

Affirmative Action Plan

Special Program Plan for the Recruitment, Hiring, Advancement, and Retention of Persons with Disabilities

To capture agencies' affirmative action plan for persons with disabilities (PWD) and persons with targeted disabilities (PWTD), EEOC regulations (29 C.F.R. § 1614.203(e)) and MD-715 require agencies to describe how their plan will improve the recruitment, hiring, advancement, and retention of applicants and employees with disabilities. All agencies, regardless of size, must complete this Part of the MD-715 report.

Section I: Efforts to Reach Regulatory Goals

EEOC regulations (29 C.F.R. § 1614.203(d)(7)) require agencies to establish specific numerical goals for increasing the participation of persons with reportable and targeted disabilities in the federal government.

1. Using the goal of 12% as the benchmark, does your agency have a trigger involving PWD by grade level cluster in the permanent workforce? If "yes", describe the trigger(s) in the text box.

a. Cluster GS-1 to GS-10 (PWD)	No
b. Cluster GS-11 to SES (PWD)	No

2. Using the goal of 2% as the benchmark, does your agency have a trigger involving PWTD by grade level cluster in the permanent workforce? If "yes", describe the trigger(s) in the text box.

a. Cluster GS-1 to GS-10 (PWTD)	Yes
b. Cluster GS-11 to SES (PWTD)	Yes

At present, none of our 67 employees are PWTD.

3. Describe how the agency has communicated the numerical goals to the hiring managers and/or recruiters.

The goals were conveyed during a Management Meeting, which was attended by key personnel involved in the hiring/recruiting process.

Section II: Model Disability Program

Pursuant to 29 C.F.R. §1614.203(d)(1), agencies must ensure sufficient staff, training and resources to recruit and hire persons with disabilities and persons with targeted disabilities, administer the reasonable accommodation program and special emphasis program, and oversee any other disability hiring and advancement program the agency has in place.

A. PLAN TO PROVIDE SUFFICIENT & COMPETENT STAFFING FOR THE DISABILITY PROGRAM

1. Has the agency designated sufficient qualified personnel to implement its disability program during the reporting period? If “no”, describe the agency’s plan to improve the staffing for the upcoming year.

Yes

--

2. Identify all staff responsible for implementing the agency’s disability employment program by the office, staff employment status, and responsible official.

Disability Program Task	# of FTE Staff by Employment Status			Responsible Official (Name, Title, Office, Email)
	Full Time	Part Time	Collateral Duty	
Processing applications from PWD and PWTD			1	Office of the Executive Director (OED): Lisa Boyd, lboyd@fmshrc.gov
Answering questions from the public about hiring authorities that take disability into account			2	OED: Lisa Boyd, Tammy Russell, trussell@fmshrc.gov
Processing reasonable accommodation requests from applicants and employees			1	Disability Program Coordinator: Tammy Russell, trussell@fmshrc.gov)
Section 508 Compliance			1	OED: Theodosia Villatora-Sorto, tvillatoro-sorto@fmshrc.gov
Architectural Barriers Act Compliance			1	OED: Theodosia Villatora-Sorto, tvillatoro-sorto@fmshrc.gov

Special Emphasis Program for PWD and PWTD			2	DPC: Tammy Russell, trussell@fmshrc.gov
---	--	--	---	---

- Has the agency provided disability program staff with sufficient training to carry out their responsibilities during the reporting period? If “yes”, describe the training that disability program staff have received. If “no”, describe the training planned for the upcoming year.

Yes

Relevant personnel are required to take an online training course on hiring and retaining individuals with disabilities. This training will be provided biennially and whenever new personnel takes on relevant duties.

B. PLAN TO ENSURE SUFFICIENT FUNDING FOR THE DISABILITY PROGRAM

Has the agency provided sufficient funding and other resources to successfully implement the disability program during the reporting period? If “no”, describe the agency’s plan to ensure all aspects of the disability program have sufficient funding and other resources.

Yes

Section III: Plan to Recruit and Hire Individuals with Disabilities

Pursuant to 29 C.F.R. § 1614.203(d)(1)(i) and (ii), agencies must establish a plan to increase the recruitment and hiring of individuals with disabilities. The questions below are designed to identify outcomes of the agency’s recruitment program plan for PWD and PWTD.

A. PLAN TO IDENTIFY JOB APPLICANTS WITH DISABILITIES

- Describe the programs and resources the agency uses to identify job applicants with disabilities, including individuals with targeted disabilities.

The Commission uses the Office of Personnel Management’s Shared List of People with Disabilities, and the Department of Labor’s Workforce Recruitment Program Database.

