



Fair, safe and productive workplaces

Labour

Employment Equity in Your Workplace

Federal Contractors Program

**A four step guide to implementing employment
equity in your workplace**



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Introduction

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Introduction

Achieving and Sustaining Employment Equity: A Four-Step Process

This guide provides your organization with detailed instructions on: developing an employment equity program (Steps 1, 2 and 3); and implementing and sustaining that program (Step 4) in a manner that meets the Federal Contractors Program Requirements. In the four steps, the 12 requirements are presented and clear directions on how to meet them are provided. A detailed set of tasks for each step outlines exactly how to proceed. Tools and templates that can assist the work to be done are also included, along with instructions on how they can be used to facilitate the required work.

The following sections provide background and summary information as an introduction to the four-step process. This includes an overview of:

- the *Employment Equity Act*, the legislation that guides the four-step process;
- the benefits of implementing and sustaining employment equity in your workplace;
- the Federal Contractors Program;
- the compliance review process; and
- the four-step process.

Employment Equity

Employment equity is a distinct Canadian process for achieving equity in all aspects of employment. It is a structured problem identification and resolution approach, which ensures that no person is denied an opportunity for employment or advancement for reasons unrelated to ability. Successful implementation of employment equity begins with a commitment to identify and overcome intentional and systemic discrimination faced by the members of designated groups (women, Aboriginal peoples, persons with disabilities and members of visible minorities) in the workplace, and to ensure their full and fair participation in the labour market. Employment equity means more than treating people in the same way; it also requires special measures and the accommodation of differences.

Employment equity has a long-standing and proud history in Canada. During the 1970s, human rights law supported by court decisions increasingly recognized that while intentional discrimination had to be addressed, many Canadians faced exclusion from full and fair participation in the labour market because of systemic barriers. A more proactive approach was required to bring about necessary changes to employment systems and practices to ensure a fair workplace. In keeping with this, the Government of Canada instituted a voluntary affirmative action program in 1978 for the private sector. Limited success in convincing employers to initiate structured equity programs led the Government in 1983 to establish the Royal Commission on Equality in Employment, under then Judge Rosalie Abella. Her report in 1984 called for the establishment of a mandatory program, to be

called “Employment Equity,” which would include women, Aboriginal peoples, persons with disabilities and members of visible minorities as the designated groups.

For clarification on terms related to employment equity, see Appendix Intro-A.

The *Employment Equity Act*

In 1986, the first *Employment Equity Act* was passed by Parliament and was subsequently revised in 1995. The Act was and is intended to ensure that all Canadians are provided with equitable employment and promotion opportunities. Its ultimate objective is to ensure the full representation of the four designated groups in federally regulated workplaces according to their availability in relevant labour markets.

Under the Act, every employer is required to implement employment equity by:

- identifying and eliminating employment barriers against people in designated groups, which result from the employer’s employment systems, policies and practices that are not authorized by law; and
- instituting positive policies and practices and making reasonable accommodations that ensure that designated group members achieve a degree of representation in each occupational group in the workforce that reflects their representation in the Canadian workforce or segments of the Canadian workforce that are identifiable by qualification, eligibility or geography and from which the organization may reasonably be expected to draw employees.

Although the primary reason for implementing an employment equity program is to improve the status of designated group members in the labour force, it is clear that there are also employer benefits associated with having a program in place.

Scope of Employment Equity

The *Employment Equity Act* covers approximately 10 percent of the Canadian workforce including:

- **Federally regulated private sector employers and Crown corporations** with 100 or more employees. This includes approximately 474 private sector employers and 29 Crown corporations, with a combined workforce of over 651 000 employees.
- **Federal departments and agencies** for which the Treasury Board is the employer, no matter the number of employees.
- **Contractors** with 100 or more employees who are awarded a federal government contract for goods or services in the amount of \$200,000 or more.
- **Separate agencies** with 100 or more employees in federal public administration.
- **Other public sector employers** including the Canadian Forces, the Royal Canadian Mounted Police and the Canadian Security Intelligence Service.

Benefits of Employment Equity to Employers

Employers who implement and sustain employment equity in their workplaces will enjoy a number of benefits:

- **Larger markets**

The long-term viability and profitability of businesses is closely correlated with the successful expansion of their customer base. Canadian demographics are changing rapidly and expanding foreign markets are a part of economic globalization. Good businesses recognize that the customer base at home is evolving rapidly as a result of these changing domestic demographics and it is also growing outside the country with the expansion to foreign markets.

- **Larger labour pools**

By about the year 2016, two thirds of the Canadian population aged 15 to 64 will be made up of designated group members. These people represent a tremendous pool of skills and talents that employers cannot afford to overlook if they want to succeed in today's competitive and knowledge-based marketplace.

- **Better human resource policies and practices**

Employment equity not only helps organizations deal with the changing demographics of Canadian society, it also leads to better management systems in the areas of recruitment, selection, hiring and promotion, and the establishment of an improved organizational culture. It benefits the organization as well as all employees. A review of an organization's human resources policies and practices to identify any adverse impact they may have on designated group members creates an intense spotlight on how your organization carries out this increasingly vital requirement. By ensuring practices are rational and well structured, the organization and all employees benefit.

- **Good public relations**

Organizations will often build good public relations if they implement employment equity well. They will be seen as good corporate citizens and as attempting to redress some of the employment hardships faced by designated group members.

- **Legal benefits**

Organizations are required by law to implement employment equity. If employers covered under the Federal Contractors Program fail to implement employment equity, they are no longer able to bid on federal contracts over \$25,000. Further, good employment equity can go a long way in protecting organizations from complaints of discrimination under their respective human rights legislation.

Federal Contractors Program and the *Employment Equity Act*

The original *Employment Equity Act* applied only to federally regulated employers and organizations. Through a Cabinet decision in 1986, the Government expanded the Act's impact by establishing the Federal Contractors Program. As set out in *The Federal Contractors Program for Employment Equity* (Appendix D of the *Treasury Board Contracting Policy*) all federal contractors with 100 or more employees wishing to bid on a contract or standing offer of \$200,000 or more are required to sign a Certificate of Commitment to implement an employment equity program in their workplace. The revised *Employment Equity Act* (1995), subsection 42(2) requires that the standards applied under the Program are to be "equivalent to those applied under the Act to federally regulated employers."

Employers' Roles and Responsibilities

The Federal Contractors Program applies to contractors, like your organization, which have secured federal government goods or services contracts or standing offers of \$200,000 or more and have 100 or more employees. Upon being awarded the contract or standing offer, your organization is required to develop and implement an employment equity program for your workforce that is consistent with the 12 Federal Contractors Program Requirements. In order to ensure commitments to implement employment equity are met, your organization will be eligible after two years for an initial compliance review to assess your compliance with the Federal Contractors Program Requirements. Subsequently, a follow-up compliance review may be initiated to assess whether or not all reasonable efforts were undertaken to make reasonable progress towards closing gaps in representation through the implementation of your employment equity plan. This review will take place three years after a previous finding of compliance.

The Federal Contractors Program is administered by the Labour Program's Labour Standards and Workplace Equity national headquarters staff, as well as by a network of regional workplace equity officers across Canada. The workplace equity officer is the front-line officer who is responsible for conducting reviews. To assist employers in meeting their obligations, the four-step process has been developed to ensure your organization has the guidance, direction and tools needed to develop and implement a compliant employment equity program.

Contractors who do not honour their commitment to employment equity and are found in non-compliance with the Program Requirements may lose the right to bid on future federal government contracts or standing offers over \$25,000 including all applicable taxes.

For more information about the Federal Contractors Program, see **Appendix Intro-B, Federal Contractors Program: Frequently Asked Questions**.

The Compliance Review Process

Under Sections 22 to 26 of the *Employment Equity Act*, the Federal Contractors Program is responsible for ensuring that organizations covered under the Program satisfy the Requirements by way of a compliance review. Compliance reviews of organizations subject to the Federal Contractors Program are conducted by workplace equity officers.

There are two types of compliance reviews:

- initial compliance review
- follow-up compliance review

Initial Compliance Review

Your organization could be subject to an initial compliance review anytime after you have been part of the Federal Contractors Program for two years. This date is calculated from the date of the first contract or standing offer granted by the federal government for which the value is in excess of \$200,000; it is **not** from the date you signed your Certificate of Commitment.

The ultimate goal of an initial compliance review is to ensure that you have established an employment equity program (if you have no gaps in the representation of the designated groups in your workforce) and an employment equity plan (if gaps do exist), which are sufficient to ensure the successful implementation of employment equity within your workplace.

To ensure a finding of compliance, you will have to provide documentation that clearly demonstrates you have satisfied each of the Federal Contractors Program Requirements, in terms of the initial implementation of employment equity—the activities described in Steps 1-3.

For more information on what is required of your organization to obtain compliance during an initial compliance review, see **Appendix Intro-C**.

