	Telephone ()
Agency	Division	Manager

The Complaint

Basis of Complaint ("X" all that apply):

<input type="checkbox"/> Race	<input type="checkbox"/> Color	<input type="checkbox"/> Disability	<input type="checkbox"/> Sexual Orientation
<input type="checkbox"/> Sex	<input type="checkbox"/> Creed	<input type="checkbox"/> Marital Status	<input type="checkbox"/> Harassment
<input type="checkbox"/> Age	<input type="checkbox"/> Religion	<input type="checkbox"/> National Origin	<input type="checkbox"/> Status with Regard to Public Assistance
<input type="checkbox"/> Membership or activity in a local human rights commission			

Date most recent act of discrimination took place	If you filed this complaint with another agency, give the name of that agency:
---	--

Describe how you have been discriminated 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 belief that the State of Minnesota has discriminated against 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.

Complainant Signature

Date

Affirmative Action Officer Signature

Date

VI. HARASSMENT DISCRIMINATION POLICY

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 Personnel Director or the Affirmative Action Officer. If the AAO is the complainant or respondent, the Equal Opportunity Officer is designated to temporarily serve as the AAO.

As an employer, the Department is responsible for the actions of its employees and 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. 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. 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 and adhering to the provisions of this policy and Affirmative Action Plan.

The Commissioner is responsible for the application 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 the Department of Employee Relations 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.

VII. DEPARTMENT GOALS AND TIMETABLES

1. *Ideal Goals for Protected Group*

The Department's work force should represent Minnesota's population. The proportionate representation in the Department employee pool of females, minorities and persons with disabilities as the groups are represented in the state population is the ultimate goal of affirmative action. According to the U. S. census, women compose approximately 45% of the Minnesota work force in the metropolitan area and racial/ethnic minorities make up 6.8%. The state goal for persons with disabilities is 12.82%, based on data on the prevalence of disabilities in the state population and the work force provided by the Department of Jobs and Training.

2. *Ideal Goals Per Bargaining Unit*

The following factors were used to determine the goal percentage for each protected class (except persons with disabilities) in each bargaining unit:

- A. Percent unemployed in the labor/recruitment area
- B. Percent of work force age in the labor/recruitment area
- C. Percent with requisite skills in the immediate labor area
- D. Percent with requisite skills in the reasonable recruiting area
- E. Percent promotable or transferable within the organization

These factor percentages are based on the 1990 census data. Each factor was assigned a weight depending on the job requirements of the positions in the bargaining unit. The weighted average percentage figure was then determined for each protected group/bargaining unit combination. These weighted percentage figures are considered the ideal goal percentages.

3. *Current Status of Department Employment*

The Department employs persons from four bargaining units which meet the size criteria for establishing protected group goals. The following chart shows, for each protected group, the percentage of the bargaining unit who are protected-group employees and the ideal percentage of protected-group employees. Percentage employed figures are as of December 30, 1999.

	<u>Total Employed</u>	<u>% Goal</u>	<u>FTE Goal</u>	<u>FTE Actual</u>	<u>% of Goal</u>
<u>FEMALE</u>					
Manager	29	25.0	7.3	11.0	151.7
Office	72	0.0	0.0	69.0	0.0
Professional	174	35.0	60.7	70.5	116.2
Supervisors	28	39.7	10.9	14.5	132.8

	<u>Total Employed</u>	<u>% Goal</u>	<u>FTE Goal</u>	<u>FTE Actual</u>	<u>% of Goal</u>
<u>MINORITY</u>					
Manager	29	6.9	2.0	2.0	100.0
Office	72	7.0	5.0	7.5	150.9
Professional	174	4.3	7.5	13.0	174.5
Supervisors	28	5.7	1.6	1.0	63.7
PERSONS WITH DISABILITIES					
Manager	29	12.8	3.7	2.0	53.9
Office	72	12.8	9.1	10.0	110.0
Professional	174	12.8	22.2	18.0	81.2
Supervisors	28	12.8	3.5	3.0	85.2

4. Annual Goals

The Department has 302 goal unit positions as of December 30, 1999. These positions are in four bargaining units. The largest of these units is the professional unit. Many of these positions are outstate and/or require extensive travel. Experience is that turnover is extremely high within the first two years and very low thereafter. Additionally, many of the clerical positions are high volume/high pressure resulting in a higher than average turnover.