- Pursuant to 29 C.F.R. § 1614.203(a)(3), describe the agency’s use of hiring authorities that take disability into account (e.g., Schedule A) to recruit PWD and PWTD for positions in the permanent workforce.

The Commission uses Schedule A and Veterans Recruitment appointments.

3. When individuals apply for a position under a hiring authority that takes disability into account (e.g., Schedule A), explain how the agency (1) determines if the individual is eligible for appointment under such authority and (2) forwards the individual's application to the relevant hiring officials with an explanation of how and when the individual may be appointed.

The Commission determines eligibility by reviewing the OPM's shared roster of applicants with a disability. (1) Applicants on OPM's shared listing have a certification attached to their online resume. The OPM certification states that the person has been certified with at least a 30% disability. The applicant's resume is then compared to the position description to ensure that the applicant meets the standards listed under "Knowledge Required for the Position." (2) Upon management selection of an applicant, the resume and additional paperwork is submitted to personnel for review and concurrence indicating that the applicant meets all qualification standards presented in the position description. Once personnel approve the package, the servicing personnel HR specialist may require the applicant to submit additional paperwork to them directly. The Executive Director and designated staff are notified by personnel with the approval to appoint, and at the approved grade level based on the qualification standards.

4. Has the agency provided training to all hiring managers on the use of hiring authorities that take disability into account (e.g., Schedule A)? If "yes", describe the type(s) of training and frequency. If "no", describe the agency's plan to provide this training.

Yes

Hiring managers are included in the training on hiring and retaining individuals with disabilities taken by disability program staff. This training will be provided biennially and whenever new personnel takes on relevant duties.

B. PLAN TO ESTABLISH CONTACTS WITH DISABILITY EMPLOYMENT ORGANIZATIONS

Describe the agency's efforts to establish and maintain contacts with organizations that assist PWD, including PWTD, in securing and maintaining employment.

The Commission does not currently have such contacts. We have plans to establish contacts with law-related disability employment organizations to diversify outreach for our law clerk recruiting (ex. Bar Association / Law School affinity groups).

C. PROGRESSION TOWARDS GOALS (RECRUITMENT AND HIRING)

1. Using the goals of 12% for PWD and 2% for PWTD as the benchmarks, do triggers exist for PWD and/or PWTD among the new hires in the permanent workforce? If "yes", please describe the triggers below.

a. New Hires for Permanent Workforce (PWD)	No
b. New Hires for Permanent Workforce (PWTD)	Yes

While a full 50% of our permanent new hires are PWD, we had no PWTD new hires.

2. Using the qualified applicant pool as the benchmark, do triggers exist for PWD and/or PWTD among the new hires for any of the mission-critical occupations (MCO)? If “yes”, please describe the triggers below.

- | | |
|-----------------------------|------------|
| a. New Hires for MCO (PWD) | Yes |
| b. New Hires for MCO (PWTD) | Yes |

None of the three MCO new hires for FY2019 have self-identified as PWD or PWTD.

3. Using the relevant applicant pool as the benchmark, do triggers exist for PWD and/or PWTD among the qualified *internal* applicants for any of the mission-critical occupations (MCO)? If “yes”, please describe the triggers below.

- | | |
|--|-----------|
| a. Qualified Applicants for MCO (PWD) | No |
| b. Qualified Applicants for MCO (PWTD) | No |

No internal new hires in MCOs.

4. Using the qualified applicant pool as the benchmark, do triggers exist for PWD and/or PWTD among employees promoted to any of the mission-critical occupations (MCO)? If “yes”, please describe the triggers below.

- | | |
|------------------------------|-----------|
| a. Promotions for MCO (PWD) | No |
| b. Promotions for MCO (PWTD) | No |

No promotions to MCOs.

Section IV: Plan to Ensure Advancement Opportunities for Employees with Disabilities

Pursuant to 29 C.F.R §1614.203(d)(1)(iii), agencies are required to provide sufficient advancement opportunities for employees with disabilities. Such activities might include specialized training and mentoring programs, career development opportunities, awards programs, promotions, and similar programs that address advancement. In this section, agencies should identify, and provide data on programs designed to ensure advancement opportunities for employees with disabilities.

A. ADVANCEMENT PROGRAM PLAN

Describe the agency’s plan to ensure PWD, including PWTD, have sufficient opportunities for advancement.

The Commission plans to ensure PWD and PWTD have sufficient opportunities for advancement, in the positions where appropriate, by recruiting and assigning new employees to lateral positions and providing an opportunity for them to be reassigned to positions for which they qualify within the Commission.

