

PART 2045 - GENERAL

Subpart X - EQUAL EMPLOYMENT OPPORTUNITY

TABLE OF CONTENTS

§ 2045.1151 General.

§ 2045.1152 Purpose.

§ 2045.1153 Authorities and responsibilities.

§ 2045.1154 Designation of responsibilities.

§ 2045.1155 Equal Employment Opportunity Complaints of Discrimination.

§ 2045.1156 Availability of regulations.

  

Exhibit A - Equal Employment Opportunity - Special Emphasis Programs.

Exhibit B - Equal Employment Opportunity Complaints of Discrimination.

Exhibit C - Equal Employment Opportunity Advisory Committees.

oOo

PART 2045 - GENERAL

Subpart X - EQUAL EMPLOYMENT OPPORTUNITY

§ 2045.1151 General.

It is the policy of the Federal Government, including the United States Department of Agriculture (USDA) and Rural Development to provide equal opportunity in Federal employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, national origin, age, or against people with disabilities, and to promote Equal Employment Opportunity (EEO) through a positive continuing program in each Department and Agency as it applies to every aspect of Federal employment policy and practice.

In furtherance of this policy, it is the responsibility of the Rural Development to assure that all minorities, women, and persons with disabilities have an opportunity to achieve the best possible utilization of their skills to the fullest extent practicable so they may qualify for advancement and work at their fullest potential in the Mission Area.

§ 2045.1152 Purpose.

This Instruction including the exhibits provides the policy and procedures of the EEO Program in the USDA and Rural Development. Exhibit A provides goals and objectives for Agencywide Special Emphasis Programs (SEP) and provides guidelines and instructions for the function of the SEP at the National and field levels. Exhibit B provides information to Agency employees regarding the EEO complaint procedure. Exhibit C provides information regarding EEO Advisory Committees.

§ 2045.1153 Authorities and responsibilities.

(a) The basic authority for the EEO Program is the EEO Act of 1972 which brought Federal employees and Agencies under the EEO provisions of the Civil Rights Act of 1964 and required Federal Departments and Agencies to insure that all personnel actions are free from discrimination. This law also requires that Federal Agencies allocate sufficient resources to insure a results-oriented EEO Program at headquarters and field levels. Resources include personnel, funds, and necessary equipment and space allocations.

---

DISTRIBUTION: WSDC

Personnel  
General

(b) In accordance with the requirements of the EEO Act of 1972, (Public Law 92-261), the Civil Service Reform Act of 1978, and Part 1614 of Title 29 of the Code of Federal Regulations, the EEO Program at the National and field levels of the Agency should include the following basic elements:

- (1) Sufficient resources in staffing and budget to carry out the program in a positive and effective manner to meet current and future goals.
- (2) A written policy statement to all employees in support of EEO; a written policy statement in support of the prohibition against sexual harassment in the workplace; and a written policy statement prohibiting discrimination against persons with disabilities.
- (3) Affirmative employment goals.
- (4) Development and implementation of a Career Enhancement Plan.
- (5) Results-oriented Special Emphasis Programs (SEP).
- (6) Implementation of a Federal Equal Opportunity Recruitment Program, including the development of a plan with respect to workforce analysis, determination of underrepresentation, identification of available applicant sources, and development of innovative recruitment techniques and strategies.
- (7) A statement in the position descriptions of all managers and supervisors relating to their EEO responsibilities.
- (8) Maintenance of EEO Posters.

§ 2045.1154 Designation of responsibility.

(a) Director of EEO. The Secretary of Agriculture has designated the Assistant Secretary for Administration, USDA, as Director of EEO, with authorization to carry out effectively the responsibilities of Public Law 92-261 and the regulations, orders, and instructions issued pursuant to this law.

§ 2045.1154 (Cont.)

(b) EEO Officer. Each Agency Administrator within Rural Development is designated as EEO Officer with the responsibility of effectively administering the EEO program, which includes affirmative action, SEPs, and complaints of discrimination.

(c) Deputy EEO Officer. The following officials are hereby designated as Deputy EEO Officers in Rural Development.

(1) The State Directors of Rural Development and Senior Officials in St. Louis are designated as Deputy EEO Officers and will assist each Rural Development Agency Administrator in carrying out his/her functions as EEO Officer within their assigned area(s).

