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Subpart A—Principal Statutory Requirements

§ 720.101 Federal Equal Opportunity Recruitment Program.

This section incorporates the statutory requirements for establishing and conducting an equal opportunity recruitment program consistent with law within the Federal civil service. The policy in 5 U.S.C. 7201(b) reads as follows: ''It is the policy of the United States to insure equal employment opportunities for employees without discrimination because of race, color, religion, sex, or national origin. The President shall use his existing authority to carry out this policy.'' 5 U.S.C. 7201(c) requires under regulations prescribed by the Office of Personnel Management:

''(1) That each Executive agency conduct a continuing program for the recruitment of members of minorities for positions in the agency to carry out the [anti-discrimination] policy set forth in subsection (b) in a manner designed to eliminate underrepresentation of minorities in the various categories of civil service employment within the Federal service, with special efforts directed at recruiting in minority communities, in educational institutions, and from other sources from which minorities can be recruited; and

''(2) That the Office conduct a continuing program of—

''(A) Assistance to agencies in carrying out programs under paragraph (1) of this subsection; and

''(B) Evaluation and oversight of such recruitment programs to determine their effectiveness in eliminating such minority underrepresentation.''

This section and all implementing guidance shall be interpreted consistent with title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000c *et seq.*

[44 FR 22031, Apr. 13, 1979, as amended at 48 FR 193, Jan. 4, 1983]

Subpart B—Federal Equal Opportunity Recruitment Program

§ 720.201 Regulatory requirements.

This subpart contains the regulations of the Office of Personnel Management which implement the above provisions of title 5, United States Code, and are prescribed by the Office under authority of 5 U.S.C. 7201.

§ 720.202 Definitions.

For the purposes of this subpart:

(a) *Underrepresentation* means a situation in which the number of women or members of a minority group within a category of civil service employment constitutes a lower percentage of the total number of employees within the employment category than the percentage women or the minority constitutes within the civilian labor force of the United States, in accordance with § 720.205 (c) and (d).

(b) *Category of civil service employment* means such groupings of Federal jobs by grades and/or occupations as the Office of Personnel Management deems appropriate within the General Schedule and the prevailing wage systems.

(c) *Minority* refers only to those groups classified as ''minority'' for the purpose of data collection by the Office of Personnel Management and the Equal Employment Opportunity Commission in furtherance of Federal equal employment opportunity policies. The term, ''women,'' includes nonminority as well as minority women.

(d) *Civilian labor force* (CLF) includes all persons 16 years of age and over, except those in the armed forces, who are employed or who are unemployed and seeking work. CLF data are defined by the Bureau of the Census and the Bureau of Labor Statistics and are reported in the most recent decennial or mid-decade census, or current population survey, under title 13 of the United States Code or any other reliable statistical study.

(e) *Recruitment* means the total process by which the Federal Government and the Federal agencies locate, identify and assist in the employment of qualified applicants from underrepresented groups for job openings in categories of employment where underrepresentation has been determined. It includes both innovative internal and external recruitment actions. It is also intended to cover processes designed to prepare qualifiable applicants (those who have the potential but do not presently meet valid qualification requirements) for such job openings through programs of training, work experience or both.

(f) *Applicant pool* means all types of listings from which selections may be

made, including (but not limited to) promotion lists, competitive certificates and inventories of eligibles, applicant supply files, and lists of eligibles for certain noncompetitive appointments.

§ 720.203 Responsibilities of the Office of Personnel Management.

(a) The Office of Personnel Management will provide appropriate data to assist Federal agencies in making determinations of underrepresentation. The process for making such determinations is described in sections II and III (c) of the ''Guidelines for the Development of a Federal Recruitment Program to Implement 5 U.S.C. 7201, as amended'' (See appendix to this part). The Office will develop and publish more specific criteria for statistical measurements to be used by individual agencies, and will develop further guidance on—

(1) Agency employment statistics and civilian labor force statistics to be used in making determinations of underrepresentation, on a national, regional or other geographic basis as appropriate;

(2) Groupings of grades and/or other occupational categories to be used in implementing agency programs;

(3) Occupational categories and job series for which expanded external recruitment efforts are most appropriate, and those for which expanded and innovative internal recruitment is appropriate; and

(4) Other factors which may be considered by the agency, in consultation with Office of Personnel Management, to make determinations of underrepresentation and to develop recruitment programs focused on specific occupational categories.

(b) The Office will assist agencies in carrying out their programs by—

(1) Identifying major recruitment sources of women and members of minority groups and providing guidance on internal and external recruitment activities directed toward the solution of specific underrepresentation problem;

(2) Supplementing agency recruitment efforts, utilizing existing networks for dissemination of job information, and involving the participation of minority group and women's organizations where practicable;

(3) Examining existing Federal personnel procedures to identify those which (i) may serve as impediments to innovative internal and external recruitment and (ii) are within the administrative control of the Office or the Federal agencies;

(4) Determining whether applicant pools used in filling jobs in a category of employment where underrepresentation exists include sufficient candidates from any underrepresentated groups, except where the agency controls such pools (see § 720.204(c));

(5) Providing such other support, as the Office deems appropriate.

