

BPA Policy 235-1

Affirmative Employment Programs and Reports

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1. Purpose & Background

This policy directs Bonneville Power Administration’s (BPA) Office of Human Capital Management (HCM) to work in collaboration with BPA’s Civil Rights and Equal Employment Opportunity (CR/EEO) Office to develop, manage, maintain, and report on BPA’s Affirmative Employment Programs (AEP). These two organizations develop and implement relevant diversity plans, programs, and initiatives. Reporting of BPA’s activities shall be consistent with requirements set forth in the Department of Energy (DOE)’s Order 311.1B, the Office of Personnel Management (OPM), and the Equal Employment Opportunity Commission (EEOC).

Affirmative Employment Programs are developed pursuant to the EEOC’s Management Directive 715. Section 2 of this Directive states: “PURPOSE. This Directive provides policy guidance and standards for establishing and maintaining effective affirmative programs of equal employment opportunity under Section 717 of Title VII (Part A) and effective affirmative action programs under Section 501 of the Rehabilitation Act (Part B). The Directive also sets forth general reporting requirements (Part C).” This Directive requires agencies to take appropriate steps to ensure that their policies, practices, and procedures are implemented in a discrimination-free manner for all employees and applicants for employment.

2. Policy Owner

BPA’s Administrator, in collaboration with BPA’s EEO Officer and the Human Resources Officer, has responsibility for periodic review of this policy, and for developing standards and procedures for implementation of BPA’s EEO program.

3. Applicability

All BPA employees.

4. Terms & Definitions

- A. **Affirmative Employment Program (AEP):** A program designed to implement the government’s policy of promoting the employment of under-represented groups in the federal workforce.
- B. **Barrier:** A policy, principle, practice, or condition or a facet thereof that limits, or tends to limit, employment opportunities for members of a particular gender, race, or ethnic background or for an individual (or individuals) based on disability status.
- C. **BPA employee:** All staff, managers, supervisors, and executives who are civilian federal employees working for BPA. BPA employees may be either permanent or temporary, working full or part-time, and in either competitive or excepted service positions.

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- D. **Civilian Labor Force (CLF):** All people in the U.S. who are at least 16 years old, except those in the armed forces, who are employed or are unemployed and seeking work.
- E. **Disability:** A physical or mental impairment that interferes with, or prevents, normal achievement in a particular area. BPA uses OPM Standard Form (SF) 256 to record the number of employees in BPA’s workforce who have self-identified that they have a disability. BPA uses this information for statistical purposes and to aid in recruitment and achieving representation targets.
- F. **Diversity Strategic Objectives:** BPA’s workforce representation goals, wherein the goal is for each EEO group within the civilian labor force to be proportionately represented within BPA’s workforce.
- G. **Equal Employment Opportunity (EEO):** A state in which all individuals are afforded an equal opportunity for employment and advancement within an organization regardless of their race, color, national origin, religion, age, sex, disability (physical or mental), genetic information, or participation in prior EEO protected activity (regardless of their role) or because of their opposition to illegal discrimination. Sexual orientation is a non-merit employment factor prohibited by Executive Order. BPA processes sexual orientation EEO cases, but takes no affirmative employment actions and gathers no employment statistics related to sexual orientation.
- H. **Gap:** The difference between a particular group’s actual representation in the workforce and the expected representation when the actual representation is compared with the civilian labor force or other specified standard.
- I. **Low Participation Rate:** Low entry or hiring rate or a high separation rate by a particular group.
- J. **Non-merit factors:** Employees are protected from discrimination on the basis of non-merit based factors including race, age (40+), color, religion, sex (male/female, sexual harassment, pregnancy), national origin, disability (mental/physical), genetic information (GINA), sexual orientation, retaliation, or other cases prohibited by applicable federal law or statute. Other prohibited personnel practices include discrimination based on marital status, political affiliation, group membership, outside affiliations, personal beliefs, and traits. Violating veterans’ preference, taking or failing to take an action as required by EEO law or DOE/BPA policy, retaliation for whistleblowing, retaliation for testifying or cooperating with an Inspector General or Office of Special Counsel, or for refusing to comply with an instruction that would require the employee to break the law or any other non-merit factor are also prohibited.
- K. **Relevant Labor Force:** The source from which an agency draws or recruits applicants for employment. BPA primarily uses the national civilian labor force, but uses the regional labor force when appropriate for approved occupations. BPA’s primary service area is

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comprised of Oregon, Washington, Idaho and Western Montana, and that area is considered the “region” for purposes of this definition.