Follow-up Compliance Review

Follow-up compliance reviews are recurring and may take place at any point three years after the conclusion of a previous compliance review. Follow-up compliance reviews verify if your organization continues to satisfy all of the Requirements and if reasonable efforts and progress have been made to close gaps, implement employment equity and sustain a favourable workplace environment since the conclusion of the previous compliance review.

For further information on what is required of your organization to remain in compliance with the Federal Contractors Program during a follow-up compliance review, see **Appendix Intro-C**.

Compliance Review Results and Implications

A finding of compliance indicates that the workplace equity officer has determined and demonstrated to the Compliance Management Board that your organization has satisfied all of the requirements of the *Employment Equity Act*, the *Employment Equity Regulations* and the Federal Contractors Program, and that it will continue to do so in the future.

A finding of non-compliance indicates that the workplace equity officer has determined, and demonstrated to the Compliance Management Board, as well as to the Minister of Labour, that your organization has not implemented employment equity in a manner that satisfies the requirements of the *Employment Equity Act*, the *Employment Equity Regulations* and the Federal Contractors Program. In the context of an initial compliance review, this means you did not complete the work required to develop an employment equity plan in compliance with the requirements. In a follow-up compliance review, a finding of non-compliance indicates that you have not made reasonable efforts to implement your employment equity plan and have not achieved reasonable progress in closing gaps in the representation of designated groups.

Should your organization be declared in non-compliance, it is placed on the Federal Contractors Program List of Ineligible Contractors, and it loses the right to bid on or be awarded future federal government contracts or standing offers for goods or services valued at \$25,000 or more, including all applicable taxes.

Now that you have the necessary background information on employment equity, you are ready to review the four-step process for implementing and sustaining an employment equity program.

Overview of Steps 1-4: Employment Equity in Your Workplace

The following is a brief overview of what is involved in each step, as well as an outline of the Federal Contractors Program Requirements that must be adhered to. Tools and templates found in the Appendices to support this process are also listed.

Step 1

Initiating an Employment Equity Program

Step 1 provides information and assistance on initiating the employment equity process including the institution of appropriate accountability mechanisms; and the development of communication and consultation strategies, with instructions for collecting and coding the workforce data retrieved through your workforce survey.

Federal Contractors Program Requirements:

Requirement 1: Adoption of accountability mechanisms for employment equity and assignment of a senior official

Your organization must establish an effective accountability mechanism that includes, at a minimum, the assignment of a senior official with the responsibility of overseeing the implementation of employment equity in your workplace.

Requirement 2: Communication to employees regarding employment equity

Your organization must develop a comprehensive communication strategy for the success of the employment equity program.

Requirement 3: Consultation and collaboration with bargaining agents and/or employee representatives

Your organization must consult and collaborate with employee representatives and bargaining agents.

Requirement 4: Collection of workforce information

Your organization must collect information about your workforce using a self-identification questionnaire to determine the level of representation of designated groups. Your organization will then code the workforce data collected.

Step 1 Appendix List

- Appendix 1A: First Communication to Employees: Introducing Employment Equity
- Appendix 1B: Second Communication to Employees: Request for Volunteers for the Employment Equity Committee
- Appendix 1C: Third Communication to Employees: Introducing the Self-Identification Questionnaire
- Appendix 1D: Self-Identification Questionnaire: Frequently Asked Questions
- Appendix 1E: Self-Identification Questionnaire
- Appendix 1F: Final Communication to Employees: Follow-up to Self-Identification Questionnaire
- Appendix 1G: Counting Employees

Step 2

Workforce Analysis and Employment Systems Review

Step 2 is divided into two sections and provides instructions for conducting a workforce analysis and an employment systems review.

Federal Contractors Program Requirements:

Requirement 5: Workforce analysis

Compare your organization's internal representation (the representation of designated group members in each occupational group) to the relevant external availability data derived from the Employment Equity Data Report. Through this analysis, you will be able to identify gaps in the representation of designated group members in your workforce.

Requirement 6: Employment systems review

Conduct a complete review of your organization's human resources systems, policies and practices (written and unwritten) to identify barriers that have a negative impact on designated group members. You will then make recommendations for the removal of these barriers. (Note: These recommendations should be used to guide the development of your employment equity plan and are not mandatory, but are strongly encouraged.)

Step 2 Appendix List

Workforce Analysis

- Appendix 2A: Workforce Analysis Table
- Appendix 2B: Clustering Analysis Table
- Appendix 2C: Flow Data Analysis Table

Employment Systems Review

- Appendix 2D: First Employment Systems Review Communication
- Appendix 2E: Employment Systems Review Results Table
- Appendix 2F: Frequently Found Barriers
- Appendix 2G: Employment Systems Review Policies and Practices Diagnostic Tool
- Appendix 2H: Final Employment Systems Review Communication

Step 3

Creating an Employment Equity Plan

Step 3 provides instructions for the creation of your organization's employment equity plan.

Federal Contractors Program Requirements:

Requirement 7: Establishment of short-term and long-term goals

Your organization must establish numerical and non-numerical, long- and short-term goals based on your workforce analysis to achieve full representation of designated group members in your workforce.

Requirement 8: Adoption of measures to remove barriers

Your organization must develop measures and a timetable to remove all barriers identified in the employment systems review that have a negative impact on designated group members.

Requirement 9: Adoption of special measures, of positive policies and practices and of reasonable accommodation measures

Your organization must develop: (a) positive policies and practices that will improve human resource practices for all employees, with a particular impact on designated group members; (b) special measures that specifically target designated group members and speed up the closure of gaps (these are usually initiatives aimed at attracting, promoting and retaining members of the designated groups); and (c) measures to ensure that accommodation needs are appropriately met in your organization.

Requirement 10: Adoption of monitoring procedures

Your organization must develop an appropriate system to ensure regular monitoring and evaluation of your organization's employment equity plan and program, as well as of their implementation and impact.

Step 3 Appendix List

- Appendix 3A: Basic Goals Tool and Explanation
- Appendix 3B: Employment Equity Action Plan, Measures to Remove Barriers
- Appendix 3C: Sample Employment Equity Policy
- Appendix 3D: Sample Anti-Harassment Policy

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- Appendix 3E: Sample Accommodation Policy and Accommodation Request Form
- Appendix 3F: Employment Equity Action Plan: Special Measures, Positive Policies and Practices and Reasonable Accommodation Measures
- Appendix 3G: Employment Equity Plan Template

Step 4

Implementing and Sustaining an Employment Equity Program

Step 4 provides information on the steps your organization can take to implement and sustain employment equity in your workplace.

Federal Contractors Program Requirements:

Requirement 11: Reasonable efforts and reasonable progress

Your organization will make all reasonable efforts to implement its employment equity plan in order to achieve reasonable progress, as demonstrated by meeting your goals.

Requirement 12: Review and revision of the employment equity plan

Your organization will review its employment equity plan prior to its conclusion and develop a revised plan that allows the realization of reasonable progress, if reasonable efforts are made to implement its contents.

Step 4 Appendix List

- Appendix 4A: Ongoing Employment Equity Requirements
- Appendix 4B: Sustaining Employment Equity When a Formal Plan Is Not Required
- Appendix 4C: Sample Employment Equity Bulletin: Quick Reminder
- Appendix 4D: Sample Employment Equity Bulletin: Progress Report
- Appendix 4E: Achievement Table



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Appendix Intro – A

Glossary of Terms

A...

Aboriginal peoples

According to the *Employment Equity Act*, persons who are Indians, Inuit or Métis.

Accommodation

Individual adjustments made in the workplace that respond to the needs of a specific employee or job applicant. Needs that must be accommodated result from such factors as disability, family status, ethnic or national origin, and religious beliefs.

Adverse impact

The effect of an employment policy or practice that creates inequality in conditions of work or that has a disproportionately negative impact on designated groups compared to employees who are not members of designated groups.

B...

Barriers

Barriers, for the purpose of employment equity, are defined as formal or informal policies or practices (written or unwritten) that **disproportionately** restrict or exclude designated group members based on factors unrelated to the nature of work, merit, or safety (e.g., job requirements that are not bona fide occupational requirements).

Bona fide occupational requirement (BFOR)

An employment requirement that is legitimately necessary for safe, efficient and reliable performance of the essential duties of the job.

Canadian Human Rights Commission (CHRC)

A federal organization responsible for the enforcement of employer obligations under the *Employment Equity Act*. The following employers fall under CHRC employment equity jurisdiction:

- federally regulated private sector organizations and Crown corporations with 100 or more employees;
- federal public service; and
- separate agencies with 100 or more employees.

Census

Every five years, Statistics Canada takes a census of the population. The census provides a comprehensive collection of facts about people in Canada. For example, people are asked questions about their sex, marital status, education, employment, income, ethnic origin and language.

Census Metropolitan Area (CMA)

A geographic location referred to in Schedule 1 of the *Employment Equity Regulations*.

Certificate of Commitment

An agreement wherein an organization accepts to implement employment equity in keeping with the Federal Contractors Program Requirements. All provincially regulated organizations with a national workforce of 100 employees or more bidding on federal contracts/standing offers valued at \$200,000 or more are required to provide a valid Certificate of Commitment number to Public Works and Government Services Canada (PWGSC) to be eligible to bid.