(c) The Office will monitor and, in conjunction with the personnel management evaluation program of the Office, evaluate agency programs to determine their effectiveness in eliminating underrrepresentation.

(d) The Office will work with agencies to develop effective mechanisms for providing information on Federal job opportunities targeted to reach candidates from underrepresented groups.

(e) The Office will conduct a continuing program of guidance and instruction to supplement these regulations.

(f) The Office will coordinate further activities to implement equal opportunity recruitment programs under this subpart with the Equal Employment Opportunity Commission consistent with law, Executive Order 12067, and Reorganization Plan No. 1 of 1978.

§ 720.204 Agency programs.

(a) Each Executive agency having positions in the pay systems covered by this program must conduct a continuing program for the recruitment of minorities and women for positions in the agency and its components to carry out the policy of the United States to insure equal employment opportunities without discrimination because of race, color, religion, sex or national origin. The head of each agency must specifically assign responsibility for program implementation to an appropriate agency official. All agency officials

who have responsibility for the program will be evaluated on their effectiveness in carrying it out as part of their periodic performance appraisals.

(b) Programs established under this subpart must be designed to cover recruitment for all positions in pay plans covered by this program including part-time and temporary positions.

(c) Where an agency or the Office of Personnel Management has determined that an applicant pool does not adequately provide for consideration of candidates from any underrepresented group, the agency or agency component must take one or more of the following actions:

(1) Expand or otherwise redirect their recruitment activities in ways designed to increase the number of candidates from underrepresented groups in that applicant pool;

(2) Use selection methods involving other applicant pools which include sufficient numbers of members of underrepresented groups;

(3) Notify the office responsible for administering that applicant pool, and request its reopening of application receipt in support of expanded recruitment activities or certifying from equivalent registers existing in other geographic areas; and/or

(4) Take such other action consistent with law which will contribute to the elimination of underrepresentation in the category of employment involved.

(d) Agencies must notify and seek advice and assistance from the Office of Personnel Management in cases where their equal opportunity recruitment programs are not making measurable progress in eliminating identified underrepresentation in the agency work force.

§ 720.205 Agency plans.

(a) Each agency must have an up-to-date equal opportunity recruitment program plan covering recruitment for positions at various organizational levels and geographic locations within the agency. Such plans must be available for review in appropriate offices of the agency and must be submitted to the Office of Personnel Management on request. In accordance with agreement reached between the Office and the Equal Employment Opportunity Commission, such plans must be incorporated in the agency's equal employment opportunity plans required under section 717 of the Civil Rights Act of 1964, as amended, pursuant to regulations and instructions of the Commission, provided they are separable parts of those plans for purposes of review by and submission to the Office of Personnel Management. Agency organizational and geographical components which are required to develop and submit Equal Employment Opportunity plans, under instructions issued by the Equal Employment Opportunity Commission, must also have up-to-date special recruitment program plans. On a determination by the Office of Personnel Management, in consultation with EEOC, that additional component plans are needed to implement an agency's program effectively, the Office will instruct the agency to develop additional plans. Agencies must comply with such instructions.

(b) Agency plans must include annual specific determinations of underrepresentation for each group and must be accompanied by quantifiable indices by which progress toward eliminating underrepresentation can be measured.

(c) Where an agency or agency component is located in a geographical area where the percentage of underrepresented groups in the area civilian labor force is higher than their percentage in the national labor force, the agency or component must base its plans on the higher level of representation in the relevant civilian labor force.

(d) Where an agency or agency component is located in a geographical area where participation of a particular underrepresented group is significantly lower than its participation in the national labor force, the agency or component may, in consultation with the Office of Personnel Management, use the lower percentage in determining underrepresentation. An agency may not use a figure lower than the relevant regional or nationwide labor force percentage where recruitment on a regional or nationwide basis is feasible for particular categories of employment. Factors such as size of the agency or unit, nature of jobs and their wage or pay scale may be considered in

focusing recruitment for various job categories.

(e) In addition to the underrepresentation determinations described in paragraphs (b), (c) and (d) of this section, agency plans must, at a minimum, include:

(1) An assessment of grades or job categories and numbers of jobs in such categories expected to be filled in the current year, and on a longer term basis (based on anticipated turnover, expansion, hiring limits and other relevant factors) identification of those occupational categories and positions suitable for external recruitment, and description of special targeted recruitment programs for such jobs and positions;

(2) A similar assessment for job categories and positions likely to be filled by recruitment from within the agency and/or the Federal civil service system and a description of recruitment programs developed to increase minority and female candidates from internal sources for such positions;

(3) A further assessment of internal availability of candidates from underrepresentated groups for higher job progressions by identifying job-related skills, knowledges and abilities which may be obtained at lower levels in the same or similar occupational series, or through other experience;

(4) A description of methods the agency intends to use to locate and develop minority and female candidates for each category of underrepresentation and an indication of how such methods differ from and expand upon the recruitment activities of the agency prior to establishment of the special recruitment program or the last revision to the agency's plans;

(5) A description of specific, special efforts planned by the agency (or agency component) to recruit in communities, educational institutions, and other likely sources of qualified minority and female candidates;

(6) A description of efforts which will be undertaken by the agency to identify jobs which can be redesigned so as to improve opportunities for minorities and women, including jobs requiring bilingual or bicultural capabilities or not requiring English fluency.