The bi-annual goals listed below are by bargaining unit.

PROFESSIONALS

1 person with a disability

SUPERVISORS

1 minority employee
1 person with a disability

MANAGERS

1 minority employee
1 person with a disability

VIII. PROGRAM OBJECTIVES

The Programs and Program objectives are developed by analyzing the composition of the Department's work force in conjunction with the Department of Employee Relations' protected group work force census data.

Program objectives for 2000-2002 have been identified in order to ensure that the Department maintains progress in Affirmative Action. The following are the objectives of the Department's Affirmative Action Plan:

A. Required Objectives:

1. To recruit affirmatively for all positions.

Action Steps

- a) Insure 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

- a) Periodically check a sample of official communication to confirm that they contain the Equal Opportunity Employer tag line.
- b) Notices of employment opportunities will be issued to organizations associated with protected group members

Responsibility: Personnel Director, in consultation with Managers and AAO.

Time Frame: 1st Quarter, 2nd Quarter, 3rd Quarter, 4th Quarter, every fiscal year.

2. To revise the affirmative action plan.

Action Steps

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

Evaluation

- a) The published plan will contain the goal established which will be monitored using the Affirmative Action Status Report

Responsibility: Management, Equal Opportunity Officer, AAO.

Time Frame: 3rd Quarter, each reporting year.

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

Action Steps

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

Evaluation

- a) Orientation meetings with new employee.
- b) Tell employees where current AAO plan is posted.

Responsibility: AAO

Time Frame: As new staff are hired.

B. Additional Objectives:

1. 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) A memo on new developments will be issued as need arises.
- b) Managers attend affirmative action related seminars.

2. To investigate options for participating in the Supported Work Program.

Action Steps

- a) Assess needs for additional assistance on a temporary or permanent basis.
- b) Investigate availability and skills of office-supported workers on a temporary or permanent basis.

Evaluation

A memo will be developed based on this assessment and investigation.

3. To investigate sources for recruitment.

Action Steps

New employees will be surveyed on the information they used when they applied for Department positions.

Evaluation

A memo will report on the results of the survey.

Responsibility: AAO

Time Frame: Ongoing

IX. AUDITING OF PROGRAM

Objective: To ensure that hiring and retention procedures support the Department's commitment to hire affirmatively in a work environment void of discrimination.

PRE-HIRING REVIEW

The Department will make a good-faith effort to reach the goals of the Affirmative Action Plan; the procedure laid out below will be followed when hiring.

Consultation with Managers

Managers will be kept advised of the goals and disparities for the various occupational categories under their supervision by the AAO.

Selection Process: Pre-employment Review

1. When management decides to fill a vacancy, the Personnel Director will notify the AAO of the decision.
2. Once notified of the effort to fill a vacancy where a disparity exists, the AAO will work closely with the Personnel Director and management, monitoring and collecting data each step of the hiring or promotional process.
3. The Personnel Director and the manager develop a position description and determine the necessary job-related criteria: knowledge, skills, and abilities.
4. The Personnel Director determines whether any bargaining unit employees are eligible to bid on the position. If so, the job will be posted for the required length of time. If an employee bidding on the job is successful, the job will be filled in accordance with the union contract.
5. The Personnel Director ascertains whether an appropriate certification list exists or a job announcement is necessary.
6. If a job announcement is necessary, management, with assistance from AAO, will recruit affirmatively for the position. Management will maintain complete documentation of the recruiting to assist the AAO in monitoring the Department's progress.
7. If an appropriate eligible list exists, the AAO will ascertain whether the applicant pool contains candidates who will help the agency reduce the disparity and will insure that the selection procedures used will not result in discrimination against protected groups.