(2) Responsibility for implementation of the EEO program rests solely with Deputy EEO Officers within their assigned area(s). Deputy EEO Officers are responsible for evaluating the performance of the EEO duties of EEO collateral duty employees and for assuring that these employees receive appropriate support; i.e., training, official time, and mobility deemed necessary for effective performance of the duties of their official EEO assignment.

(d) Director, Civil Rights Staff (CRS). The Director, CRS is responsible for developing and implementing policies and practices in administering Rural Development responsibilities under Title VII of the Civil Rights Act of 1964; coordinates activities under the EEO program; and represents Rural Development on all aspects of the Equal Opportunity and EEO programs by providing leadership and direct assistance to officials. Further, the Director, CRS, is charged with carrying out a positive program designed to assure equal opportunities in all organizations in Rural Development.

(e) National Federal Women's Program Manager (FWPM). This position is located on the CRS of Rural Development. The National FWPM is responsible for planning and directing Rural Development's Federal Women's Program and advising top management officials on the special concerns of women employees and applicants, including identifying barriers to EEO and to assure that women participate equally in Rural Development programs. In addition, the National FWPM also provides leadership for field FWPMs setting program goals, planning the short and long-range program objectives, and guidelines commensurate with Exhibit A of this Instructions.

(f) National Hispanic Employment Program Manager (HEPM). This position is located on the CRS, Rural Development. The National HEPM is responsible for planning and directing the Agency's Hispanic Employment Program and serves as principal resource person and staff advisor on unique concerns and problems related to EEO for Hispanic employees and applicants. In addition, the National HEPM also provides leadership for field HEPMs setting program goals, planning the short and long-range program objectives, and guidelines commensurate with Exhibit A of this Instruction.

(g) National Disability Employment Program Manager (DEPM). This position is located on the CRS, Rural Development. The National DEPM is responsible for planning and directing the Agency's Disability Employment Program and serves as principle resource person and staff advisor on unique concerns and problems related to EEO for disabled employees and applicants. In addition, the National DEPM also provides leadership for field DEPMs setting program goals, planning the short and long-range program objectives, and guidelines commensurate with Exhibit A of this Instruction.

§ 2045.1155 Processing complaints of discrimination on grounds of race, color, religion, sex, national origin, age, or disability.

(a) This Instruction sets forth policy and guidance on the procedure for processing EEO complaints of discrimination arising in the Agency and provides information to employees regarding the EEO complaint procedure and defines their rights.

(b) All employees or applicants for employment will be free from restraint, interference, coercion, discrimination, or reprisal in filing complaints, including the counseling stage or anytime thereafter; in serving as the representative of a complainant, in appearing as a witness, or in seeking information in accordance with the Department's regulations and procedures. The above principles apply with equal force after a complaint has been adjudicated.

§ 2045.156 Availability of regulations.

Copies of this Instruction and all exhibits will be given to any employee or applicant for employment on request.

§§ 2045.1157 - 2045.1200 [Reserved]

Attachments: Exhibits A through C

o0o

Equal Employment Opportunity  
Special Emphasis Programs

A. Purpose and scope.

The purpose of this Exhibit is to provide guidelines for Rural Development's Special Emphasis Programs (SEP) which included Federal Women's, Hispanic Employment, Disability Employment, African American, Asian/Pacific Islander, and American Indian Programs; provide guidelines and instructions to field managers (State Directors and other employees with supervisory and/or managerial responsibilities) with regard to the SEPs; and to set forth guidelines for the function of the Special Emphasis Program Managers (SEPM) at the National and field levels. In scope, implementation, of the SEP originates with top management officials and extends to those midlevel managers and supervisors Mission-wide who are directly involved in hiring, training, promoting and evaluating the performance of Rural Development employees.

B. Legal authority.

(1) Executive Order 11375, October 1967. Adds sex to other prohibited forms of discrimination in Federal employment. The former Civil Service Commission (CSC) established the Federal Womens Program (FWP) in response to the order.

(2) Executive Order 11478, August 1969. Integrated the FWP/Hispanic Employment Program (HEP) into the overall Federal Equal Employment Opportunity (EEO) Program.

