Minnesota Department of Corrections

Policy:	**103.009**	**Title: Affirmative Action/Monitoring the Hiring Process**
Issue Date:	**8/16/16**	
Effective Date:	**9/6/16**	

AUTHORITY: Minnesota Management and Budget Administrative Procedure 19.1

PURPOSE: To establish and maintain the department's affirmative action program and provide clear direction to hiring supervisors on affirmative action responsibilities for certain competitive and non-competitive appointments to department positions that relate to meeting the department's affirmative action goals.

APPLICABILITY: Minnesota Department of Corrections (DOC); department-wide

POLICY: The DOC is committed to the establishment and maintenance of an affirmative action program. In accordance with Minnesota statutes and rules, an affirmative action plan is developed every two years and attached to this policy. The plan contains specific components, including program objectives and hiring goals for the department. The hiring goals and selection process procedures have been set to eliminate the underutilization of qualified protected group members, except where a bona fide occupational qualification exists. The groups, which the State of Minnesota has determined to be under-utilized in the workforce, include: (1) women, (2) ethnic/racial minorities, and (3) individuals with disabilities.

The Commissioner's executive team and managers are advised of the department goals and underutilizations for each job category for recruitment purposes. Department managers and supervisors must follow the procedures outlined below in order to eliminate the underutilization of qualified protected group members through a series of specific, result-oriented procedures combined with good faith efforts to consider affirmative action goals in selection decisions. The goals must be determined in the DOC affirmative action plan which utilizes the United States census recommendations and realistic workforce planning goals.

DEFINITIONS:

Affirmative applicant - an applicant who has identified that they are in a protected group (female, minority, individual with disability) and whose appointment would help meet DOC affirmative action plan goals.

Affirmative hire - an applicant in a protected group, which is determined to be underutilized by the DOC affirmative action plan, who is selected for the position.

Applicant pool – applicants who the department determines to meet the minimum qualifications for a position.

Commissioner's executive team - includes the Commissioner, deputy commissioners, and the assistant commissioners of the DOC.

EEO4 job categories - occupational categories applicable to state employment and assigned by the Equal Employment Opportunity Commission (EEOC) including: officials and administrators; professionals; technicians; protective services; office/clerical; skilled craft; and service maintenance.

Ethnic/racial minorities – refers to persons from the categories below. Person of mixed ethnic/racial background select the group with which they identify.

1. Black/African American (not Hispanic origin) – persons having origins in any of the black racial groups of Africa.

2. Hispanic – persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish ethnicity or origin, regardless of race.

3. American Indian or Alaskan Native – persons having origins from any of the original peoples of North America and who maintain cultural identification through tribal affiliation or community recognition.

4. Asian or Pacific Islander – persons having origins in any of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This category includes, for example, China, India, Korea, Japan, the Philippine Islands, Sri Lanka, and Samoa.

Finalist pool – refers to all applicants who are invited to interview. If the hiring supervisor intends to conduct second interviews, he/she must notify all finalist pool applicants prior to the first interviews that (1) second interviews will be conducted and (2) the requirement(s) to advance to the second interview. The second interview pool is the finalist pool.

Hiring goals – the Commissioner of Minnesota Management and Budget (MMB) establishes statewide goals for each EEO4job category by underutilized protected group based on the most current census available at the time the goals were established. The department goals must be based on comparison of the composition of the work force with the composition of the relevant civilian labor force in the reasonable recruitment area. If the comparison shows that a job category underutilizes a protected group, the commissioner establishes a goal for that disparity in the job category. EEO4 job categories are used as the basis for goal unit designators.

Individual with a disability - An individual with a disability

1. Has a physical, sensory, or mental impairment that substantially limits one or more major life activities;
2. Has a record or history of such impairment; or
3. Is regarded as having such impairment.

Justified non-affirmative hire - a non-affirmative finalist is selected for the position and is found to be substantially more qualified for the position than the highest scoring affirmative finalist.

Non-justified/missed opportunity hire – a non-affirmative finalist is selected for the position and is similarly or less qualified to the highest scoring affirmative finalist.

Recently separated veteran (RSV) – a veteran, as defined in Minn. Stat. §197.447, who has served in active military service, at any time on or after September 11, 2001, and who has been honorably discharged from active service, as shown by the person's form DD-214. The top five RSVs who meet the minimum qualifications for a vacant position and have claimed a veteran's or disabled veteran's preference must be invited to interview for the position.

PROCEDURES:

A. The DOC office of diversity is responsible for developing the department's affirmative action plan every two years and must file the plan with the MMB.

B. The office of diversity is responsible for posting the DOC affirmative action plan on the DOC office of diversity iShare site and DOC public website in an accessible format. Employees may request a copy from the office of diversity, facility affirmative action officer designee, or their manager/supervisor.

C. The human resources management (HRM) staffing unit, in collaboration with the hiring supervisor, documents the minimum and preferred qualifications, if applicable, for each vacancy.

D. The HRM staffing unit applies the affirmative action goals for applicable vacancies by reviewing the affirmative action goal report for the EEO4 job category and location of the vacancy at the time the vacancy is announced on the state careers website.

E. The HRM staffing unit refers to the hiring supervisor the applicants who appear to be minimally qualified, based upon a review of the applicants' resumes in comparison to the minimum qualifications on the vacancy announcement.

F. The hiring supervisor reviews and confirms with the HRM staffing unit, the pool of minimally qualified applicants to be reported by the HRM staffing unit on the MMB Monitoring the Hiring Process form (attached).