Clustering

Also called “concentration,” it is defined as a disproportionately high ratio of designated group members compared to their counterpart employees who are not members of designated groups (e.g., women versus men, Aboriginal peoples versus non-Aboriginal peoples) in the following areas:

- lower level Employment Equity Occupational Groups (e.g. Clerical Personnel, Other Manual Workers); and
- lower salary quarters (quarters 1 and 2) within an Employment Equity Occupational Group.

Compliance Management Board

The Compliance Management Board is an internal administrative decision-making body at Labour Program headquarters created to direct the compliance assessment activity of workplace equity.

Compliance review

To ensure that the Federal Contractors Program Requirements are met, the Labour Program has charged workplace equity officers with the responsibility of conducting compliance reviews of all organizations that are part of the Federal Contractors Program. Compliance reviews evaluate the extent to which your organization's employment equity implementation process satisfies each requirement.

D...

Designated group

As stated in the *Employment Equity Act*, people belonging to a designated group include:

- women;
- aboriginal peoples;
- persons with disabilities;
- members of visible minorities.

Discrimination

The treatment or consideration of a person, or making a distinction in favour of or against a person, based on the group, social class or category to which that person belongs, rather than on individual merit.

E...

Employment barriers

Employment practices, policies or systems that have an adverse impact on members of designated groups and that are not a bona fide occupational requirement, including:

- prejudice or ill will reflected in deliberately discriminatory actions against members of designated groups;
- unequal treatment (e.g., asking different questions of women and men applying for the same job);
- systemic barriers that discourage or block members of designated groups from employment opportunities (e.g., arbitrary height and weight requirements);

-
- maintenance of a working environment that is hostile or abusive toward members of designated groups; and
 - inadequate facilities that present physical barriers to persons with disabilities.

Employment Equity Act

The current *Employment Equity Act* was given Royal Assent in 1995 and came into force on October 24, 1996.

The purpose of this Act is to achieve equality in the workplace so that no person shall be denied employment opportunities or benefits for reasons unrelated to ability and, in the fulfilment of that goal, to correct the conditions of disadvantage in employment experienced by women, Aboriginal peoples, persons with disabilities and members of visible minorities by giving effect to the principle that employment equity means more than treating people in the same way but also requires special measures and the accommodation of differences.

The Act applies to:

- **Federally regulated private sector employers and Crown corporations** with 100 or more employees. This includes approximately 474 private sector employers and 29 Crown corporations, with a combined workforce of over 651 000 employees.
- **Federal departments and agencies** for which the Treasury Board is the employer, no matter the number of employees.
- **Contractors with more than 100 employees** who are awarded a federal government contract for goods or services or standing offers in the amount of \$200,000 or more.
- **Separate agencies** with more than 100 employees in the federal public administration.
- **Other public sector employers** including the Canadian Forces, the Royal Canadian Mounted Police and the Canadian Security Intelligence Service.

The *Employment Equity Act* is available online at <http://laws.justice.gc.ca/en/E-5.401/>.

Employment Equity Data Report (EEDR)

A collection of data taken from the Census and the Participation and Activity Limitation Survey (PALS). EEDR provides information about the make-up of the Canadian labour force. The data is compiled in a series of tables and is broken down into geographic areas and designated groups.

The report is intended to assist employers in planning, developing and implementing employment equity programs. The numbers and percentages of designated group members in the workforce are divided into tables based on geographic areas. This data can be used as a guide, in conjunction with internal workforce data, to enable employers to assess their individual performance and subsequently to develop realistic goals and timetables for achieving employment equity.

Employment Equity Occupational Group (EEOG)

EEOGs were developed by the Labour Program in order to reflect the occupational structure within companies and to measure the representation and career movement of designated group members over time. The unit group occupations from the National Occupational Classification, used by Statistics Canada, are regrouped into 14 occupational groups for employment equity purposes.

Employment equity plan

An action plan that includes numerical and non-numerical goals and measures, short- and long-term deadlines and stated responsibilities, which has, as its main purpose, the achievement of a representative workforce and a favourable workplace environment.

Employment equity program

The ongoing implementation of employment equity including: implementing the employment equity plan once it has been developed; regular communications and consultations; analysis of the representation of the four designated groups within your workforce; and review of employment systems, with the ultimate goal of ensuring that your workplace fosters a climate of equity and your workforce is representative of the Canadian labour market.

Employment Equity Regulations

While the Act clearly outlines core employer obligations, certain essential details are left to regulations. These regulations were finalized following the 1995 Canada-wide consultations with groups representing employers, labour and designated groups.

The *Employment Equity Regulations* provide clarification in the following areas:

- collection of workforce information;
- workforce analysis;
- employment systems review; and
- maintenance of employment equity records.

External availability

Data for women, Aboriginal peoples and members of visible minorities compiled from the Census and data for persons with disabilities compiled from the Participation and Activity Limitation Survey, on the number or percentage of designated group members present in the Canadian workforce, according to geographic location and occupation. This data is provided in the Employment Equity Data Report.

Employee representatives

People who have been designated by unionized and non-unionized employees to act as their representatives. This includes bargaining agents, where bargaining agents represent employees.

F...

Favourable work environment

A fair, equitable and positive work environment, where no disadvantages in employment are experienced by women, Aboriginal peoples, persons with disabilities or members of visible minorities, and where differences are accommodated.

Federal Contactors Program

Federal equity program aimed at ensuring that provincially regulated suppliers of goods and services to the Government of Canada achieve and maintain a fair and representative workforce, in compliance with the Federal Contactors Program Requirements and the *Employment Equity Act*.

Flow data

Data describing the movement of employees into and through an organization. The purpose of a flow data analysis is to identify the shares of hiring, promotions and terminations in designated groups. Data may also include numbers of applications, interviews or training opportunities that occur within a specific period of time.

G...

Gap

Also referred to as the “degree of under-representation.” Gaps are determined by comparing the internal representation of each designated group in each occupational group to their external availability, taking into consideration a reasonable area of recruitment. This difference, expressed as a negative number, is the gap. The higher this negative number, the greater the gap between internal representation and external availability.

Goals

Numerical and non-numerical objectives that an organization plans to achieve within a specified period of time.

H...

Harassment

Practices, comments or suggestions that refer to sex, race, ethnic origin or disability, which injure, humiliate, insult or intimidate individuals, or invade their personal privacy, undermine their job performance, or threaten their economic livelihood.

I...

Intentional discrimination

Actions or requirements that are intended to exclude designated group members. These can be covert or overt.

Internal representation

The number of designated group members divided by the total number of employees in an organization.

L...

Labour force

Portion of the Canadian population 15 years of age and over who were employed, unemployed and actively looking for work, or on layoff and available for work during the period of time covered by the Labour Force Survey conducted by Statistics Canada.

N...

National Occupational Classification (NOC)

A system providing standardized language for describing the occupations of Canadians. NOC is used at all stages of the labour market analysis process, from defining and collecting data, to managing information databases, analyzing labour market trends and extracting practical career planning information.

Non-numerical goals

Also referred to as measures, qualitative goals that may include decisions to establish or change a specific employment equity policy or practice over a specified period of time.

Numerical goals

Number or percentage of qualified individuals in a designated group who are to be recruited, trained and promoted in a specific period of time, based on the degree of under-representation identified in the workforce analysis. These quantitative goals represent the expectations of the organization given its best effort; they are not quotas.

P...

Participation and Activity Limitation Survey (PALS)

A national survey designed to collect information on adults and children with a disability—that is, individuals whose everyday activities are limited because of a condition or health problem. PALS provides essential information on the prevalence of various disabilities and on supports for persons with disabilities, their employment profile, their income and their participation in society.

Permanent full-time employee

A person who is employed by an organization for an indeterminate period of time, to work the standard number of hours on a regular basis, as determined by the organization and in accordance with the occupational group to which the person belongs.

Permanent part-time employee

A person who is employed by an organization for an indeterminate period of time, to work fewer than the standard number of hours on a regular basis, as determined by the organization and in accordance with the occupational group to which the person belongs.

Persons with disabilities

According to the *Employment Equity Act*, persons who have a long-term or recurring physical, mental, sensory, psychiatric or learning impairment and who:

- a. consider themselves to be at a disadvantage in the workforce by reason of that impairment; or
- b. believe that an employer or potential employer is likely to consider them to be at a disadvantage because of that impairment.

This includes people whose functional limitations due to their impairment have been accommodated in their current jobs or workplaces.

Positive policies and practices

Initiatives that help create a respectful and responsive working environment for all employees, including designated group members, and that help attract increased numbers of individuals from under-represented designated groups into the organization's workforce. Positive policies and practices go beyond the mere elimination of barriers; they replace barriers with a favourable work environment that actively promotes a representative workforce. An example is the establishment of an anti-harassment policy.