(3) Public Law 92-261, March 1972. Federal employees and Agencies were placed under the EEO provision of the Civil Rights Act of 1964, with regard to processing formal complaints of discrimination, affirmative action, upward mobility, program evaluation and training. The law requires that all personnel actions affecting employees or applicants shall be free from discrimination because of race, color, religion, sex, or national origin.

(4) Rehabilitation Act of 1973, Section 501. Calls for Government-wide affirmative action program plans for the hiring, placement, and advancement of disabled individuals. The right to file a complaint of discrimination based on physical or mental disability is set forth in Title 29 of the Code of Federal Regulations, Part 1614. Section 1613.709 requires an Agency to provide in its regulations for the acceptance of a complaint from any aggrieved employee or applicant for employment who believes that he/she has been discriminated against because of a disability.

C. Program goal.

The goal of Rural Development's SEPs is the equitable involvement of minorities, women, and persons with disabilities in personnel management operations, i.e., serving on panels, boards, and task forces, which would permit them to be part of the decision-making process in personnel management policy and practice, including recruitment programs, training, selection, placement, promotions, counseling, and career development.

D. Program objectives.

The following are the major objectives of Rural Development's SEP:

- (1) Eradication of every form of prohibited discrimination from personnel policies and practices and working conditions.
- (2) Utilization to the fullest extent possible, of the present skills of minorities, women, and persons with disabilities in the work force.
- (3) Provision of equal opportunities for minorities, women, and persons with disabilities to enhance their skills through career counseling, on-the-job training, upward mobility, work-study programs, and other training measures so they may perform at their highest potential and advance in accordance with their abilities.

E. Management requirements.

- (1) Deputy EEO Officers (State Directors and Senior Officials in St. Louis) will designate Federal Women's Program, Hispanic Employment Program, and Disability Employment Program Managers for each State and the Finance Office. The designation of any other field SEPMS is optional.
- (2) Deputy EEO Officers will publicize to employees the names, addresses, and telephone numbers of the National and local SEPMS.
- (3) Deputy EEO Officers will send a copy of the executed Memorandum of Understanding to the Director, Civil Rights Staff in the National Office. (See Attachment 1 of this exhibit.)

F. Selection and designation of SEPMS.

(1) National SEPMS. The National SEPMS have mission-wide responsibility for implementation of the SEPs. The primary duty of the National SEPMS is to strive for the elimination of systemic and institutional barriers to the employment and advancement of minorities, women, and persons with disabilities and to focus top management's support on their needs. National SEPMS are designated by the Director, Civil Rights Staff, and serve under the direction of the Director, Civil Rights Staff.

(2) Field SEPMS. Field SEPMS are designated by the Deputy EEO Officer. An SEPMS is designated for a term of three years. SEPMS duties must be documented in position descriptions as EEO collateral assignments. SEPMS' duties are a supplement to the duties and responsibilities of the SEPMS' primary occupation. EEO collateral assignments have the following characteristics:

- (a) The EEO collateral assignment does not constitute the primary purpose of establishing or continuing the position;
- (b) For purposes of the EEO collateral assignment, the employee receives guidance and review, but not supervision, from an individual other than the regular supervisor (i.e., Deputy EEO Officer);
- (c) The assignment does not constitute a grade controlling duty or responsibility; and
- (d) The assignment is not a primary duty of the position.

G. Functions - roles and responsibilities.

(1) General. The SEP is a management program. The primary responsibility for its success, therefore, rests with top management. The SEPMS is a member of top management's team and the SEPMS' responsibility is to provide plans and solutions which managers and supervisors may implement to promote equal opportunity for minorities, women, and persons with disabilities in Rural Development.

(2) National SEPMS. It is the role of the National SEPM to serve as the principle advisor to key Agency officials on the special concerns of minorities, women, persons with disabilities, employees, and applicants; and to assure that minorities, women, and persons with disabilities participate equally in Agency programs. Specifically, the National SEPMS:

(a) Develop the policies and procedures for the Mission Area's SEPs.

(b) Provide leadership continuity for field SEPMS and the collateral duty SEPMS serving the National Office in carrying out the mission of the SEP, and serves as the Mission Area's representative in consultation with organizations and groups concerned with the improvement of employment opportunities and advancement for minorities, women, and persons with disabilities.

(c) Plan, coordinate, and sponsor a training program designed to sensitize managers and supervisors in regard to their responsibilities concerning equal opportunity for minorities, women, and persons with disabilities.