8. The manager will devise a list of uniform job-related questions. The AAO will make sure that they are uniform, appropriate and job-related. However, if the AAO is a potential candidate for the vacancy, the Equal Opportunity Officer will review the questions.
9. The applications/resumes of all candidates will be reviewed by the manager and compared to the qualifications stated in the job announcement. Those candidates who most closely match the qualifications stated in the job announcements will be selected as the pool of candidates to be interviewed.
10. Prior to offering a position to a candidate, the manager will discuss the anticipated selection with the AAO to ascertain that the selection is consistent with the Department's Affirmative Action Plan goals. These two parties will discuss who will be and who will not be hired by considering candidates on the basis of their knowledge, skills and abilities.
11. If the AAO is dissatisfied with the manager's decision to reject a protected group member, the manager will explain in writing why the protected group person was not selected. Copies of the written rejection will be reviewed by AAO and the Personnel Director. No selection will be made until such written reasons have been reviewed. If the AAO and the Personnel Director believe that the reasons for rejection are insufficient, the selection will be referred to the Commissioner, whose decision is final.
12. The AAO will keep documentation on the selection process for all appointments. Data on every appointment, where there is a disparity, will indicate how much opportunity the Department had to act affirmatively and what they actually did about it.
13. Protected group status is not identified as public data according to the Minnesota Government Data Practices Act. Therefore, information pertaining to the protected group status of applicants and employees will not be disclosed.

Recordkeeping

The Affirmative Action Officer shall maintain records reflecting hires, turnovers, and any complaints regarding such activity.

Layoffs

The Department of Commerce (or Affirmative Action Officer) will pre-review all layoff decisions to determine the impact the layoffs will have on affirmative action goals and timetables.

Evaluation

The Affirmative Action Office shall evaluate the Affirmative Action Plan by:

- A. Reviewing monthly statistics reflecting current complement based on protected classes.
- B. Reviewing disciplinary actions taken during the past quarter, including review of job classification, bargaining unit, racial/ethnic groups, sex and disability status.
- C. Reviewing recruitment sources and strategies used, and the results used to help fill specific vacancies for which there was under-representation.
- D. Reviewing discrimination complaints filed in the past quarter.
- E. Reviewing training provided to employees to analyze for upward mobility impact, including job assignment, job progression, promotion, and transfer by job classification, bargaining unit, racial/ethnic group, sex and disability.

**Analysis of Separations and layoffs
JULY 1, 1998 THROUGH JANUARY 31, 2000***

Separations*

	<u>Total Separations*</u> #	<u>Minority</u> # %	<u>Female</u> # %	<u>Disabled</u> # %
Clerical	23	3 13	22 96	3 13
Professional	25	3 12	11 44	5 20
Supervisory	0	0 0	0 0	0 0
Managerial	7	1 14	1 14	3 43

* May not add to total because some of the persons separated belong to more than one protected group. This data represents the first 19 months of the 1998-1999 biennial plan period. The data does not include student workers, interns or temporary employees.

Layoffs

	<u>Total Separations</u>	<u>Minority</u>	<u>Female</u>	<u>Disabled</u>
Professional	1	0	1	0
Middle Management	1	0	0	0
Unrepresented	1	0	1	0

The professional position was eliminated when the position funding ended. The Middle Management and Management positions were eliminated as a result of reorganization.

X. WEATHER EMERGENCIES AND EVACUATION

Weather Emergencies

Remember that winter is often difficult in Minnesota. The weather emergency is not meant for your usual hassles with snow, wind, ice or whatever. It is meant only for those extreme cases when it would be literally impossible for most employees to travel to or from home. That means that there will always be times when some employees cannot get to work, or will wish to leave early, but the State will remain open. These employees have the option of using accrued leave or leave without pay with the approval of their supervisor.

When the weather appears to be getting severe, the Commissioner of the Department of Employee Relations will be in close touch with the Emergency Services Division of the Department of Public Safety. They monitor the Weather Bureau, the Highway Patrol, bus lines and road crews. On the basis of their information, and in consultation with the Commissioner of Public Safety, the Commissioner of DOER would make a determination on whether or not conditions are so hazardous that an emergency should be declared.

If buses are running and plows are on the road, an emergency will most likely not be called. In the Twin Cities, most people would be able to take a bus; even those who normally drive. There are other factors which are taken into consideration, such as extremely low temperatures and high winds, which would make it life threatening to be outdoors for very long.