B. CAREER DEVELOPMENT OPPORTUNITIES

1. Please describe the career development opportunities that the agency provides to its employees.

Managers are encouraged to prepare individual development plans with employees, outlining courses to assist with career development opportunities where practical, and discussing options both within and outside of the agency. The Commission does not have specific programs for career development.

2. In the table below, please provide the data for career development opportunities that require competition and/or supervisory recommendation/approval to participate.

Career Development Opportunities	Total Participants		PWD		PWTD	
	Applicants (#)	Selectees (#)	Applicants (%)	Selectees (%)	Applicants (%)	Selectees(%)
Internship Programs	N/A					
Fellowship Programs	N/A					
Mentoring Programs	N/A					
Coaching Programs	N/A					
Training Programs	N/A					
Detail Programs	N/A					
Other Career Development Programs	N/A					

3. Do triggers exist for PWD among the applicants and/or selectees for any of the career development programs? (The appropriate benchmarks are the relevant applicant pool for the applicants and the applicant pool for selectees.) If “yes”, describe the trigger(s) in the text box.

a. Applicants (PWD) N/A

- b. Selections (PWD) N/A

N/A

4. Do triggers exist for PWTD among the applicants and/or selectees for any of the career development programs identified? (The appropriate benchmarks are the relevant applicant pool for applicants and the applicant pool for selectees.) If “yes”, describe the trigger(s) in the text box.

- a. Applicants (PWTD) N/A
- b. Selections (PWTD) N/A

N/A

C. AWARDS

1. Using the inclusion rate as the benchmark, does your agency have a trigger involving PWD and/or PWTD for any level of the time-off awards, bonuses, or other incentives? If “yes”, please describe the trigger(s) in the text box.

- a. Awards, Bonuses, & Incentives (PWD) **No**
- b. Awards, Bonuses, & Incentives (PWTD) **No**

2. Using the inclusion rate as the benchmark, does your agency have a trigger involving PWD and/or PWTD for quality step increases or performance-based pay increases? If “yes”, please describe the trigger(s) in the text box.

- a. Pay Increases (PWD) N/A
- b. Pay Increases (PWTD) N/A

N/A: step increases are non-competitive (time in grade) rather than being granted based on performance.

3. If the agency has other types of employee recognition programs, are PWD and/or PWTD recognized disproportionately less than employees without disabilities? (The appropriate benchmark is the inclusion rate.) If “yes”, describe the employee recognition program and relevant data in the text box.

- a. Other Types of Recognition (PWD) N/A
- b. Other Types of Recognition (PWTD) N/A

NA

D. PROMOTIONS

1. Does your agency have a trigger involving PWD among the qualified *internal* applicants and/or selectees for promotions to the senior grade levels? (The appropriate benchmarks are the relevant applicant pool for qualified internal applicants and the qualified applicant pool for selectees.) For non-GS pay plans, please use the approximate senior grade levels. If “yes”, describe the trigger(s) in the text box.

a. SES

- | | |
|--|-----|
| i. Qualified Internal Applicants (PWD) | N/A |
| ii. Internal Selections (PWD) | N/A |

b. Grade GS-15

- | | |
|--|-----|
| i. Qualified Internal Applicants (PWD) Yes 0 | N/A |
| ii. Internal Selections (PWD) | N/A |

c. Grade GS-14

- | | |
|--|-----|
| i. Qualified Internal Applicants (PWD) Yes 0 | N/A |
| ii. Internal Selections (PWD) | N/A |

d. Grade GS-13

- | | |
|--|-----|
| i. Qualified Internal Applicants (PWD) | N/A |
| ii. Internal Selections (PWD) | N/A |

We did not have any promotions to senior grade levels in FY 2019.

2. Does your agency have a trigger involving PWTD among the qualified *internal* applicants and/or selectees for promotions to the senior grade levels? (The appropriate benchmarks are the relevant applicant pool for qualified internal applicants and the qualified applicant pool for selectees.) For non-GS pay plans, please use the approximate senior grade levels. If “yes”, describe the trigger(s) in the text box.

- a. SES
 - i. Qualified Internal Applicants (PWTD) N/A
 - ii. Internal Selections (PWTD) N/A
- b. Grade GS-15
 - i. Qualified Internal Applicants (PWTD) N/A
 - ii. Internal Selections (PWTD) N/A
- c. Grade GS-14
 - i. Qualified Internal Applicants (PWTD) N/A
 - ii. Internal Selections (PWTD) N/A
- d. Grade GS-13
 - i. Qualified Internal Applicants (PWTD) N/A
 - ii. Internal Selections (PWTD) N/A

We did not have any promotions to senior grade levels in FY 2019.