(d) Plan and conduct studies of major problem areas, providing statistical profiles for effective use in evaluating program planning, goals, and managing resources in the area of merit promotion, training, career development, recruitment, and other areas that affect the enhancement of employment and career progress for minorities, women, and persons with disabilities.

(3) Field SEPMS. SEPMS (collateral-duty) at the field level carry out the Agency's SEPM in the States and St. Louis, Missouri.

(a) The duties of the field SEPMS are to advise the Deputy EEO Officer, on matters affecting the employment and advancement of minorities, women, and persons with disabilities; maintain contact with applicants; attend job fairs and other functions at local high schools, colleges and universities to obtain names of applicants; send recruitment literature to schools and community groups; sponsor workshops, speakers' information booths at conferences, career days, other training programs, etc.; develop statistics, assess progress, and keep the National SEPM informed of field activities affecting minorities, women, and persons with disabilities and problem areas; advise employees; and disseminate to field employees information received from the National SEPM.

(b) Field SEPMS spend approximately 10 percent of their time on the SEP and serve on appropriate EEO committees. To clarify the SEPM's duties, position descriptions should reflect collateral duties and time required to perform these duties. A copy of the Memorandum of Understanding between field SEPMS, supervisors, and the Deputy EEO Officer, should be signed and made a part of the SEPMS Official Personnel File. (See Attachment 1 of this exhibit.)

(c) Field SEPMS must be able to function in their responsible roles. It is inadvisable to assign SEPM responsibilities to some administrative employees due to the potential for conflict of interest. Positions which may pose a conflict of interest include Administrative Officer, Secretary to the State Director, Personnel Management Specialist, Personnel Assistant, and Personnel Clerk.

H. Documentation of duties.

An amendment will be made to the SEPM's Official Position Description identifying the Director, CRS, or the Deputy EEO Officer as the person responsible for guidance and review and evaluation of the SEPM's performance of duties. Only the Director, or EEO Officer will sanction activities and agreed-upon goals and objectives of the SEP. The following language may be used as a guide in describing the duties and responsibilities of the collateral assignment of the SEPM:

Serves as SEPM at the request of the Deputy EEO Officer. Advises the Deputy EEO Officer, on matters affecting the employment and advancement of minorities, women, and persons with disabilities; maintains contact with community organizations for possible referrals of underrepresented groups; attends job fairs or other functions at local high schools, colleges and universities to obtain names of applicants; attends training conferences and conventions; sends recruitment literature to schools and community groups; sponsors workshop, speaker's information booths, and other training programs; keeps the Agency's National SEPM informed of problem areas; counsels employees upon request (but does not act as EEO Counselor); and disseminates to local employees information received from the Mission Area's National SEPM.

I. Support services.

Field SEPMS will be free from restraint, coercion, discrimination and reprisal, and will be given:

- (1) Full managerial and supervisory support for execution of the SEP;
- (2) Sufficient time to promote the SEP and accomplish its goals and objectives;
- (3) Full support and interest of management in terms of cooperation, statistical information, facilities, resources and time;
- (4) Clerical support when needed and access to personnel files when appropriate.

Attachment 1 - Memorandum of Understanding

oOo

MEMORANDUM OF UNDERSTANDING

The purpose of this Memorandum of Understanding (MOU) is to ensure that no misunderstanding exists between the employee, employee's supervisor, and the Deputy EEO Officer, hereinafter referred to as the Director, while performing additional duties.

It is understood and agreed that these collateral duties may require up to 10 percent of the employee's official time in the performance thereof.

It is further understood that the employee's immediate supervisor will remain the same except when the employee is performing these collateral duties. All guidance, reviews, and performance evaluations in the area of EEO assignments will be provided directly by the Director on matters relating to successes and failures to assure accomplishment of EEO goals.

It is further understood that while performing these collateral duties the employee will notify the immediate supervisor before leaving primary assigned duties and will keep the supervisor informed of whereabouts and estimated time of return to primary duties.

It is further understood that all necessary absences away from the primary work location will be scheduled, whenever possible, in advance through the immediate supervisor, and other necessary administrative approval will be obtained as appropriate.

