**Section 2520.795 EEO/AA Performance Reviews**

The Department shall conduct periodic performance reviews of all agencies. On a quarterly basis, the EEO/AA reports submitted by agencies will be reviewed and the results of the review shall be shared with the agency in question, indicating whether corrective action is needed. On an annual basis, the Department shall determine whether each agency is in compliance with the EEO and affirmative action obligations of the Act and this Subpart. In the course of such a review, the Department may request documentation and reports reflecting the agency's employment practices and profile and may visit the agency's worksites and interview employees.

a) EEO/AA Criteria – The Department shall judge the agency's concerted effort and progress to provide equal employment opportunity and affirmative action for minorities, women and disabled persons, using the following criteria:

1) existence of an approved plan;

2) demonstration of the implementation of the agency's goals within the timeframe cited in the agency's plan. In order to be found in compliance with numerical goals, the agency must show that its percentage of hires and promotions for minorities and females in underutilized categories equals or exceeds 80% of the labor market availability rate of minorities and females in question based on Illinois Department of Employment Security Workforce Availability Information at http://www.ides.illinois.

gov/page.aspx?item=2854

 or that the agency has made a concerted effort to reach those goals. In determining whether an agency made a concerted effort, the Department will evaluate the agency's overall actions taken over the course of the fiscal year to reduce its underutilization when there have been opportunities to hire and/or promote in underutilized categories. When agency underutilization occurs in a geographic region with labor market availability rates less than 2 percent for a specific affirmative action group, the Department will consider the availability of this group in evaluating an agency's performance. Compliance with program goals will be determined by an agency's documentation that those goals have either been achieved or a demonstration of a concerted effort to achieve those goals;

3) demonstration that the agency's EEO/AA policy has been disseminated throughout the agency;

4) documentation of the inclusion of EEO/AA principles and procedures in appropriate in-service training programs;

5) documentation of the inclusion of the agency's EEO Officer in the investigation and disposition of all internal and external discrimination grievances and complaints;

6) maintenance and timely submission of appropriate employment data and reports as required in this Subpart and by federal authorities;

7) in an agency with 1,000 or more employees, documentation of the appointment, with the Director's approval, of an EEO Officer;

8) in an agency with fewer than 1,000 employees, documentation of the designation of an EEO Officer who may serve as a full-time EEO Officer or be responsible for other duties within the agency beyond those of an EEO Officer; and

9) documentation that the agency's EEO Officer has performed the duties and responsibilities outlined in the Act and this Subpart.

b) EEO/AA Profile – The Department shall complete an annual EEO/AA profile summarizing the agency's satisfaction of the various EEO/AA criteria outlined in subsection (a). The profile shall be sent to the agency's Chief Executive Officer and the EEO/AA officer with a letter of findings signed by the Director, and shall find the agency in:

1) Compliance: all EEO/AA criteria set forth in subsection (a) have been met by the agency; or

2) Non-compliance: EEO/AA criteria as set forth in subsection (a) have not been met.

c) Compliance Process

1) If the Department finds the agency is in compliance, the Director shall send a letter of findings of compliance to the agency and attach the EEO/AA profile. The agency will not be required to take any further action.

2) If the Department finds that an agency is in non-compliance in regards to subsection (a)(2) for the first year, in accordance with Section 7-105(H) of the Act, the Department will send a letter of findings of non-compliance to the agency and attach the EEO/AA profile. The Director will notify the agency and the Department of Central Management Services (CMS) that the agency must establish necessary training programs for preparation and promotion of the category of individuals affected by the failure, in cooperation with CMS.

3) If the Department finds that an agency is in non-compliance in regards to subsection (a)(2) for the second consecutive year, in accordance with Section 7-105(H) of the Act, the Department will send a letter of findings of non-compliance to the agency and attach the EEO/AA profile. The Director will notify the agency and CMS that the agency must continue necessary training programs for preparation and promotion of the category of individuals affected by the failure, in cooperation with CMS.

4) If the Department finds that an agency is in non-compliance in regards to subsection (a)(2) for the third consecutive year, in accordance with Section 7-105(H) of the Act, the Department will inform the agency that it must continue training. Further, the Director may request that the Chief Executive Officer of the agency in question meet with him/her to discuss the agency's EEO/AA performance. In addition, the Department shall direct that the agency furnish to the Department a monthly report due on the fifth working day of each month that must be signed by the Chief Executive Officer and EEO Officer.

A) The monthly report shall list each employment transaction for the month by job title, EEO job category, pay grade or merit compensation level, geographic region and affirmative action group of the employee affected. The report shall also indicate the number of people in each affirmative action group who applied and who were selected for each transaction.

B) After an agency has completed training for failure to meet numerical and program goals, the agency shall describe in its monthly reports the training instituted and indicate the numbers of each affirmative action group participating in the training.

5) If the Department finds an agency in non-compliance with subsection (a)(2) for the third consecutive year, sanctions for non-compliance provided in Section 2520.797 will be invoked.

6) If the Department finds an agency in non-compliance with any other EEO/AA criteria other than subsection (a)(2):

A) The Director shall send a letter of findings of non-compliance to the agency, attach the EEO/AA profile report, and set forth recommendations for the agency to achieve compliance. The agency shall submit, within 30 days after receipt of the letter of findings of non-compliance, a corrective action plan incorporating the Director's recommendations, as well as other plans the agency develops to achieve compliance.

B) If the Department determines the corrective action plan is sufficient to bring the agency into compliance, the Department will notify the agency that it has 30 days to implement the plan.

C) The Department will monitor and periodically evaluate the implementation of the agency's corrective action plan.

D) If the Department determines that an agency's corrective action plan is not sufficient to bring the agency into compliance, the Department will notify the agency and request a plan with alternative measures to be submitted within 30 days after the agency's receipt of the Department's notice. If the alternative action plan is sufficient, the Department will proceed pursuant to subsections (b) and (c).

E) If the agency fails to provide an alternative action plan that is sufficient to bring the agency into compliance, the Department will invoke the sanctions for non-compliance provided in Section 2520.797.

(Source: Amended at 38 Ill. Reg. 9481, effective April 21, 2014)