If a weather emergency is declared during the night, the Department of Employee Relations will give the following announcement to WCCO 830 and WMNN 1330, KSTP, WCCO and KARE TV (which is close-captioned) for broadcast. The announcement will also be forwarded to the Associated Press (AP) to be put on the news wire for radio stations in greater Minnesota.

"A weather emergency has been declared by the Commissioner of the Department of Employee Relations. As of (time and date), all Minnesota state offices will be closed in the following area(s): (geographic location(s)). This does not apply to employees who are required by their agency to work during a weather emergency."

This statement will be provided to the media prior to the start of the normal work day (8:00 a.m.) DOER continues to monitor weather conditions through the Emergency Management Division, and if changes in the emergency designation are warranted, they will be made as the day progresses. If the emergency occurs during work hours, the Department will notify employees by e-mail and by having managers and supervisors personally attempt to notify their staff.

The procedures described above attempt to meet the needs of employees who are deaf or hearing-impaired. If the Department becomes aware of the need to develop procedures in addition to those described above for any deaf or hearing-impaired employees in the future, we will work with such employees to devise such procedures to help the individuals learn about a weather emergency.

Specific responsibilities are spelled out in the Department of Employee Relations Administrative Procedure 5.4 , Time Off in Emergencies. A specific plan to evacuate each employee requiring evacuation assistance will be immediately developed at the time of hire. The Department will develop provisions, in consultation with employees who need special notification of weather emergencies, as the need arises.

TIME OFF IN EMERGENCIES ADMINISTRATIVE PROCEDURE 5.4

Description and Scope

M.S. § 43A.05, subd. 4 permits the Commissioner of DOER to excuse employees from duty and to authorize appointing authorities in the executive branch to pay employee for time off work during natural or man-made emergency situations. This Administrative Procedure specifies that the commissioner has the authority to declare an emergency situation, close agencies, and authorize payment to employees who do not report to work or are sent home from work after an emergency has been declared. Appointing authorities retain the right to close or not close their facilities at any time. If an appointing authority closes a facility and an emergency is not declared by the commissioner, the pay provisions of this procedure will not take effect. In this case, employees will be required to use annual leave, an adjusted work schedule, compensatory time, or leave without pay to cover the absence from work.

Objective

To provide appointing authorities and employees with a clearly defined procedure to follow during emergency situations, thus increasing and improving the capabilities of state government to function during natural or man-made emergencies.

Definitions -- Key Terms:

- "Full pay" means regularly scheduled straight time pay for the scheduled work day. It does not include shift or equipment differential or overtime.
- "Time-off in Emergency Plan" is a comprehensive emergency procedure developed and implemented by each appointing authority.

Responsibilities

A. Appointing Authorities:

- Determine if facilities should remain open or be closed when an emergency leave has not been declared.
- Develop and maintain a Time-off in Emergency Plan which specifies:
 1. Essential staffing requirements to be maintained during emergency situations.
 2. The name and phone number of the individual(s) who can make closure decisions.
 3. Steps/procedures to follow in making closure decisions.

4. The name and phone number of the agency contact and back-up person responsible for implementing the plan.
 5. Internal operating procedures to be followed during a natural or man-made emergency.
- Submit a copy of the Time-off in Emergency Plan to DOER.
 - Request exemption from invocation of emergency leave for essential work units or employees.

B. Department of Employee Relations:

- Declare the emergency and its geographic scope.
- Excuse employees with full pay from work duties.
- Approve the excuse of employees, with full pay, from work duties when an appointing authority has closed a facility.
- Notify appointing authorities in the applicable geographic location of the declaration of the emergency.
- Authorize appointing authorities in the emergency area to pay employees for time off work.
- Approve recommendations of Appointing Authorities as to which state agencies and/or facilities are to be exempted from the invocation of emergency leave.
- Exempt certain individuals and operations from emergency leave on the basis of essentiality of services rendered or other staffing or work-related considerations (case-by-case basis) on request of appointing authority.
- Declare an end to the emergency.

Provisions

A. Procedures to follow for having situation declared an emergency:

1. Appointing Authority initiated:
 - a) Request declaration of emergency from Commissioner of DOER.
 - b) Commissioner of DOER consults with Commissioner of Public Safety.
 - c) Commissioner of DOER declares emergency or determines that emergency doesn't exist.
 - d) Commissioner of DOER communicates decision to all affected Appointing Authorities.
 - e) Commissioner of DOER authorizes emergency pay.