It is further understood that in case of any disagreement whatsoever between the employee and immediate supervisor as to the priority to these collateral duties, the Director will resolve these differences to ensure a normal harmonious work relationship.

Acknowledgment and understanding of this memorandum is attested to by the parties whose signatures appear below:

\_\_\_\_\_  
NAME (EMPLOYEE)

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
SUPERVISOR

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
DEPUTY EEO OFFICER

\_\_\_\_\_  
(DATE)

oOo

Equal Employment Opportunity Complaints of Discrimination

A. Purpose and Scope.

The purpose of this Exhibit is to set forth policy and procedure for processing Equal Employment Opportunity (EEO) complaints of discrimination arising in Rural Development; to provide information to all employees regarding the EEO complaint procedure; and to define employees' rights therein.

B. Legal authority.

(1) Executive Order 1478, August 1969. Requires Federal Agencies to provide systems for consideration of complaints of discrimination, including access to counseling for employees who feel aggrieved, and to encourage the resolution of employee problems on an informal basis.

(2) Public Law 92-261, March 1972. Federal employees and Agencies were placed under the EEO provisions of the Civil Rights Act of 1964 with regard to processing formal complaints of discrimination, affirmative action, upward mobility, and EEO program evaluation and training. The law requires that all personnel actions affecting employees or applicants shall be free from discrimination because of race, color, religion, sex, or national origin. The law specifically gives employees or applicants who have filed a formal complaint of discrimination the right to file a civil action in an appropriate Federal District Court, in which the Secretary of Agriculture will be the defendant.

(3) Title 29 of the Code of Federal Regulations, Part 1614. Section 1614.212 requires Federal Agencies to provide in their regulations for the acceptance of a complaint from any aggrieved employee or applicant for employment who believes that he or she has been discriminated against because of race, color, religion, sex, or national origin.

(4) Public Law 93-259, April 1974. Requires Federal Agencies to provide for the acceptance and processing of complaints of discrimination on account of age.

(5) Rehabilitation Act of 1973, Section 501. Calls for Government-wide affirmative action program plans for the hiring, placement, and advancement of people with disabilities. The right to file a complaint of discrimination based on physical or mental disability is set forth in Title 29 of the Code of Federal Regulations, Part 1614. Section 1614.709 requires an Agency to provide in its regulations for the acceptance of a complaint from any aggrieved employee or applicant for employment who believes that he/she has been discriminated against because of a disability.

(6) Fair Labor Standards Act of 1938, as amended (Equal Pay Act of 1963 (EPA)). Prohibits sex-based wage discrimination. (Section 1614.202 provides that complaints alleging violations of the EPA shall be processed under this part.)

C. EEO policy.

(1) It is the policy of the United States Department of Agriculture (USDA) to prohibit discrimination and to ensure equal opportunity for all employees and applicants without regard to race, color, religion, sex, national origin, age, or disability. In furtherance of this policy, it is the responsibility of the Agency to assure that all employees and applicants are accorded the right to have their allegations of discrimination against the Agency considered under established discrimination complaint processing regulations for the purpose of achieving informal resolutions or a formal disposition.

(2) Freedom from reprisal. Complainants, their representatives, and witnesses shall be free from restraint, interference, coercion, discrimination, or reprisal at any stage in the presentation and processing of a complaint, including the counseling stage, or any time thereafter. Agency employees who are EEO officials, or other officials who have responsibility for processing complaints of discrimination shall be free from restraint, interference, coercion, or reprisal because of involvement in the presentation and/or processing of a complaint may file a complaint of discrimination. EEO counseling on such allegations of discrimination must precede the filing of a formal complaint.

D. Procedures for processing complaints of discrimination based on race, color, religion, sex, national origin, age, and disability.

(1) An aggrieved employee or applicant who believes that he/she has been discriminated against must contact an EEO Counselor within 45 calendar days of the alleged discriminatory action. Rural Development Counselors may be reached by calling the Rural Development Civil Rights Staff at (202) 692-0090, or (800) 787-8821, or TDD (202) 692-0107. The EEO Counselor has 30 calendar days to informally resolve the matter.