G. If a hiring supervisor needs to reduce the pool of applicants beyond the minimum qualifications to reach a reasonable number of applicants to interview, he/she must apply one or more of the preferred qualifications documented on the vacancy announcement.

1. The hiring supervisor does not need to apply all the preferred qualifications listed on the vacancy announcement when reducing the pool of applicants.

2. The preferred qualifications chosen to reduce the applicant pool must be applied consistently to all applicants (i.e. all applicants must meet the same preferred qualifications).

3. If a hiring supervisor needs to further reduce the pool of applicants after applying one or more posted preferred qualifications in order to reach a reasonable number to interview, the hiring supervisor may apply additional job-related selection criteria.

a) Prior to the hiring supervisor scheduling interviews, the HRM staffing unit must review and approve the additional selection criteria to confirm job-relatedness and demonstration of a good faith effort to hire and retain the best qualified and diverse work force.

b) The HRM staffing unit documents the use of additional selection criteria in DOC's transaction request form log.

c) The hiring supervisor must apply the additional selection criteria consistently to all applicants (i.e. all applicants must meet the same additional selection criteria).

H. The hiring supervisor consistently evaluates all applicants in the finalist pool using a structured interview process and/or other selection tools in all rounds of interviews.

1. The structured interview questions, scored anchors and other selection tools must relate to the job duties, and minimum and preferred qualifications listed on the vacancy announcement.

2. All selection tools require approval by the HRM staffing unit prior to use.

I. The hiring supervisor must contact the HRM staffing unit prior to extending a job offer to determine if affirmative applicant(s) is in the finalist pool.

1. The HRM staffing unit must notify the supervisor if an affirmative action pre-hire review process (attached) is required.

2. The affirmative action pre-hire review process is only required for positions that
   a) Have an underutilization of affirmative employees; and
   b) For which an affirmative action goal has been determined in the current DOC affirmative action plan.

K. The affirmative action pre-hire review process is not required for RSV applicants who are included in the finalist pool due to being minimally qualified but who do not meet the preferred qualifications chosen to limit the finalist pool.

L. If an affirmative finalist is not selected and an underutilization exists in the EEO4 job category, the hiring supervisor must complete the affirmative action pre-hire review process and forward to the affirmative action manager.

1. Non-justified non-affirmative hire
   a) If the affirmative action manager deems the hire request to be a non-justified/missed opportunity, the request must be approved by a deputy or assistant commissioner.
   b) No offer of employment may be made by the hiring supervisor until a member of the Commissioner's executive team approves a missed opportunity and informs the staffing representative of the decision.

2. Justified non-affirmative hire
   a) The affirmative action manager must review the documentation to determine if the non-affirmative finalist is substantially more qualified than the highest-scoring affirmative finalist in the finalist pool for which an underutilization exists.
   b) If the affirmative action manager deems the hire request to be a justified non-affirmative hire, the manager must
      1) Sign the affirmative action pre-hire review process documentation;
      2) Sign he MMB monitoring the hiring process form; and
      3) Notify the staffing representative of the decision.
   c) The documentation must be kept with the affirmative action manager and HRM staffing unit.
   d) No offer of employment may be made by the hiring supervisor until the affirmative action manager informs the staffing representative that the pre-hire review request to hire a non-affirmative finalist has been approved.

L. The staffing representative notifies the hiring supervisor of the affirmative action pre-hire review process decision.

1. The staffing representative then helps the supervisor through the remainder of the hiring process.

2. If the supervisor has a question regarding the decision, he/she may contact the DOC affirmative action manager.

N. Protected group status of an applicant is not identified as public information pursuant to the Minnesota Government Data Practices Act, which governs collection and disclosure of all data; including defining the public personnel and applicant data that may be released (Minn. Stat. § 13.43, subd. 3).

1. HRM must not disclose the protected group status of applicants.

2. However, hiring supervisors is notified by the HRM staffing unit if an affirmative action pre-hire review is required.

O. The HRM staffing unit must record applicant screening and selection actions in the state's applicant database system.

INTERNAL CONTROLS:

A. The DOC affirmative action plan is developed and filed with MMB every two years.

B. Applicant screening and selection actions are recorded in the state's applicant database system.

C. Vacancy-filling information, including the affirmative action pre-hire review materials are retained by the HRM staffing unit and the office of diversity for four years from the date of the personnel action to which the records relate, in accordance with the DOC human resources record retention schedule.

REVIEW: Annually

REFERENCES: Minnesota DOC Affirmative Action Plan
Minn. Stat. § 43A.02, subd. 33
Minn. Stat. § 43A.04, subd 3
Minn. Stat. § 43A.11, subd. 7
Minn. Stat. § 43A.19
Minn. Stat. § 43A.191, subd. 2
Minn. Stat. § 197.447
Minn. Stat. § 13.43, subd. 3
Minn. Rules Ch. 3900, "Personnel"
Minn. Rules Ch. 3905, "State Agencies, Affirmative Action"
Minnesota Department of Human Rights
Equal Employment Opportunity Commission
ACA Standards: 2-CO-1C-01, 4-4048, 4-APPFS-3E-02, 4-APPFS-3E-04, 2-CO-1C-09, 4-4053

SUPERSESSION: Policy 103.009, "Affirmative Action/Monitoring the Hiring Process," 9/17/13. All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENT: Affirmative Action Pre Hire Process (103.009A)

/s/
Deputy Commissioner, Facility Services

Deputy Commissioner, Community Services