- L. **Section 501 Program:** The AEP that each agency is required to maintain under Section 501 of the Rehabilitation Act of 1973, as amended, to provide individuals with disabilities adequate hiring, placement, and advancement opportunities. The Section 501 Program is more commonly known as the “People with Disabilities” (PWD) program, which is administered by BPA’s CR/EEO Office.
- M. **Section 717 Program:** The AEP that each agency is required to maintain under Section 717 of Title VII of the Civil Rights Act of 1964, as amended in 1991, to provide individuals adequate hiring, placement, and advancement opportunities free from any discrimination based on race, color, religion, sex, or national origin, within the meaning of section 717 of the Civil Rights Act of 1964 (42 USC § 2000e-16); age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 USC § 633a); or disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 USC § 791) and sections 102-104 of the Americans with Disabilities Act of 1990 (42 USC § 12112-14).
- N. **Special Emphasis Program:** A program mandated by section 102 of 29 CFR §1614. There are three Special Emphasis Programs: the Federal Women’s Program, the Hispanic Employment Program, and People with Disabilities (PWD) program. All are designed to promote representation in the work force and advancement for the targeted group. There is no Special Emphasis Program based on race but, as applicable, an AEP would address race. The CR/EEO office administers all Special Emphasis Programs.
- O. **Targeted Disabilities:** Disabilities that the federal government has, as a matter of policy, identified for inclusion in applicable AEPs. Targeted disabilities include deafness (codes 16,17), blindness (codes 23, 25), missing extremities (code 28, 32-38), partial paralysis (codes 64-68), complete paralysis (codes 71-78), convulsive disorders (code 82), mental retardation (code 90), mental illness (code 91), and distortion of limb and/or spine (code 92).

5. Policy

The EEOC has established standards for federal agencies regarding the development and maintenance of an ideal AEP/EEO program. To qualify as a “Model Agency Title VII and Rehabilitation Act Program,” BPA’s program must satisfy six essential elements. These essential elements are used to measure and report on the status of BPA’s efforts to become a model employer. The six Model EEO Program essential elements are:

- A. **Demonstrated commitment from agency leadership:** Requires members of BPA’s executive leadership team to issue annual, written policy statements expressing their commitment to EEO and a workplace free of discriminatory harassment.

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- B. **Integration of EEO into the agency’s strategic mission:** Requires BPA to ensure that its policies, procedures, and practices support a workplace free from illegal discrimination and that equal employment opportunity is an integral component of BPA’s strategic mission.
- C. **Management and program accountability:** Requires BPA's executive leadership to hold all managers, supervisors, and EEO officials responsible for the effective implementation of BPA’s EEO programs. These leaders must also conduct program evaluations on a regular basis to identify areas that need improvement and ensure that action plans are in place to address the areas that need improvement.
- D. **Proactive prevention of unlawful discrimination:** Requires BPA's managers, and supervisors to make early efforts to prevent discriminatory actions and eliminate barriers to equal employment opportunity in the workplace, to provide reasonable accommodations, and to ensure that regular self-assessments are conducted to monitor progress, identify representational gaps in the workforce, and determine remaining barriers. BPA’s executives are also responsible for ensuring that the agency develops and implements strategic plans to eliminate identified barriers.
- E. **Efficiency:** Requires BPA leadership to ensure there are effective systems in place for evaluating the impact and effectiveness of BPA’s EEO programs. BPA’s executives are also responsible for ensuring that BPA’s dispute resolution processes are efficient and fair and that BPA is increasing its use of Alternative Dispute Resolution processes.
- F. **Responsiveness and legal compliance:** Requires BPA to be in full compliance with all EEO statutes, nondiscrimination laws and regulations, DOE-issued policies (unless BPA has received delegated authority), EEOC regulations, policy guidance, and other written instructions. BPA must also ensure that all employees and applicants for employment are informed of their rights and responsibilities related to EEO.

In MD-715, EEOC directs agencies to develop and maintain effective AEPs as an aspect of their Model EEO Program. BPA ensures that all of its employment decisions are free of discrimination by:

- A. Identifying and addressing areas of conspicuous absence (zero representation) and manifest imbalance (less than 80 percent of the relevant labor force) in all areas of the federal workforce including organizations, positions, and grade.
- B. Conducting a self-assessment, comparing BPA’s EEO Program to the six essential Model EEO program elements.
- C. Identifying barriers, developing action plans to address low participation rates and implementing said plans to remove the barriers to equal employment opportunity for all.

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D. Reporting on the accomplishments made toward the achievement of equal employment opportunity for all and the progress that has been made toward the removal of barriers through implementation of the Model EEO Program self-assessment action plans.

BPA endorses and implement the EEOC’s Model EEO Program to ensure that all employees and applicants for employment are subject to policies, practices, and procedures that create a discrimination-free federal workplace. Affirmative Employment and Special Emphasis Programs are used to achieve demographic representational parity within BPA’s workforce relative to the civilian labor force.