(2) If, after 30 calendar days, the EEO Counselor is unable to resolve the matter informally, a formal complaint of discrimination may be filed within 15 calendar days to the USDA Office of Civil Rights after receipt of the "Notice of Right to File" letter from the EEO Counselor to the potential complainant. The complaint must state the basis of the alleged discrimination (race, sex, etc.,) and the complaint must be in writing, signed, and dated. In order to be properly filed, formal complaints of discrimination must be addressed and mailed to the following office:

Chief, Employment Complaints Division  
Office of Civil Rights  
U.S. Department of Agriculture  
1400 Independence Avenue, SW  
Stop 9440  
Washington, D.C. 20250

(3) A formal complaint must include: the complainant's name, address, and telephone numbers; the name, address, and telephone number of any representative; a specific description, including the dates of the decision involved in any individual or class complaint; the Agency that made the decision or applied the policy; the basis on which discrimination is alleged; and the name of the EEO Counselor contacted.

(4) The Chief, Employment Complaints Division, or a designee, shall accept complaints that are timely submitted and covered by this regulation. The complainant will be notified of the acceptance and all administrative and legal rights to which they are entitled. The Agency will be furnished a copy of the letter within 21 days of filing of the complaint. If the initial material submitted as a complaint is not complete, the EEO Complaints Management Division will notify the complainant of the missing material and allow 5 days for its submission.

(5) A complaint that is not properly filed may be dismissed by the Employment Complaints Division for one of the following reasons:

- (a) The issue(s) was untimely brought to the attention of an EEO Counselor, or untimely submitted formally within the prescribed time limits unless the time limits are extended;
- (b) The action, decision, or the basis alleged does not fall within the purview of the Department or the scope of this regulation;
- (c) The action or decision involved in the complaint is mooted by actions of the Agency and there is no further potential relief available through the complaint process;

- (d) It sets forth an issue identifiable to a complaint that is pending or that has already been decided; as a complaint with the Department, or under a negotiated grievance procedure that covers discrimination allegations; or an appeal to the Merit Systems Protection Board (MSPB); or as a civil action in a Federal Court;
  - (e) The issue concerns the processing of a previously filed complaint;
  - (f) The issue deals with an action proposed that is nonspecific to the complainant;
  - (g) The complainant fails to prosecute the complaint after being provided 15 days notice of the requirement to proceed and the potential dismissal; and
  - (h) The complainant does not accept a certified offer of full-relief. The USDA, Assistant Secretary for Administration, has designated the Director, Employment Complaints Division, to certify offers of full-relief to complainants. The Employment Complaints Division will inform the complainant that the offer is full-relief and the complaint will be dismissed if the offer is not accepted.
- (6) The complainant retains the right to appeal such dismissals and if the complainant prevails on the appeal, the complaint will be remanded to the Agency for processing.
- (7) The Department shall acknowledge receipt of a complaint in writing and inform the complainant of the date on which the complaint was filed.
- (8) A complainant may amend a formal complaint, either before or after acceptance, to add additional factors or bases. The complainant may request to add additional issues to complaints, but only if each additional issue has been presented properly to an EEO Counselor.
- (9) Upon receipt of the initial investigation, Rural Development will designate an official to attempt to reach an informal settlement of the complaint with the complainant. All parties are encouraged to informally resolve issues and problems of complaints. A complaint may be held at any stage by the Department at the request of Rural Development if substantial efforts will be immediately made to resolve the case.
- (10) Within 180 days from the filing of the complaint, the Department must complete its investigation.

(11) After 180 days has elapsed from the filing of the complaint, the complainant may request a hearing before an Equal Employment Opportunity Commission (EEOC) Administrative Law Judge.

(12) After the Department completes its investigation, the USDA shall notify the complainant that he/she has the right to request (within 30 days) a hearing by an EEOC Administrative Judge or alternatively, an immediate final decision by USDA.

(13) Within 180 days from the date of filing an individual or class complaint, a complainant may file a civil action in an appropriate Federal District Court.

(14) After 180 days from the date of filing an individual or class complaint, a complainant may file a civil action in an appropriate Federal District Court if an appeal has not been filed and a final decision has not been issued.

(15) After 180 days from the date of filing an appeal with the EEOC, if there has been no final decision by the EEOC, a complainant may file a civil action in an appropriate Federal District Court.

(16) If the complainant requests a final decision, or if the 30-day period lapses without the individual requesting a hearing, the Agency will have 60 days to issue the final decision. The final decision shall consist of findings by the Agency on the merits of each issue in the complaint, appropriate relief of discrimination found, and notice of the complainant's appellate rights and time limits.