2. Commissioner initiated:
 - a) Commissioner of DOER consults with Commissioner of Public Safety.
 - b) Commissioner of DOER declares emergency or determines that emergency doesn't exist.
 - c) Commissioner of DOER communicates decision to all affected Appointing Authorities.
 - d) Commissioner of DOER authorizes emergency pay.

- B. Employees who report to work and are then sent home shall not be paid for more than their regularly scheduled hours. Employees shall not be enriched through additional compensation, including compensatory time, or increased benefits as a result of an emergency situation.

- C. Employees who are required by their appointing authorities to remain at work shall not be paid for more than their regularly scheduled hours or the actual number of hours worked.

- D. Employees on approved sick or pre-arranged vacation leave shall not have such leave time restored to their balances.

- E. Employees on any approved leave without pay shall not be paid for any emergency leave time.

- F. Employees who call in, on the day of an emergency, for vacation time, compensatory time or leave without pay will be credited with emergency leave from the point of the declaration of the emergency to the end of the scheduled shift, if the appointing authority ceases operations during their regular shift.

- G. Agencies using the positive time reporting system should instruct employees to record this time under "Other Authorized Leave Hours Taken" with an X designating the type of leave taken. Also note in the Remarks section "Weather Emergency" or "Emergency Situation" as appropriate.

- H. An employee's absence with pay for emergency situations shall not exceed 16 hours during that emergency less the Commissioner of DOER authorizes a longer period.

Other Relevant Laws, Personnel Rules, Contracts and Administrative Procedures:

M.S. § 43A.05, subd. 4 -- Time Off in Emergencies
Collective Bargaining Agreements

BUILDING EVACUATION

Upon consultation with the employee, a specific plan to evacuate each employee requiring evacuation assistance will be developed immediately at the time of hire. The Department will develop special provisions for employees as the need arises.

**EVACUATION PLAN
TORNADO, FIRE OR BOMB THREAT**

To *Exit* the building:

1. There are four stairwell exit routes marked by Exit signs from the skyway plus the down escalator and the skyway to the Golden Rule Building. The stairwell exit doors lock behind you after normal business hours and the only exit is at the street level. The skyway is locked after normal business hours. There is also a stairwell exit in the center of the building on the north wall between the Energy Program and the Energy Technologies Unit. This stairwell exit always locks behind you and the only exit is from the first floor.
2. If the closest exit route is blocked, use the next closest exit route.
3. Persons with disabilities who require assistance to evacuate will be assigned a volunteer for emergency evacuation assistance.
4. In the event that you cannot leave the floor or you become trapped on any other floor, go to a window and signal for help. Do not break the window. A broken window allows fresh air to feed the fire.
5. See attached floor plan for the location of the exits.

TORNADO OR OTHER SEVERE WEATHER CONDITIONS

Move to the center of the building and stay away from all glass windows or doors until the weather clears.

XI. REASONABLE ACCOMMODATIONS POLICY

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;
- 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, one-handed typewriters, closed-circuit televisions, specifically designed desk and files, TDD communications

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 ADA Coordinator 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 assistant devices.
2. In cases requiring management approval, the employee with a disability and supervisor submit a written request for a reasonable accommodation to the Equal Opportunity Officer and the AAO. 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 AAO will notify the Personnel Director of the 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, the Equal Opportunity Officer, 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 the AAO. 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.

Employee Request for Reasonable Accommodation

Employee Name: _____ Job Title: _____

Date of Request: _____ Division: _____

This information will be used by _____ or any other person, including the agency's legal counsel, who is authorized by my employers to handle medical information for ADA/MHRA purposes and, any information concerning my physical or mental condition, that are necessary to determine whether I have a disability as defined by the Americans with Disabilities Act and/or the Minnesota Human Rights Act, and to determine whether any reasonable accommodations can be made. The provision of this information is voluntary, however, if you refuse to provide it, your employer may refuse to provide reasonable accommodation.