Promotion

When an employee is moved permanently from one position or job in the organization to another position or job, which:

- has a higher salary or a higher salary range, than the salary or salary range of the position or job previously held by the employee;
- ranks higher in the organizational hierarchy of the organization; and
- includes a reclassification of the employee's position or job.

R...

Reasonable accommodation

Employers are responsible, to the point of undue hardship, for implementing employment practices, policies, systems and support mechanisms that accommodate differences, so that no individual experiences reduced access to employment opportunities or benefits because of sex, race, colour or disability. A reasonable accommodation for one individual or group will benefit all employees. For example:

- location of a child care centre on site or within close proximity to the organization, or provision for child care expenses;
- adjustments to the worksite, job duties and schedule to accommodate the reasonable health, cultural and family-related needs of employees;
- provision of technical equipment (e.g., visual or hearing communication aids) and social support systems (e.g., trained staff to assist persons with disabilities at the work site).

Reasonable efforts

The *Employment Equity Act* requires employers to make all reasonable efforts to implement an employment equity plan and monitor its implementation on a regular basis, to assess if reasonable progress is being made toward closing gaps in representation.

Reasonable progress

The Act requires employers to ensure that their employment equity plan will result in reasonable progress toward a fully representative workforce within the time frame covered by the plan. Reasonable progress according to the Act is defined as meeting hiring and promotion goals that result in progress made toward closing gaps in representation.

Representative workforce

An organization's workforce is representative when the representation of each designated group in each occupational group in the workforce reflects the availability of the designated groups in the segments of the Canadian workforce from which an employer may reasonably be expected to draw employees (with consideration for qualifications, eligibility and geography).

Response rate

The response rate is a measure of the percent of questionnaires returned completed compared to the total number of employees given the questionnaire. It is limited to dividing only the number of self-identification questionnaires returned (either partially or fully completed) by the total number that was distributed

$$\text{Response rate} = \frac{\text{number of questionnaires returned partially and fully completed}}{\text{number of questionnaires distributed}}$$

Return rate

The return rate is a measure of the percent of self-identification surveys that were returned. It divides the number of self-identification questionnaires that were returned blank, partially completed and fully completed by the total number of distributed questionnaires.

$$\text{Return rate} = \frac{\text{number of questionnaires returned blank, partially completed or fully completed}}{\text{number of questionnaires distributed}}$$

S...

Self-identification

A requirement, under the terms of the *Employment Equity Act*, for individuals to identify themselves to an organization, or agree to be identified by an organization, as a member of one or more designated groups. Self-identification is voluntary; the organization may only identify an employee as a member of a designated group with the express voluntary consent of the individual concerned. The organization must collect data on the representation and distribution of designated group members in its workforce in order to plan and implement its employment equity program.

Shares of hirings

The number of hires in a designated group divided by the number of hires in the total workforce.

Shares of promotions

The number of promotions in a designated group divided by the number of promotions in the total workforce.

Shares of terminations

The number of terminations in a designated group divided by the number of terminations in the total workforce.

Short-term goals

Goals that are set for a period of not more than three years.

Special measures

Temporary measures, targeted at a specific designated group in a particular occupation (such as targeted recruitment or special training initiatives aimed primarily at correcting employment imbalances stemming from past discrimination, over a specified period of time). These measures are intended to expedite the recruitment, selection and promotion of qualified designated group members to achieve full representation.

Systemic discrimination

Actions or requirements that are built into the employment systems and that, while **not intended** to exclude, have an adverse impact on designated groups without being a bona fide occupational requirement. Examples include:

- artificially high screening criteria that reduce the number of applications to be considered;
- requests for educational standards that are higher than needed;
- training or work experience requirements based on traditional or historical preferences, rather than actual job requirements; or
- disregard for physical barriers that limit access to or mobility within an organization's premises.

T...

Temporary employee

A person who is employed on a temporary basis by an organization for any number of hours within a fixed period or periods totalling 12 weeks or more during a calendar year. This does not include a person in full-time attendance at a secondary or post-secondary education institution who is employed during a school break.

Terminated

A person who is retired, resigned, laid off, dismissed or otherwise having ceased to be an employee, not including laid off temporarily or absent by reason of illness, injury or labour dispute.

Three filter test

A tool used to determine the significance of gaps in representation.

In the first filter, if the number gap is -3 or greater (note that while the gap is referred to as -3 or greater, the actual numerical value is -3 or less, i.e., -3, -4, -5, etc.), the gap may be significant and must be recorded; the second filter must be applied. In the second filter, if the percentage representation is 80 percent or less, then the gap is significant and must be investigated further (filters 1 and 2 are to be used in combination). In the third filter, if there are gaps of -3 or less (note that while the gap is referred to as -3 or less, the actual numerical value is -3 up to and including -1, i.e., -3, -2, -1) for a particular designated group in **several** Employment Equity Occupational Groups, and/or for all designated groups in one EEOG, the gaps are also considered significant.

U...

Under-representation

Occurs when the percentage of designated group employees in an occupational group is less than their percentage availability in the labour market.

V...

Validity

The degree to which a test or employment standard measures what it is intended to measure. In matters of employment, valid tests or standards should measure an employee's ability to function effectively in a job.

Visible minorities

According to the *Employment Equity Act*, persons, other than Aboriginal peoples, who are non-Caucasian in race or non-white in colour.

W...

Weighting

The process by which the external availability number is calculated to reflect the distribution of the internal workforce more accurately.

Workforce analysis

The assessment of an organization's internal workforce. The purpose of a workforce analysis is to determine whether or not the representation of the four designated groups in the organization working in specific occupational groups is consistent with their availability in the larger Canadian labour force.

Workforce profile

The profile of an organization's workforce showing the distribution of designated groups and other employees by occupational group and corresponding salary range.

Workforce survey

To obtain information on the composition of an organization's workforce, a workforce survey is conducted in Step 1: Initiating an Employment Equity Program. The organization must provide a self-identification questionnaire to all employees to determine the number of designated group members in each of the occupations throughout its workforce.

Workplace Equity Information Management System (WEIMS)

The Workplace Equity Information Management System (WEIMS), which has replaced the Employment Equity Computerized Reporting System (EECRS), is an online application intended for use by employers falling under both the Legislated Employment Equity Program (LEEP) and the Federal Contractors Program (FCP). The system provides analytical tools and templates that assist employers with meeting their obligations under the Employment Equity Act.

Appendix Intro – B

Frequently Asked Questions: Federal Contractors Program

This document contains answers to the most frequently asked questions about the Federal Contractors Program, organized by topic:

- 1) Program Basics
- 2) Application of the Program
- 3) Certificate of Commitment
- 4) Collection of Workforce Data
- 5) Employment Equity Data
- 6) Compliance with the Federal Contractors Program
- 7) Appeals and Sanctions
- 8) Unions and Employee Representatives
- 9) Employment Equity Merit Awards
- 10) Withdrawals

Topic 1: Program Basics

(Q1.1) What is the purpose of the Federal Contractors Program?

(A1.1) The Federal Contractors Program ensures that organizations that do business with the Government of Canada achieve and maintain an internal workforce that is representative of the larger Canadian workforce. These organizations must put into practice an effective employment equity program if they wish to receive federal government contracts valued at \$200,000 or more.

(Q1.2) How does an organization become subject to the Federal Contractors Program?

(A1.2) An organization with a workforce of 100 employees or more, which wishes to bid on a federal government contract of \$200,000 or more must sign a Certificate of Commitment and be assigned a Certificate of Commitment number. After a certified employer is awarded the desired contract, it must develop and implement an employment equity program that is consistent with the 12 Federal Contractors Program Requirements. A contractor must also agree to on-site reviews to determine if the organization complies with the Requirements.

(Q1.3) Who are the designated groups?

(A1.3) The four designated groups, as outlined in the *Employment Equity Act* are: women, Aboriginal peoples, persons with disabilities and members of visible minorities.

(Q1.4) What are the 12 Federal Contractors Program Requirements?

(A1.4) The 12 Federal Contractors Program Requirements provide contractors with the basis for planning, implementing and maintaining an effective employment equity program. Workplace equity officers from the Labour Program also use the Requirements to evaluate compliance.

Topic 2: Application of the Program

(Q2.1) Which employers are covered by the Federal Contractors Program?

(A2.1) The Program applies to provincially regulated employers with 100 or more employees who bid on and receive federal government contracts valued at \$200,000 or more.

(Q2.2) Who is counted as an employee in reaching the 100 employee threshold?

(A2.2) All permanent full-time, permanent part-time and temporary employees are included in the count. (Temporary employees who work fewer than 12 weeks in a calendar year or students working only during an academic break are not counted.)

(Q2.3) Does the \$200,000 starting point include taxes?

(A2.3) Yes. The \$200,000 starting point for coverage by the Federal Contractors Program includes all applicable taxes. For example, a contract valued at \$195,000 is covered by the Program because the 5 percent GST brings the amount to \$204,750.

(Q2.4) Does the Federal Contractors Program only apply to Canadian organizations?

(A2.4) No. All suppliers, including offshore or foreign, with a Canadian workforce of 100 or more employees in Canada are covered by the Program.