BPA’s management team is accountable for ensuring equal employment opportunities are afforded to all employees and applicants for employment, for working with the CR/EEO Office towards BPA’s Model EEO Program, and for embracing the Agency’s Diversity Strategic Objectives. BPA’s management team is expected to partner with the CR/EEO Office and HCM to take proactive measures that will result in a more diverse, inclusive, respectful, and positive work environment. BPA will adhere to Merit System Principles and BPA will not practice, condone, or tolerate job-related discrimination based on any non-merit factor.

BPA believes that its ability to attract, retain, and nurture a diverse workforce reflecting the community that BPA serves is dependent on the Agency’s work environment. BPA also believes that a positive environment is a vital part of BPA’s ability to meet its strategic business objectives and mission.

6. Policy Exceptions

None

7. Responsibilities

A. **The BPA Administrator** or Designee is responsible for:

1. Ensuring compliance and implementation of MD-715 Model Agency Title VII and Rehabilitation Act Programs six elements, EEOC regulations, DOE orders and policies, and all laws, executive orders, and regulations that prohibit discrimination and encourage a positive work environment.
2. Developing systems for the evaluation of program effectiveness, barrier identification and elimination of the gap in representational parity of groups identified in statistical data gathered for the MD-715; ensuring that the agency has adequate data systems for effective analyses of applicant flow, on-board workforce and personnel transactions data; providing current guidance for the development of program plans to all component and field installations; establishing agency-wide Diversity Strategic Objectives and developing and submitting program plans and preparing accomplishment reports and plan updates for timely submission to EEOC.

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3. Ensuring the accuracy of all data submitted to the Office of Personnel Management's Central Personnel Data File (CPDF), as well as all data submitted to EEOC.
4. Demonstrating commitment to equality of opportunity in all employment decisions for all employees and applicants for employment and ensuring that commitment is communicated through the ranks from the top down. Issuing an annual statement affirming that commitment.
5. Ensuring that appropriate disciplinary action is taken when violations of laws, executive orders, and regulations and unlawful discrimination and harassment are found.

A. PA's EEO Officer (Manager for Civil Rights & EEO) is responsible for:

1. Reporting to BPA's Chief Compliance Officer, the BPA Administrator, and other senior executive staff on BPA's compliance with MD-715 and the Model Agency Title VII and Rehabilitation Act Program's six elements.
2. Managing BPA's Special Emphasis Programs: Federal Women's program, Hispanic Employment program, and People with Disabilities program.
3. Performing workforce analysis and developing a strategy for the future workforce in conjunction with HCM.
4. Collaborating with HCM to identify groups that are under-represented in BPA's workforce relative to their representation in the civilian labor force.
5. Collaborating with HCM to identify and remove barriers to equal employment.
6. Collaborating with HCM to create AEPs to eliminate identified barriers so as to achieve representational parity within BPA's workforce.
7. Implementing, monitoring, and tracking the success of AEPs and Model Agency Title VII and Rehabilitation Act Program's six elements.
8. Collaborating with HCM in preparing all reports and tables required by MD-715.
9. Completing and finalizing BPA's annual MD-715 Report, forms, statistical tables, and all appendices, including:
 - a. Part E – Executive Summary.
 - b. Part F – Certification of Establishment of Continuing EEO Programs.
 - c. Part G – Self Assessment Checklist.
 - d. Part H – EEO Program Status Report for Model Program Element Deficiency.
 - e. Part I – EEO Program Status Report for Potential Barriers and Treatment Plan.
 - f. Part J – Special Program for the Recruitment, Hiring, and Advancement of Individuals with Targeted Disabilities.

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10. 462 Report – Annual Federal EEO Statistical Report of Discrimination Complaints (includes Informal EEO Counseling, Formal Complaints of Discrimination, and Alternative Dispute Resolution).
11. Submitting BPA’s finalized MD-715 Report and associated forms, statistical tables, and appendices to DOE and to the Equal Employment Opportunity Commission, annually.
12. Evaluating from time to time the sufficiency of the total agency program for equal employment opportunity and reporting to the head of the agency with recommendations as to any improvement or correction needed.

C. BPA’s Management Team is responsible for:

1. Taking actions to actively support BPA AEP and diversity initiatives.
2. Hiring, promoting, and firing BPA personnel consistent with federal rules and regulations.