1. Please describe the nature of your limitations, what life activity(s) it substantially limits, and how this life activity(s) is substantially limited.

2. How does it affect your ability to perform your job?

3. Type of accommodation you are requesting:

- | | |
|---|---|
| <input type="checkbox"/> Making facilities readily accessible | <input type="checkbox"/> Modification of equipment or devices |
| <input type="checkbox"/> Job restructuring | <input type="checkbox"/> Qualified reader or interpreter |
| <input type="checkbox"/> Part time or modified work schedule | <input type="checkbox"/> Acquisition of equipment or devices |
| <input type="checkbox"/> Modification to a rule, policy or practice | <input type="checkbox"/> Other (specify): |

Please describe in detail the accommodation you are requesting:

4. How will the requested accommodation be effective in allowing you to perform the essential functions of your job?

5. Additional Comments:

Signature of Employee: _____ Date: _____

XII. RECRUITMENT PLANS/REPORTING

Description and Scope

Recruitment activities are shared responsibilities of the Department of Employee Relations and all state agencies. M.S. 43A.09 directs the Commissioner of DOER, with cooperation from all appointing authorities of state agencies, to conduct an active recruitment program to maintain and replenish the state's work force.

Objectives

To ensure that recruitment programs are publicly marketed, attract and obtain qualified applicants, enhance the image of state employment and to assist state agencies in meeting affirmative action goals to achieve a balanced work force.

Responsibilities

Appointing Authority: The Department will implement the following Recruitment Plan:

- Track advertising sources used during the upcoming year, the expenses incurred and results achieved. All advertising and recruiting materials will include the "Equal Opportunity Employer" statement.

See Appendix A for a complete listing of advertising sources and expenses for the first 20 months of the current two-year AAO plan. The advertising utilized during the 1998-1999 plan period was limited to professional positions and resulted in the following hiring results:

	<u>Hires</u>	<u>Minority</u>	<u>Females</u>	<u>Disability</u>
Professional	22	1	8	1

- Keep a record of other methods used to recruit for positions during the reporting period.

The only other methods of recruiting utilized during the reporting period was the posting of job notices at the University of Minnesota and the University of St. Thomas.

- Track and project attendance at job fairs.

Limited staffing did not permit recruiting at job fairs during the current reporting period and we do not anticipate attending any job fairs during the 2000-2002 reporting period.

- Project hiring opportunities for the upcoming 2-year period year and utilize the methods listed above to recruit for these positions.

The Department projects that hiring opportunities in the upcoming period will be similar to the past 2-year period, unless there are major changes in the economy and employment market. The following describes the recent hiring opportunities more fully. Through the month of February 2000, there were 50 hiring opportunities during the 1998-1999 plan period. The protected group results were as follows:

	<u>Hires</u>	<u>Minority</u>	<u>Females</u>	<u>Disability</u>
Clerical	27	1	27	3
Professional	22	1	8	1
Supervisors	0	0	0	0
Managers	2	0	1	1

* Excludes temporaries, student workers and student interns.

The Department intends to recruit using ads in the *Wall Street Journal*, *Pioneer Press*, *Star Tribune*, and other local papers. The Department will also explore the effectiveness of advertising in information services targeted to women and minority groups.

- Provide reasonable notice of plans to fill unclassified positions under M.S. 43A.08, subdivision 1, clauses (9), (11) and (16) and 2a; and to fill classified vacancies using 43A.15, subdivisions 3, 10, 12 and 13 to DOER for referral of individuals to the selection process.
- Ensure that all recruitment activities are in compliance with the Americans with Disabilities Act by making materials available in alternative formats (when requested) and meeting locations accessible.
- To attract persons with disabilities, the Department will project a responsible image by ensuring that all Department services accommodate and are available to persons with disabilities.

Persons with disabilities are recruited using the same methods as all other candidates. The equal opportunity employer tag line is used on all recruiting materials. All staff responsible for interviewing are aware of the responsibility to provide reasonable accommodations to the interviewing process when requested by the applicant.

- * The Department of Commerce only hires student interns under a cooperative agreement with the University of Minnesota Mechanical Engineering School. The Department hires two interns per year and posts the job announcement through the Mechanical Engineering Cooperative program. The University of Minnesota refers all eligible candidates and the Department interviews all eligible candidates that express an interest in the position. The Department acts in accordance with the Internship Administration Procedures in administering this program.