(Q2.5) Do all contracts with federal departments count?

(A2.5) All contracts for goods and services valued at \$200,000 or more (excluding construction contracts, the purchase or lease of real property, or the performance of legal services) with any federal department or agency are included under the Federal Contractors Program.

(Q2.6) If an organization is awarded different contracts in the course of a year that add up to \$200,000 or more, is the organization covered by the Federal Contractors Program?

(A2.6) No. Contracts cannot be added up over the course of the year to determine coverage by the Program.

(Q2.7) Is an organization covered if it receives a standing offer of an estimated value of \$200,000 or more?

(A2.7) Yes. The Federal Contractors Program applies to organizations that receive standing offers of an estimated value of \$200,000 or more.

(Q2.8) If an organization is federally regulated and bidding on federal government contracts, is it subject to the Federal Contractors Program?

(A2.8) No. Contracting organizations that are federally regulated and have 100 or more employees are subject to the Legislated Employment Equity Program. However, the *Employment Equity Act* requires that the standards for the two programs be equivalent.

(Q2.9) When all work is finished on a contract of \$200,000 or more, are there still obligations under the Federal Contractors Program?

(A2.9) Yes. The commitment to employment equity is not made just for the “life of the contract.” Each organization must make an ongoing commitment to employment equity.

(Q2.10) If an organization has signed and submitted a Certificate of Commitment while bidding on a contract of \$200,000 or more, but has not yet received the contract, does it have obligations under the Federal Contractors Program?

(A2.10) No. An organization does not have obligations under the Federal Contractors Program until it receives a goods or services contract valued at \$200,000 or more.

(Q2.11) Is it a good idea for an organization to implement employment equity before receiving a contract of \$200,000 or more?

(A2.11) Yes. It is commendable for any organization that has signed a Certificate of Commitment to begin implementing employment equity before the actual awarding of a contract of \$200,000 or more. The organization can benefit from already having completed much of the necessary groundwork for employment equity. Any certified organization with a genuine commitment to employment equity can advertise itself as an “Equitable Employer.” These organizations may already be attracting members of the designated groups and benefiting from their diversity of skills.

(Q2.12) If an organization has signed a Certificate of Commitment and is committed to employment equity, can it request assistance from a workplace equity officer, before the award of a contract making it subject to the Federal Contractors Program?

(A2.12) Yes. An organization may request assistance from one of the workplace equity officers in its region. Although priority must be given to contractors already covered by the Federal Contractors Program, the organization will receive valuable guidance from a workplace equity officer, which will assist in laying the foundation for employment equity.

(Q2.13) If an organization has received a contract of \$200,000 or more, how will it know when its obligations really start?

(A2.13) An organization's obligation to implement employment equity, in accordance with the Federal Contractors Program Requirements, begins the moment it is granted a contract or standing offer valued at \$200,000 or more. When the Labour Program is notified of said contract grant, it will send a letter to the organization acknowledging its entry into the Federal Contractors Program database.

(Q2.14) What information and documents are provided to organizations subject to the Federal Contractors Program?

(A2.14) The following items are provided to organizations that are part of the Federal Contractors Program:

- a copy of the signed Certificate of Commitment;
- the 12 Federal Contractors Program Requirements;
- a list of regional Labour Program workplace equity officers; and
- a CD copy of the Federal Contractors Program Employer Tools.

All other tools, such as the Employment Equity Computerized Reporting System and information regarding National Occupational Classification coding, may be found online at www.labour.gc.ca.

(Q2.15) Are there other documents that can help a contractor implement the Federal Contractors Program Requirements?

(A2.15) Yes. Contractors are encouraged to consult the *Guidelines of the Employment Equity Act*, the *Employment Equity Act* and the *Employment Equity Regulations*. Although the Guidelines apply particularly to federally regulated organizations covered under the *Employment Equity Act*, the Federal Contractors Program Requirements are equivalent to those found in the Act. As a result, the detailed information in the Guidelines is still very helpful to federal contractors, with the exception of the section about annual reporting, which organizations under the Federal Contractors Program are not required to follow.

Topic 3: Certificate of Commitment

(Q3.1) What is a Certificate of Commitment?

(A3.1) A Certificate of Commitment is a legal document that an organization with 100 or more employees must complete and submit as a condition for bidding on or receiving federal government contracts of \$200,000 or more. It commits the organization to implement employment equity after the award of the first contract of \$200,000 or more.

(Q3.2) When must an organization sign a Certificate of Commitment?

(A3.2) An organization must sign a Certificate of Commitment when:

- it employs 100 or more employees nationally; and
- it wishes to bid on federal government contracts of \$200,000 or more.

The Certificate of Commitment must be submitted in advance of a bid and faxed to the Federal Contractors Program at 819-953-8768.

(Q3.3) Who is able to sign the Certificate of Commitment?

(A3.3) The signature on the Certificate of Commitment must be that of the Chief Executive Officer or equivalent, or a senior manager with the authority to sign for the organization.

(Q3.4) If an organization signed a Certificate of Commitment many years ago, does it need to sign a new one?

(A3.4) An update of the Certificate of Commitment is recommended when:

- the original Certificate of Commitment was signed three or more years ago;
- the person who originally signed the Certificate of Commitment is no longer with the organization;
- the organization has undergone a change in its legal name; or
- the organization has acquired other businesses by takeover or merger, or has had other major changes to its structure.

(Q3.5) Does the Certificate of Commitment apply to the whole organization or only to the part carrying out the contract?

(A3.5) The signed Certificate of Commitment applies to the entire Canadian workforce of the organization specified by the Certificate, including all of its components (divisions, branches, sales offices, etc.).

(Q3.6) If an organization has more than 100 employees and recently received a federal contract of more than \$200,000, but was not asked to sign a Certificate of Commitment, what should it do?

(A3.6) Organizations that have not yet signed a Certificate of Commitment and who received a contract are obligated to correct this oversight by submitting a completed Certificate of Commitment to the Federal Contractors Program national headquarters. Nonetheless, the Federal Contractors Program administration unit monitors new contracts that are granted and will contact any organization that should belong to the Federal Contractors Program as soon as it is noted that they have not signed a Certificate of Commitment.

(Q3.7) If an organization that is not covered by the Federal Contractors Program is being taken over by (or merged with) an organization that is subject to the Program, does it become subject to the Federal Contractors Program?

(A3.7) An organization becomes part of the Federal Contractors Program if it becomes a division within the acquiring company. However, if the acquired company still operates as a separate legal entity, then it does not become part of the Federal Contractors Program.

(Q3.8) Can an organization's Certificate of Commitment be cancelled?

(A3.8) An organization's Certificate of Commitment may be cancelled without penalty in the following circumstances:

- The number of employees has decreased to substantially fewer than 100, with little likelihood that the number of employees will increase to 100 or more in the near future.
- The organization has been assigned a Certificate number, but has not yet received and will not be bidding on future federal government contracts valued at \$200,000 or more.
- The organization has ceased to operate due to bankruptcy or liquidation or has terminated its operations.

If any of these circumstances apply, the Chief Executive Officer, or another officer with signing authority for the organization, must attest to it in writing, along with the request to cancel its Certificate of Commitment number, and send it to the Labour Program at national headquarters.

If none of these circumstances apply, an organization that removes itself from the Federal Contractors Program is withdrawing and will forfeit its right to bid on federal government contracts or standing offers valued at \$25,000 or more. For more information regarding withdrawals, see Topic 10.

Topic 4: Collection of Workforce Data

(Q4.1) What is a workforce survey?

(A4.1) A workforce survey is a survey of all employees in an organization's Canadian workforce, using a self-identification questionnaire, for the purpose of identifying the representation of the four designated groups—women, persons with disabilities, Aboriginal peoples and visible minorities—throughout the organization.

(Q4.2) Who should receive a self-identification questionnaire?

(A4.2) A self-identification questionnaire should be given to all permanent full-time, permanent part-time and temporary employees, as well as to all new hires. Temporary employees who worked fewer than 12 weeks in a calendar year or students working only during an academic break are not required to be surveyed.

(Q4.3) What must be included with the self-identification questionnaire?

(A4.3) The questions to be used in the self-identification questionnaire are found in Schedule IV of the *Employment Equity Regulations*. The questionnaire must contain definitions of members of visible minorities, persons with disabilities and Aboriginal peoples, as set out in Section 3 of the *Employment Equity Act*; it must explain the voluntary nature of self-identification and the confidentiality of the answers (unless release for other purposes is explicitly agreed to by the employee). The employer must also, on the questionnaire, inform each employee of the possibility of self-identifying in more than one group (for example, an Aboriginal person with a disability). It is also important that employers clearly explain the purpose of the workforce survey and provide contact information for enquiries.

(Q4.4) Is it possible to include additional questions on the questionnaire?

(A4.4) Yes. The questionnaire can include other questions, provided they are related to employment equity. These could include, for example, visible minority subgroups, types of disability, or a consent question asking employees if they agree to have their self-identification responses used for other employment equity initiatives (such as training programs).