(7) A list of priorities for special recruitment program activities based on agency identification of:

(i) Immediate and longer range job openings for each occupational/grade-level grouping for which underrepresentation has been determined;

(ii) Hiring authorities which may be used to fill such jobs;

(iii) The possible impact of its actions on underrepresentation.

(8) Identification of training and job development programs the agency will use to provide skills, knowledge and abilities to qualify increased numbers of minorities and women for occupational series and grade levels where they are significantly underrepresented.

(9) Identification of problems for which the assistance of the Office of Personnel Management is needed and will be requested.

(f) Equal opportunity recruitment program plans must be consistent with agency Upward Mobility program plans and should be developed with full consideration of the agency's overall recruiting and staffing planning objectives.

(g) All plans required under this subpart must be developed not later than October 1, 1979.

[44 FR 22031, Apr. 13, 1979, as amended at 44 FR 33046, June 8, 1979]

§ 720.206 Selection guidelines.

This subpart sets forth requirements for a recruitment program, not a selection program. Nevertheless, agencies are advised that all selection processes including job qualifications, personnel procedures and criteria must be consistent with the Uniform Guidelines on Employee Selection Procedures (43 FR 38290; August 25, 1978).

§ 720.207 Reports.

(a) Not later than November 1 of each year, agencies must submit an annual report on their equal opportunity recruitment program to the Office of Personnel Management, in a form prescribed by the Office. The Office may require submission of any additional reports it considers necessary in carrying out its responsibilities under this subpart.

(b) The Office will report to Congress on the implementation and operation of the program on a Governmentwide basis not later than January 31 of each year, as required by law. Such reports will include assessments of agencies progress, or lack of progress, in meeting the objectives of the program.

Subpart C—Disabled Veterans Affirmative Action Program

AUTHORITY: 5 U.S.C. 7201; 42 U.S.C. 2000e; 38 U.S.C. 101(2), 2011(3), 2014; 5 U.S.C. 3112; 29 U.S.C. 791(b).

SOURCE: 48 FR 193, Jan. 4, 1983, unless otherwise noted.

§ 720.301 Purpose and authority.

This subpart sets forth requirements for agency disabled veteran affirmative action programs (DVAAPs) designed to promote Federal employment and advancement opportunities for qualified disabled veterans. The regulations in this subpart are prescribed pursuant to responsibilities assigned to the Office of Personnel Management (OPM) under section 403 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended (38 U.S.C. 2014), and section 307 of the Civil Service Reform Act of 1978 (5 U.S.C. 3112).

§ 720.302 Definition.

As used in this subpart, the terms *veteran* and *disabled veteran* have the meanings given to these terms in title 38 of the United States Code.

§ 720.303 Agency programs.

(a) *Continuing Programs.* Each Department, agency, and instrumentality in the executive branch, including the U.S. Postal Service and the Postal Rate Commission, shall conduct a continuing affirmative program for the recruitment, hiring, placement, and advancement of disabled veterans.

(b) *Program Responsibility.* The head of each agency shall assign overall program responsibility to an appropriate agency official. The official so designated shall be at a high enough level to ensure effective program administration and the devotion of adequate resources to the program.

(c) *Problem Analysis.*

(1) Annually, OPM will provide appropriate data on the employment of disabled veterans to each agency participating in the Central Personnel Data File (CPDF). These data will be taken from CPDF. For DVAAP purposes, CPDF data are considered to be the offical record of the status of disabled veteran employment within each participating agency. Each participating agency is responsible for assuring that such records are timely, accurate, and complete.

(2) CPDF data must be analyzed by participating agencies to identify problem areas and deficiencies in the employment and advancement of disabled veterans. (OPM will establish with each agency not participating in CPDF, the nature and extent of data to be used in identifying problems and deficiencies.) Based on this analysis, agencies shall develop methods to improve the recruitment, hiring, placement, and advancement of disabled veterans, or revise or redirect existing methods, as necessary. These methods must then be translated into action items.

§ 720.304 Agency plan.

(a) *Plan Development.* As part of the affirmative action plan it prepares pursuant to section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791 (b)) (''Section 501(b) Plan''), each Department, agency, or instrumentality in the executive branch must have an up-to-date affirmative action plan for the employment and advancement of disabled veterans.

(1) Each agency must review its plan on an annual basis, together with its accomplishments for the previous fiscal year, updated employment data, and any changes in agency mission or structure, and update the plan as necessary. Agency operating components and field installations required to develop separate plans under paragraph (b) of this section, below, must perform the same type of annual review and update of their plans.

(2) Plans shall cover a time period of not less than one year and may cover a longer period if concurrent with the agency's Section 501(b) Plan. Each plan must specify the period of time it covers.