XIII. RETENTION PLAN

Description and Scope

Activities to retain the state work force are a shared responsibility between individual agencies and the Department of Employee Relations. An analysis to measure compliance with M.S. 43A.19 and M.S. 43A.191, the Americans with Disabilities Act, Title VII of the Civil Rights Act and M.S. 363 is required to determine separation and layoff patterns that may have a disparate impact on protected group members. Reporting on individual agency retention rates will coincide with Affirmative Action Reporting Requirements and Affirmative Action Auditing procedures. Review of the separation and layoff analysis and retention plan is conducted by the Office of Diversity and Equal Opportunity (ODEO) in the Department of Employee Relations as part of the review of the agency's Affirmative Action Plan.

The Department's retention program goal is to make the work culture more conducive to protected group employees and to guide new employees toward career mobility.

The Commissioner of the Department of Public Service is committed to employing and retaining persons from protected groups, including minorities, women and persons with disabilities. For more information, see the Commissioner's Statement of Commitment to Equal Opportunity and Affirmative Action, page 1.

The Affirmative Action Officer, Kate O'Connell, is the designated person responsible for the agency's retention program. A copy of the Exit Interview Form is included in the Employee Operations Manual. Employees are encouraged to complete this form when they leave the Department.

The Department will use the following methods to retain protected group employees:

- assign staff to mentor all new employees;
- assign new employees to team projects to develop training and experience;
- develop and augment professional skills of new employees including the ability to give effective oral and written presentations.

The AAO will implement activities that promote awareness, acceptance and appreciation for diversity and affirmative action.

The Personnel Officer is designated to assist laid off employees in finding work in other areas within State government.

XIV. SUPPORTED WORK

The AAO and Personnel Director reviewed all positions in the Department of Commerce and determined that there are no current positions suitable for supported employment opportunities.

The Department is a professional regulatory agency. All buildings and grounds are leased from private companies. These companies provide all janitorial, maintenance and grounds services. The Department is a small agency with approximately 302 employees, 260 stationed in the main office and 42 field staff who work out of their homes. Because of the technical and professional nature of the work, there are no entry level clerical employees and the balance of the staff are either technical investigators or professional, supervisory or managerial staff. Because of the small size of the agency, there is no need for stock room or mail room support. Mailing and filing tasks are completed by clerical staff in the central filing and word processing units. The filing and mailing operations are automated and highly technical in nature because they must meet stringent regulatory requirements (by law and rule). It is the considered judgment of the AAO and Personnel Director that there is insufficient work available suited to the reasonable use of a supported work position to justify creating either a part-time or full-time position for this purpose. The Department will continue to review future employment needs with respect to the potential for creating a supported work position and recruit supported workers if the opportunity arises.

DEPARTMENT OF COMMERCE
EMPLOYMENT ADS

July 1, 1998 - February 29, 2000

July 10, 1998	Life Actuarial Assistant National Advertising Service \$315.00
August 13, 1998	Regulatory Analyst (Act. Asst.) National Advertising Service \$332.00
November 8, 1998	Systems Supervisor National Advertising Service \$247.50
December 6, 1998	Financial Analyst Ludlow \$268.25 Minneapolis, \$301.16 St. Paul
December 6, 1998	Financial Inst. Examiner Ludlow \$224.75
December 6, 1998	Executive Director (Arch. Board) Ludlow \$361.00
May 30, 1999	Insurance Commerce Analyst 1 Ludlow \$346 Minneapolis, \$442 St. Paul
February 2000	Economics - Public Utility Regulatory Analyst NARUC Bulletin Free
February 15, 2000	Economic - Public Utility Regulatory Analyst Wall Street Journal - Midwest \$2,179.80
February 13, 2000	Economics - Public Utility Regulatory Analyst Star Tribune - statewide \$434.00
February 13, 2000	Economics - Public Utility Regulatory Analyst St. Paul Pioneer Press - statewide \$278.26
February 13, 2000	Economics - Public Utility Regulatory Analyst Madison Newspapers \$228.60