(Q4.5) Can organizations save time by simply identifying employees who are designated group members?

(A4.5) No. It is unacceptable for managers, personnel administrators or anyone else to determine the employee's status without his or her knowledge and voluntary consent. This does not preclude the use of payroll systems to get information regarding gender, if it is available.

(Q4.6) Can employers help employees fill in the questionnaire?

(A4.6) Yes. In certain circumstances (for example, when employees do not understand English or French very well, have difficulty reading, or require assistance with the form), employers are allowed to discuss status with their employees and determine if an employee wishes to self-identify as being a member of one or more of the designated groups.

(Q4.7) What is the difference between the survey return rate and response rate?

(A4.7) The return rate is a measure of the percent of self-identification surveys that were returned. It divides the number of self-identification questionnaires that were returned blank, partially completed and fully completed by the total number of distributed questionnaires.

$$\text{Return rate} = \frac{\text{Number of questionnaires returned blank, partially completed and fully completed}}{\text{Number of questionnaires distributed}}$$

The response rate is a measure of the percent of questionnaires returned completed compared to the total number of employees given the questionnaire. It is limited to dividing only the number of self-identification questionnaires returned (either partially or fully completed) by the total number that was distributed.

$$\text{Response rate} = \frac{\text{Number of questionnaires returned partially and fully completed}}{\text{Number of questionnaires distributed}}$$

(Q4.8) Even though survey responses are voluntary, is it possible to make survey returns mandatory?

(A4.8) Yes. You may make the return of the survey forms mandatory, even though response is voluntary. In other words, management can require that each employee return the questionnaire whether it is filled in or not. Contractors may also establish a deadline for return of the surveys, and implement follow-up procedures to track missing returns and encourage employees to submit their forms.

(Q4.9) How can we help ensure a good return and response rate?

(A4.9) Good communication is key for achieving a good return and response rate. Helpful activities include holding information sessions or providing information through newsletters or e-mail. The involvement of employee representatives and bargaining agents will also help improve results. Historically, best results have been obtained using a “census day” approach. Employees are informed about the survey day well in advance (by information session for example), and time and space is provided to fill in the questionnaire, with staff available to answer any questions. After the initial survey, a good follow-up with non-respondents will boost the response rate. It is important to remember that, while an organization is not allowed to pressure people into providing responses, it can make the return of the survey mandatory (completed or not).

(Q4.10) What happens if we received a low response rate on our workforce survey or believe that many designated group members failed to self-identify?

(A4.10) When you do not receive a 100 percent response rate, you must consider a follow-up to the survey. Since employees must self-identify and cannot be identified by others, response rates may improve if further information is provided to all employees regarding the benefits of self-identifying and on the particulars of doing so. Your organization may also wish to announce that returning the self-identification questionnaire is mandatory, but self-identifying is not. For example, employees can return a blank questionnaire.

(Q4.11) Should we allow employees to change their survey responses?

(A4.11) Yes. Questionnaires must be made available to employees who want to make changes to the information they previously provided. These changes may result from a new willingness to self-identify, or a change in a person’s circumstances (e.g., employees may have recently become disabled).

(Q4.12) Should we provide questionnaires to new employees?

(A4.12) Yes. Questionnaires must be provided to new employees as soon as they are hired. This will ensure your workforce data is up-to-date. New employees should receive information at the time of hiring and be encouraged to complete the questionnaire.

Topic 5: Employment Equity Data

(Q5.1) Where does the information about the labour availability of designated group members come from?

(A5.1) Information about women, Aboriginal peoples and visible minorities comes from the most recent Census of Canada. The information for persons with disabilities is obtained from the Participation and Activity Limitation Survey (PALS). The Census and PALS information is combined in the Employment Equity Data Report.

(Q5.2) What is the Employment Equity Data Report (EEDR)?

(A5.2) The EEDR is a statistical report that provides information on the occupational and educational characteristics of designated groups as gathered from the Census of Canada and the Participation and Activity Limitation Survey. Used with internal workforce data, the EEDR assists organizations in identifying which designated groups are under-represented in which occupational groups, as well as in planning and implementing employment equity.

(Q5.3) Where can we find the Employment Equity Data Report (EEDR)?

(A5.3) The EEDR may be accessed on-line at www.labour.gc.ca.

(Q5.4) What is the National Occupational Classification (NOC)?

(A5.4) The NOC is a way of describing the jobs (or occupations) of Canadians. It classifies and describes jobs according to “skill type” (the type of work performed) and “skill level” (the minimum level of education or experience required for the job). The NOC system organizes all jobs in Canada into 522 different unit groups. Each of these unit groups is assigned a four-digit code, with each digit reflecting an important trait of the occupation it represents.

(Q5.5) What are Employment Equity Occupational Groups (EEOGs) and how are they different from National Occupational Classification (NOC) codes?

(A5.5) All NOC codes are distributed among 14 broader categories called EEOGs. They are used to determine the representation and career progress of the designated groups over time.

(Q5.6) What is the Workplace Equity Information Management System (WEIMS)?

(A5.6) The Workplace Equity Information Management System (WEIMS), which has replaced the Employment Equity Computerized Reporting System (EECRS), is an online application intended for use by employers falling under both the Legislated

Employment Equity Program (LEEP) and the Federal Contractors Program (FCP). The system provides analytical tools and templates that assist employers with meeting their obligations under the Employment Equity Act. Your organization is strongly encouraged to choose this option because it eliminates time-consuming calculations and provides you with the required detailed tables quickly.

(Q5.7) How do we access the Workplace Equity Information Management System (WEIMS)?

(A5.7) You can access WEIMS online at www.labour.gc.ca.

(Q5.8) Do we have to use the Workplace Equity Information Management System (WEIMS) online application provided by the Labour Program?

(A5.8) The use of WEIMS is not mandatory, but is strongly recommended as it can save both time and effort by automatically generating the data required by the Federal Contractors Program. Any other software or application used must produce comparable data to that produced by WEIMS.

(Q5.9) Where can we get help if we are experiencing difficulties with the Workplace Equity Information Management System (WEIMS)?

(A5.9) Your first stop for help with the WEIMS should be provincial workplace equity officers from the Labour Program. Technical assistance is also available by calling the Labour WEIMS Helpline at 819-953-7510 or emailing weims@labour-travail.gc.ca.

Topic 6: Compliance with the Federal Contractors Program

(Q6.1) What does it mean to be in compliance with the Federal Contractors Program?

(A6.1) To be in compliance with the Federal Contractors Program, an organization must have developed, implemented and maintained an employment equity program and plan that satisfies the 12 Federal Contractors Program Requirements, the *Employment Equity Act* and the *Employment Equity Regulations*. Each organization's employment equity program and plan will be verified for compliance by a workplace equity officer, through an initial compliance review. Following an initial finding of compliance, the organization must make all reasonable efforts to implement its employment equity plan, and make reasonable progress toward closing gaps in representation; this will be verified through a follow-up compliance review.

(Q6.2) Has the Labour Program set quotas for organizations to meet?

(A6.2) No. Quotas are rigid and arbitrary requirements that do not allow for the consideration of organization-specific factors. The *Employment Equity Act* clearly

states that quotas cannot be imposed on an employer. Organizations are asked to set their own realistic and achievable goals, adapted to their particular needs and situation.

(Q6.3) What happens if an organization sets ambitious goals, but is unable to meet them?

(A6.3) There is no penalty if a goal is not reached where an organization has made all reasonable efforts, in good faith, to achieve its goals. Goals in some areas may be difficult to meet because of unanticipated changes in the resources or activities of an organization, or changes in labour market conditions. The employment equity plan should include contingency-based policies and practices so an organization can respond effectively to changing conditions.

(Q6.4) How are contractors selected for a compliance review?

(A6.4) The organizations to be reviewed are selected from a pool of all eligible contractors by random sampling. However, the Federal Contractors Program administration may give priority to contractors who have not yet received a first review or have gone more than five years since their last review.

(Q6.5) When can an organization expect to be reviewed?

(A6.5) A first review may take place approximately one year after an organization has received its first federal contract of \$200,000 or more, making it subject to the Federal Contractors Program. Subsequent reviews may occur every three years after the first compliance review.

(Q6.6) How many times can an organization be reviewed?

(A6.6) There is no set limit on the number of times an organization may be reviewed. Reviews will only occur at intervals of three years or more after the first review, unless otherwise indicated in a previous compliance review.

(Q6.7) What happens if an organization certified with 100 or more employees has less than 100 employees when selected for a compliance review?

(A6.7) If an organization's workforce has decreased to less than 100 employees (and will remain there for the foreseeable future) when selected for a compliance review, the organization has the right to remove itself from the Federal Contractors Program without penalty by cancelling its Certificate of Commitment number.

(Q6.8) What happens if the number of employees decreases to below 100 during a compliance review?