D. BPA’s Human Resources Officer is responsible for:

1. Performing workforce analysis and developing a strategy for the future workforce by developing and implementing the agency workforce and diversity action plan and gathering statistical information to meet BPA’s reporting and tracking obligations as required by DOE, OPM, and EEOC.
2. Collaborating with CR/EEO to identify groups that are under-represented or have low participation rates in BPA’s workforce relative to their representation in the Civilian Labor Force and Regional Labor Force.
3. Collaborating with CR/EEO to identify barriers to equal employment and to create AEPs to eliminate identified barriers so as to achieve parity of groups within BPA’s workforce.
4. Collaborating with CR/EEO in preparing the MD-715 Federal Agency Annual EEO Program Status Report and Executive Summary, which includes the following:
 - a. Workforce Data Tables for the MD-715 Report.
 - I. Workforce Distribution by Race/Ethnicity and Sex.
 - II. Workforce Distribution by Disability Status and Targeted Disabilities.
 - III. Pathways Program and Apprentice Workforce Data by Race/Ethnicity.
 - b. Disabled Veteran’s Affirmative Action Program (DVAAP) Plan for the forthcoming fiscal year.
 - c. Federal Equal Opportunity Recruitment Program (FEORP) Plan for the forthcoming fiscal year.

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- d. Human Capital Talent Management Strategy Plan Accomplishments for the previous fiscal year.
 - e. Human Capital Talent Management Strategy Plan and quarterly Executive Summary for the forthcoming fiscal year.
5. Partnering with the CR/EEO Manager to implement the AEPs and to prepare the annual MD-715 report.
 6. Providing all management officials with online access to the MD-715.

E. Employees are responsible for:

1. Treating colleagues and the diverse community we serve fairly, ethically, and with respect.
2. Valuing the different contributions of co-workers.
3. Knowing their rights and responsibilities as federal employees.

8. Standards & Procedures

CR/EEO and HCM use procedures identified in MD-110, MD-715, and DOE Order 311.1B to develop reports on BPA’s Affirmative Employment programs.

9. Performance & Monitoring

Monitoring and reporting schedules for Affirmative Employment programs are outlined in the Responsibilities section of this policy.

10. Authorities & References

- A. Equal Employment Opportunity Commission Management Directive 715 (EEOC MD-715).
- B. EEOC MD-715 provides policy guidance and standards for establishing and maintaining effective affirmative programs of equal employment opportunity under Section 717 of Title VII (Part A) and effective affirmative action programs under Section 501 of the Rehabilitation Act (Part B). The Directive also sets forth general reporting requirements (Part C).
- C. EEOC Management Directive 110, Equal Employment Opportunity Federal Sector Complaint Processing Manual.
- D. Title VII of the Civil Rights Act of 1964, as amended.
- E. DOE Order 311.1B, Equal Employment Opportunity and Diversity Program.

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- F. Section 717 of Title VII of the Civil Rights Act of 1964, as amended, 42 USC § 2000e-16.
- G. Section 501 of the Rehabilitation Act of 1973, as amended, 29 USC § 791.
- H. Federal Equal Employment Opportunity Recruitment Program, 5 USC § 7201 and 5 CFR, Part 720, SubPart B.
- I. Disabled Veterans Affirmative Action Program, 38 USC § 4214 and 5CFR, Part 720, Subpart C.
- J. Bonneville Power Administration’s Diversity Program Action Plan.
- K. Office of Personnel Management Federal Equal Opportunity Recruitment Program (FEORP) BPA reports annually to OPM regarding the agencies progress under the FEORP. OPM then has the responsibility to annually report to Congress. The report is prepared in compliance with the law (5 USC § 7201 and 5 CFR, Part 720, SubPart B) and contains information on the representation of minorities within the Federal Government and best practices of Federal agencies.
- L. Office of Personnel Management Disabled Veterans Affirmative Action Program (DVAAP) BPA reports annually to OPM regarding the agencies progress made under DVAAP. OPM provides guidance and assistance to Federal agencies in developing DVAAP plans. Agency and OPM responsibilities are covered in title 5 of the CFR Part 720, SubPart C, and also 38 USC § 4214. OPM reviews each submission to determine whether it is consistent with the applicable law and regulations. OPM submits an Annual Report to Congress on the employment of veterans in the Federal government.
- M. Excepted Service, Career and Career-Conditional Employment; and Pathways Programs, 77 Federal Regulation (FR), 28194 (May 11, 2012) (codified at 5 DFR, Parts 213, 302, 315, 330, 334, 362, 531, 536, 537, 550, 575, and 890). OPM issued final regulations implementing the pathways Program, established by Executive Order 13562, and signed December 27, 2010. Positions under this program are excepted from competitive service and participants are appointed under the newly created Schedule D of the excepted services. BPA is required to annual report to OPM annually about its accomplishments in the previous year and its expected use of the Pathways Program for the coming year. 5 CFR § 362.109 (2012).

11. Review

This policy is scheduled for review in 2018.

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12. Revision History

Version	Issue Date	Brief Description of Change or Review
1	10/24/2014	Migration of content to new policy format.
1.1	10/30/2018	Migration of content to new policy format.

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