(17) If the complainant requests a hearing, an Administrative Judge shall oversee discovery, conduct a hearing, issue findings of fact and conclusions of law, and where a finding of discrimination is made, order an appropriate remedy.

(18) The Administrative Judge's findings, conclusions, and relief ordered becomes the final USDA decision if the USDA does not issue a final order within 40 days of receipt of the Administrative Judge's decision.

(19) After the final decision, the complainant may appeal to the EEOC by filing an appeal within 30 days directly to the Office of Field Operations in EEOC.

NOTE:

- a. Discrimination complaints based on age will be accepted and processed under these procedures only if the complainant was at least 40 years of age at the time the discriminatory action is alleged to have occurred. If the complainant is dissatisfied with the final decision, as an alternative to filing a complaint under the individual discrimination complaint processing procedures outlined above, an aggrieved individual may file a civil action in a Federal District Court under the Age Discrimination in Employment Act (ADEA) against the head of the Agency after giving the EEOC not less than 30 days notice in writing with EEOC, Federal Sector Programs, 1801 L Street, NW, Washington, DC 20507, within 180 days of the occurrence of the alleged unlawful practice.
- b. Complainants alleging violations of the Equal Pay Act (sex-based wage discrimination) shall be accepted and processed under individual discrimination complaints process procedures.

oOo

Equal Employment Opportunity Advisory Committee

A. Purpose and scope.

The purpose of this Exhibit is to set forth guidance and procedure for Equal Employment Opportunity Advisory Committees (EEOAC) to provide guidance to managers and employees interested in the function of an EEOAC; and to set forth procedures for an EEOAC in the National Office and in the States.

B. Composition of the committee.

(1) The Committee membership shall be diverse and composed of appointed members. Appointees in the National Office shall be selected by the Under Secretary for Rural Development. Appointees in St. Louis shall be selected by Senior Officials in St. Louis; and appointees in State Offices shall be selected by the State Director.

(2) Employees who have full-time or collateral duty EEO responsibilities are ex officio members of the EEOAC and, therefore, may neither vote or serve as a Committee official. Ex officio members are, however, expected to attend all meetings. Immediate past chairpersons may serve an additional period of 1 year as ex-officio members to assist in providing continuity and consultation to the committee.

(3) The Deputy Director, CRS, and Senior Managers may serve as technical advisors to the Committee. Employees in personnel and/or administrative positions may also serve as technical advisors to the Committee at the discretion of the Chairperson.

C. Responsibilities of the EEOAC

The Committee advises and assists in carrying out the objectives of Rural Development's Equal Employment Opportunity (EEO) program. The EEOAC does not receive, investigate, or in any way adjudicate individual or class complaints of discrimination. The Committee does not become involved in effecting changes in matters which affect working conditions when a labor organization has been recognized or certified under the Federal Service Labor-Management Relations Statute. Jurisdiction of the State and St. Louis committee are the State and St. Louis only. Jurisdiction of the National Office committee is the National Office only.

D. Role of the EEOAC.

- (1) Review recruitment practices and make recommendations for improving resources used to reach minorities, women, and persons with disabilities for career positions, temporary summer employment, or special appointments.
- (2) Suggest strategies to management to assist underutilized groups in attaining education and training that will enhance their advancement.
- (3) Review criteria for awards and make recommendations to assure fairness in the incentive awards program.
- (4) Review general causes for complaints of discrimination and assist in identifying problem areas.
- (5) Monitor the affirmative employment aspects of the EEO program.
- (6) Review and recommend improvements in employment programs including Career Enhancement, Cooperative Education Agreements, and the Worker Trainee Program.

E. Eligibility for membership.

- (1) Any permanent, full-time employee may serve on an EEOAC.
- (2) Nominees should have demonstrated:
  - (a) Ability to accept responsibility;
  - (b) Concern for and dedication to the general welfare of all employees; and
  - (c) Ability to recognize potential EEO problems and to recommend specific solutions.

F. Committee structure.

The Agency's objective is to have EEOACs composed of all groups (minorities, women, and persons with disabilities), managers and supervisors, all occupations and grade levels -- with both management and employee input into the membership.