(A6.8) If the numbers decrease to 50 or less, the Federal Contractors Program may consider cancelling the compliance review. If the numbers are still above 50 and close to 100, the workplace equity officer will negotiate with the organization to complete the compliance review, especially if an organization has demonstrated good faith. Following this, if the numbers continue to decrease, the organization has the right to request a cancellation of its Certificate of Commitment number and a release from Federal Contractors Program obligations. The Labour Program always reviews these situations carefully, on a case by case basis.

(Q6.9) Will a workplace equity officer ever visit an organization without warning to conduct a compliance review?

(A6.9) No. The workplace equity officer will always contact the organization, by telephone or in writing, before approaching it in person.

(Q6.10) What documentation might a workplace equity officer request from an organization during a compliance review?

(A6.10) During a compliance review, you are required to provide documented evidence of the steps you have taken to comply with the 12 Federal Contractors Program Requirements. In addition to the actual employment equity plan and summary of results achieved, a workplace equity officer may also request:

- written communications to management and staff explaining employment equity;
- a copy of the self-identification questionnaire and accompanying memos to staff explaining the survey;
- the workforce profile, showing current representation of all employees, as well as the four designated groups in each of the Employment Equity Occupational Groups in which there are employees;
- documents demonstrating initiatives by the organization to promote a positive and harassment-free work environment (e.g., a copy of the anti-harassment policy); and
- a description of how the employment equity program is monitored and evaluated.

(Q6.11) Who could be interviewed during a review?

(A6.11) The workplace equity officer must have access to senior officials involved in the organization's employment equity program, bargaining agents and employee representatives, as well as to random employees throughout the workplace.

(Q6.12) What employment equity records must an organization maintain?

(A6.12) A list of the required records is found in Section 11 of the *Employment Equity Regulations*:

- a record of each employee's designated group membership, if any;
- a record of each employee's occupational group classification;
- a record of each employee's salary and salary increases;
- a record of each employee's promotions; a copy of the workforce survey questionnaire that was provided to the employees and any other information used by the employer in conducting its workforce analysis;
- the summary of the results of the workforce analysis;
- a description of the activities undertaken by the employer in conducting its employment systems review;
- the employer's employment equity plan;
- a record of the employer's monitoring of the implementation of its employment equity plan; and
- a record of activities undertaken by the employer and information provided to employees.

(Q6.13) Will the results of the compliance review be made public?

(A6.13) If a third party requests a copy of the final compliance review report under the Access to Information legislation, the Labour Program may be required to provide the report under an Access to Information request. Information of a financial, commercial, scientific or technical nature, or any information that your organization has consistently designated as confidential, may be exempted if it meets the standards established by the legislation.

(Q6.14) A copy of the employment equity action plan that was provided to the workplace equity officer contains some sensitive information. How can an organization be sure that this information will be kept confidential?

(A6.14) The Federal Contractors Program makes every effort to maintain the confidentiality of the documents it reviews.

(Q6.15) What are the consequences of a finding of non-compliance?

(A6.15) Failure to honour the commitment made to implement employment equity could result in a finding of non-compliance, possibly leading to sanctions being imposed. Non-compliant organizations are placed on the Federal Contractors Program List of Ineligible Contractors and lose the right to bid on or receive future federal government contracts or standing offers valued at \$25,000 or more. An appeal process is available in cases of non-compliance.

(Q6.16) Does the obligation to the Federal Contractors Program cease when a finding of compliance has been declared?

(A6.16) No. An organization's first successful compliance review is the first phase of a long-term process. Subsequent reviews will focus on progress and effort made since the employment equity program and plan were first implemented.

Topic 7: Appeals and Sanctions

(Q7.1) Is there anything an organization can do if it disagrees with a finding of non-compliance at the end of a compliance review?

(Q7.1) An organization has the right to appeal a compliance review finding of non-compliance to the Minister of Labour.

(Q7.2) What is the procedure for appeal?

(A7.2) If the results of a compliance review are unfavourable, the organization will be advised in writing of the factors contributing to the decision. At the same time, the organization will be notified of its right to appeal to the Minister of Labour.

An organization has 30 days from the date of receipt of a warning of non-compliance to provide to the Minister of Labour the grounds on which it is appealing.

If the appeal is accepted, the Minister will appoint an independent assessor who is objective and acceptable to both parties. The organization must agree to meet with the appointed independent assessor. The assessor will study the findings of the original compliance review and advise the Minister of Labour.

If the results of the independent review indicate a failure to comply, sanctions will be applied, including the addition of the organization's name to the Federal Contractors Program List of Ineligible Contractors.

If the results of the independent review support the organization's position, a new compliance review will be undertaken.

(Q7.3) What is the role of the independent assessor?

(A7.3) The independent assessor's role is to meet with the organization and the Federal Contractors Program in order to gather the facts and determine whether the finding of non-compliance is justified. The independent assessor's findings are submitted in a report to the Minister of Labour.

(Q7.4) How is the independent assessor chosen?

(A7.4) The Labour Program has a list of individuals considered credible by private organizations and the Department. The Minister will select one assessor from among the most current list.

(Q7.5) If sanctions are imposed, how and when can a contractor be reinstated?

(A7.5) Ineligible contractors will not be considered for further federal government contracts exceeding \$25,000 until they demonstrate to the satisfaction of the Labour Program that they have developed, implemented and maintained an employment equity program that meets the Federal Contractors Program Requirements. Once a workplace equity officer approves the employment equity program, the organization will be re-instated to the Federal Contractors Program and the sanction will be removed.

Topic 8: Bargaining Agents and Employee Representatives

(Q8.1) Should bargaining agents and employee representatives be involved in an employer's employment equity program?

(A8.1) Yes. The Federal Contractors Program requires the participation of bargaining agents (also referred to as union representatives) and/or employee representatives in the development and implementation of the employment equity program. The success of the program is strongly influenced by the support of bargaining agents and employee representatives, so it is important that organizations obtain their commitment and co-operation. It is unacceptable to ask representatives to comment on a copy of the finished employment equity plan.

(Q8.2) What responsibilities and opportunities do bargaining agents and employee representatives have regarding employment equity?

(A8.2) Bargaining agents and employee representatives are expected to make input on behalf of their unit(s). They have the opportunity to assist in communicating employment equity to their members, and to contribute to an employment equity plan that will have the support of employees. Bargaining agents often serve on an organization's employment equity advisory committee and can play an important role in creating a positive, equitable environment. The *Employment Equity Act*, however, stipulates that the requirement to consult is not to be misunderstood as co-management.

(Q8.3) Does employment equity affect seniority provisions?

(A8.3) A seniority provision, unrelated to layoff and recall, is considered a barrier if it constitutes a discriminatory practice under the *Canadian Human Rights Act*. Seniority rights with respect to layoff or recall are not considered to be barriers. When any seniority provision results in an adverse impact on the employment opportunities of designated group members, however, the organization, bargaining agents and employee representatives must consult and seek measures to minimize the barrier. Note that the above is true for seniority provisions in a written collective agreement and for seniority practices that are the recognized standard procedure in the organization but not contained in a collective agreement. See Section 8 of the *Employment Equity Act* for more information.

(Q8.4) Does employment equity result in co-management?

(A8.4) No. Although bargaining agents share responsibility to help implement employment equity, management of employment equity and other organizational programs is ultimately the responsibility of the CEO and the senior officials responsible for employment equity of the organization.

(Q8.5) Will bargaining agents and employee representatives be consulted during a compliance review?

(A8.6) Yes. Over the course of a compliance review, the workplace equity officer will meet with bargaining agents and employee representatives to obtain their views regarding the development and implementation of the employment equity program.

Topic 9: The Employment Equity Merit Awards

*** Please note that the Employment Equity Awards Program is currently under review. More information will be provided as it becomes available.*

(Q9.1) What are the Employment Equity Merit Awards?

(A9.1) The Employment Equity Merit Awards are comprised of the Vision Award and the Certificates of Merit.

- The Vision Award is presented in recognition of outstanding creative and innovative approaches to the implementation of equity, diversity and inclusiveness in the workplace.
- The Certificates of Merit recognize organizations for special and continuing efforts toward attaining a representative workforce.

The Federal Contractors Program participates in the granting of Merit Awards in recognition of special achievements made by organizations in implementing employment equity programs. The Government of Canada introduced the Merit Awards Program in 1990. The awards were established to publicly honour organizations that have gone beyond compliance with basic requirements and shown creativeness and special efforts to enhance their workplace diversity and inclusiveness. Successful organizations are recognized at an annual awards ceremony.

(Q9.2) How will contractors be selected for a Merit Award?

(A9.2) Invitations to apply for an award and a questionnaire are sent to all contractors who have been reviewed and found in compliance.

Organizations may nominate themselves by answering the questions provided about their employment equity program and by detailing any extraordinary efforts. A panel of Labour Program employment equity practitioners and previous winners will assess the applications and select award winners.

Topic 10: Withdrawal

(Q10.1) Is it possible to withdraw from the Federal Contractors Program?

(A10.1) Yes. If an organization decides to withdraw from the Federal Contractors Program, it will no longer be able to bid on federal government contracts for goods or services over \$25,000. The organization must send its request to withdraw to the Labour Program.

(Q10.2) What happens when an organization requests to withdraw?

(A10.2) After receiving a request to withdraw from the Federal Contractors Program, the Labour Program will send a confirmation letter and the organization's name will be added to the Federal Contractors Program List of Ineligible Contractors. This list is made available to the public on the Labour Program Web site. Further, the organization's Certificate of Commitment number will be cancelled and all federal departments will be advised that the organization is no longer eligible to bid on or to receive federal government contracts or standing offers valued at \$25,000 or more.

(Q10.3) Can an organization rejoin the Federal Contractors Program after withdrawing from it?

(A10.3) Yes. An organization can be reinstated in the Federal Contractors Program, but it must first implement an employment equity program and be found in full compliance with the Federal Contractors Program Requirements to the satisfaction of a Labour Program workplace equity officer. Once the organization has been found in full compliance, it will have to sign and submit a new Certificate of Commitment in order to receive a new Certificate of Commitment number for bidding purposes.

(Q10.4) How do does an organization withdraw?

(A10.4) To withdraw from the Federal Contractors Program, an organization must submit a request in writing to the Federal Contractors Program national headquarters. The request must include:

- the name of the organization;
- the address of the organization;
- the current number of employees;
- the reason for the request;
- an acknowledgement that the organization accepts to forfeit its right to bid on any future federal government contracts or standing offers valued at \$25,000 or more; and
- the signature of the CEO, President or other official with signing authority for the organization.

Appendix Intro – C

The Compliance Review Process

The purpose of this section is to introduce the concept of a compliance review to your organization. Although the four-step process is designed to provide guidance on how to develop and implement an effective employment equity program in your workplace, it is also intended to assist your organization in achieving and maintaining compliance with the Federal Contractors Program Requirements. As part of the Program, your organization will be called upon to demonstrate initial compliance at some time after you have been part of the Federal Contractors Program for two full years.

There are two basic types of compliance reviews: an **initial compliance review** and a **follow-up compliance review**.

Initial Compliance Review

An initial compliance review occurs normally only once, some time after your two-year anniversary as part of the Federal Contractors Program. This is calculated from the date your first contract or standing offer of more than \$200,000 was granted, not from the date you signed your Certificate of Commitment.

For more information about the Federal Contractors Program Certificate of Commitment, consult the Web site: www.labour.gc.ca

The procedures used to evaluate whether or not your organization has satisfied the Federal Contractors Program Requirements usually follow the first three steps of the four-step process outlined in this guide. Within this framework, the workplace equity officer will validate the compliance review findings and conclusions by undertaking an on-site verification visit at or near the end of Step 2, after you have drafted your employment systems review summary report. A second on-site verification visit may take place prior to drafting the final compliance review report. Since the focus of the compliance review is on the Federal Contractors Program Requirements, you are not penalized if you choose not to use the four-step process, provided that your process satisfies the Requirements. The satisfaction of each requirement will be evaluated in and of itself, regardless of the specific process used.

The ultimate goal of an initial compliance review is to ensure that you have established an employment equity program (if you have no gaps in the representation of the designated groups in your workforce) and employment equity plan (if gaps do exist) that is sufficient to ensure the successful implementation of employment equity within your workplace. Where gaps exist, the

employment equity plan must be sufficient to ensure that reasonable efforts to implement this plan result in reasonable progress toward closing the gaps. This is the key standard the workplace equity officer will apply when assessing compliance in an initial compliance review. This further includes having in place and implementing the mechanisms necessary to monitor and sustain your organization's employment equity program and to ensure that reasonable efforts will be made and reasonable progress will result between the close of your initial compliance review and your first follow-up compliance review.

To demonstrate compliance with the Federal Contractors Program during the initial review, you will have to provide documentation clearly outlining how you have satisfied each of the Federal Contractors Program Requirements—essentially, activities associated with Steps 1, 2 and 3.

- ✓ An accountability mechanism must be established, which includes, at a minimum, having a senior official accountable for the success of employment equity within the organization.
- ✓ Evidence of regular employment equity communications to employees, employee representatives and bargaining agents must be provided. These communications must relate to topics such as providing information about the purpose of employment equity and management's commitment to employment equity.
- ✓ Evidence of regular consultation and collaboration activities undertaken with employee representatives and bargaining agents regarding employment equity issues must be provided. Activities include the development of the self-identification questionnaire and workforce survey strategy, as well as the development, review and revision of the employment equity plan.
- ✓ A workforce analysis summary report or equivalent must be provided. This report must detail how the workforce survey was conducted; how the self-identification questionnaire was used; how the information is kept up to date (and evidence that it is kept up to date); how the workforce analysis was done; the results and how these results will focus the employment systems review; and the employment equity plan numerical goals. You will be required to provide the workplace equity officer with a completed workforce analysis summary table (produced by the Workplace Equity Information Management System (WEIMS) and detailed in Step 2), or the equivalent.
- ✓ An employment systems review summary report or equivalent must be provided, which details the policies and practices reviewed, as well as the findings.
- ✓ An employment equity plan must be provided, with records of all related activities, such as monitoring of the implementation of the plan and reviews and revisions made to it.

If your organization has an employment equity plan already in operation and if the necessary information is available, the workplace equity officer may also assess reasonable efforts and progress made toward achieving a workforce that is representative of the Canadian workforce. However, this evaluation is only required during a follow-up compliance review.

If you are found in compliance at the conclusion of an initial compliance review, your employment equity program and/or plan will be deemed sufficient and, at the time of a follow-up compliance review, efforts and progress will be evaluated based on the goals and measures contained therein. This evaluation will assume that revisions made to the program and plan in the interim have not altered your ability to achieve reasonable progress. The workplace equity officer bases the first follow-up compliance review assessment on the employment equity program and plan found in compliance during the initial compliance review.

Follow-up Compliance Review

A follow-up compliance review is recurring and may take place at any point three years after the conclusion of a previous compliance review. Follow-up compliance reviews verify if your organization continues to satisfy all of the Requirements and if reasonable progress and efforts have been made to close gaps, implement employment equity and maintain a favourable workplace environment.

To remain in compliance with the Federal Contractors Program, during a follow-up compliance review, you must provide the workplace equity officer with:

- A current workforce analysis, with an assessment of whether or not reasonable progress has been achieved. This includes a minimum of three years of information about hires, promotions and terminations. You will be required to provide the workplace equity officer with a completed Achievement Table, or the equivalent.
- Where reasonable progress has not been achieved, evidence that all reasonable efforts were made to implement the employment equity plan. Among other supporting documentation, this includes your employment equity plan, with concrete evidence of monitoring, reviews undertaken and revisions made to the plan.
- Proof of continuing communication, collaboration and consultation between senior management and employees, employee representatives and bargaining agents.
- Proof of maintenance of employment equity information concerning each employee, of frequent workforce analyses and of monitoring and review of employment systems to ensure they remain barrier free.
- A copy of the latest employment equity plan in place.

From this, the workplace equity officer determines compliance by assessing if:

- (1) reasonable efforts were made to ensure reasonable progress is achieved;
- (2) reasonable progress was achieved toward full representation in your workforce of the four designated groups: women, members of visible minorities, persons with disabilities and Aboriginal peoples; and
- (3) a detailed review of your program has been undertaken, resulting in a newly revised employment equity plan being developed every three years.

What is considered reasonable will vary from one situation to another. The Act requires that your organization attain a representative workforce within a reasonable period of time. In doing so, your organization must establish an employment equity plan that contains acceptable goals and sufficient measures to support these goals. If your plan does not meet this standard, it is insufficient and reasonable progress will not be possible. If no gaps in representation are present in your workforce, the workplace equity officer will evaluate reasonable efforts and progress made toward ensuring a favourable workplace environment and a representative workforce.

Compliance Review Results and Implications

The workplace equity officer compiles all compliance review findings and conclusions into a Compliance Review Report, which is presented to the Compliance Management Board. The Compliance Management Board is responsible for the final decision regarding compliance or non-compliance of your organization.

A finding of compliance indicates that the workplace equity officer has determined and demonstrated to the Compliance Management Board that your organization has implemented employment equity and that you satisfy all of the requirements of the Act, the Regulations and Federal Contractors Program.

A finding of non-compliance indicates that the workplace equity officer has determined and demonstrated to the Compliance Management Board, as well as to the Minister of Labour, that you have not implemented employment equity in a manner that satisfies the requirements of the Act, the Regulations and the Federal Contractors Program. In the context of an initial compliance review, this means you did not complete the work required to develop an employment equity plan that is in compliance with the requirements. In a follow-up compliance review, a finding of non-compliance indicates that you have not made reasonable efforts to implement your program or achieved reasonable progress.

If you are declared in non-compliance, your organization is placed on the Federal Contractors Program List of Ineligible Contractors and it loses the right to bid on or be awarded future federal government contracts or standing offers for goods or services valued at \$ 25,000 or more, including all applicable taxes.