G. Nomination procedure.

(1) National Office EEOAC. A memorandum to all employees prepared by the Director, CRS, will announce the date, location, and time for making nominations. The memorandum will include the criteria for eligibility and length of service. Nominations will be open for a period of 14 days. The Under Secretary for Rural Development will make the final designation.

(2) Field EEOACs. A memorandum prepared by the Deputy EEO Officer will announce the date, location, and time for making nominations. This memorandum will include the criteria for eligibility and length of service. Nominations will be open for a maximum of 14 days. The State Director and Senior Officials in St. Louis will make the final designation.

H. Authorization.

Notification to employees of their appointment or election to the National Office Committee will be in writing and signed by the Director, Civil Rights Staff, notification to field Committee members will be in writing and signed by the Deputy EEO Officer. The notification will contain a brief description of the purpose of the Committee and provide an indication of the time required for Committee work.

I. Terms of Service.

The term of office for all Committee members, including alternates on field committees, will be two years. The terms of service will be arranged so that one-half of the membership expires each year. An employee designated to complete the term of a member or alternate will be appointed for the remainder of the unexpired term.

J. Meetings.

The EEOAC will meet as appropriate. All Committee members shall receive reimbursement for travel expenses and official time to attend meetings. The exact time and place shall be arranged by the Committee Chairperson.

K. Guidelines for committees.

(1) In order to be effective, the Committee should have the approval and the support of the highest levels of the organization. The Chairperson and composition of the group will, to a great extent, determine how the group will function and the direction it will take. Once the Committee is established, the members should jointly establish the Committee By-Laws, Charter, Constitution, or any other guideline(s) deemed appropriate. The committee's By-laws must include guidelines for requiring attendance at meetings and the disposition of an employee's membership, if failure to attend meetings becomes an issue.

(2) The manner in which meetings will be conducted determines the effectiveness of the group's behavior, both in terms of individual members carrying out assignments, and in projects which require substantial cooperation and interaction.

(3) An agenda should be in existence before a meeting is called. In developing the agenda for the meeting, the Chairperson confers all items suggested for discussion.

(4) Annually, the committee should make recommendations to top management via a memorandum. When the committee makes its report to top management, then a majority of the committee should be in agreement with the report. The committee's recommendations should be supported by some tangible evidence, e.g., data and other documentation.

(5) Minutes of the meetings should be publicized to all employees in the State, St. Louis, and the National Office.

L. Guidelines for managers.

Supervisors and managers should carefully identify the qualities which are sought in Committee members. It is recommended that members be representative of the workforce; have credibility with both management and employees; have the time and ability to devote to the program; and be committed to the goals of the EEOAC.

M. Guidelines for chairpersons.

- (1) The key to effective chairpersons is organization. Hence, an agenda for each meeting is essential. Not only does an agenda keep the chairperson on course, it also serves to minimize the incidental discussions and conserve the committee's valuable time for more germane issues.
- (2) Further, it is important to have a permanent record of the proceedings. That requires someone be designated to record the minutes.
- (3) The distribution of an attendance roster is essential in establishing a permanent record of the meeting.

N. Management support.

- (1) An EEOAC can be a valuable source of information of what is going on in the Mission Area. If the Committee is representative of the agencies within the Mission Area and also the races, grade levels, occupations, etc., of the workforce, the Committee can help management to stay in touch with the needs of employees throughout the Mission Area.
- (2) When a Committee-approved or Committee-developed proposal is made to management, it is not one person, but many who stand behind it. This provides support for management's position and actions and also assures that the Committee's actions are public knowledge and not something that happens behind closed doors.
- (3) EEOAC can benefit those who serve on them. Committee membership can be a valuable developmental experience for employees whose jobs do not normally require interaction with management or require program planning, data analysis, leadership, or training skills. Many employees find that Committee participation brings out talents and abilities which were unrecognized or undeveloped in their day-to-day duties.

O. Management requirements.

- (1) Establish an EEOAC and assure that it is an integral part of Rural Development's overall EEO program.
- (2) Arrange for space and official time for EEOAC meetings.
- (3) Support EEOAC meetings and interaction with Senior Management Officials.

P. Reporting requirements.

A copy of the minutes for each meeting for all RD EEOAC's will be forwarded to the Director, CRS, in the National Office.

oOo