3. Using the qualified applicant pool as the benchmark, does your agency have a trigger involving PWD among the new hires to the senior grade levels? For non-GS pay plans, please use the approximate senior grade levels. If “yes”, describe the trigger(s) in the text box.

- a. New Hires to SES (PWD) N/A
- b. New Hires to GS-15 (PWD) N/A
- c. New Hires to GS-14 (PWD) N/A
- d. New Hires to GS-13 (PWD) **No**

As we only had one GS15 new hire, we decline to answer on grounds of confidentiality. (We had no GS14 or SES new hires, and have no trigger for GS13 new hires).

4. Using the qualified applicant pool as the benchmark, does your agency have a trigger involving PWTD among the new hires to the senior grade levels? For non-GS pay plans, please use the approximate senior grade levels. If “yes”, describe the trigger(s) in the text box.

- | | |
|------------------------------|-----|
| a. New Hires to SES (PWTD) | N/A |
| b. New Hires to GS-15 (PWTD) | Yes |
| c. New Hires to GS-14 (PWTD) | N/A |
| d. New Hires to GS-13 (PWTD) | Yes |

We did not have any PWTD among our new hires to senior grade levels.
--

5. Does your agency have a trigger involving PWD among the qualified *internal* applicants and/or selectees for promotions to supervisory positions? (The appropriate benchmarks are the relevant applicant pool for qualified internal applicants and the qualified applicant pool for selectees.) If “yes”, describe the trigger(s) in the text box.

- | | | |
|--|--|-----|
| a. Executives | | |
| i. Qualified Internal Applicants (PWD) | | N/A |
| ii. Internal Selections (PWD) | | N/A |
| b. Managers | | |
| i. Qualified Internal Applicants (PWD) | | N/A |
| ii. Internal Selections (PWD) | | N/A |
| c. Supervisors | | |
| i. Qualified Internal Applicants (PWD) | | N/A |
| ii. Internal Selections (PWD) | | N/A |

We did not have any promotions to supervisory positions in FY 2019.

6. Does your agency have a trigger involving PWTD among the qualified *internal* applicants and/or selectees for promotions to supervisory positions? (The appropriate benchmarks are the relevant applicant pool for qualified internal applicants and the qualified applicant pool for selectees.) If “yes”, describe the trigger(s) in the text box.
- a. Executives
 - i. Qualified Internal Applicants (PWTD) N/A
 - b. Internal Selections (PWTD) N/A
 - c. Managers
 - i. Qualified Internal Applicants (PWTD) N/A
 - ii. Internal Selections (PWTD) N/A
 - d. Supervisors
 - i. Qualified Internal Applicants (PWTD) N/A
 - ii. Internal Selections (PWTD) N/A

We did not have any promotions to supervisory positions in FY 2019.

7. Using the qualified applicant pool as the benchmark, does your agency have a trigger involving PWD among the selectees for new hires to supervisory positions? If “yes”, describe the trigger(s) in the text box.
- a. New Hires for Executives (PWD) **Yes**
 - b. New Hires for Managers (PWD) **N/A**
 - c. New Hires for Supervisors (PWD) **N/A**

We had 3 new hires to supervisory (executive) positions, with no self-identified PWD.

8. Using the qualified applicant pool as the benchmark, does your agency have a trigger involving PWTD among the selectees for new hires to supervisory positions? If “yes”, describe the trigger(s) in the text box.
- a. New Hires for Executives (PWTD) Yes
 - b. New Hires for Managers (PWTD) N/A
 - c. New Hires for Supervisors (PWTD) N/A

See above

Section V: Plan to Improve Retention of Persons with Disabilities

To be a model employer for persons with disabilities, agencies must have policies and programs in place to retain employees with disabilities. In this section, agencies should: (1) analyze workforce separation data to identify barriers retaining employees with disabilities; (2) describe efforts to ensure accessibility of technology and facilities; and (3) provide information on the reasonable accommodation program and workplace personal assistance services.

A. VOLUNTARY AND INVOLUNTARY SEPARATIONS

1. In this reporting period, did the agency convert all eligible Schedule A employees with a disability into the competitive service after two years of satisfactory service (5 C.F.R. § 213.3102(u)(6)(i))? If “no”, please explain why the agency did not convert all eligible Schedule A employees.

N/A

We did not have any Schedule A employees in FY2019

2. Using the inclusion rate as the benchmark, did the percentage of PWD among voluntary and involuntary separations exceed that of persons without disabilities? If “yes”, describe the trigger below.

- | | |
|----------------------------------|-----------|
| a. Voluntary Separations (PWD) | No |
| b. Involuntary Separations (PWD) | No |

3. Using the inclusion rate as the benchmark, did the percentage of PWTD among voluntary and involuntary separations exceed that of persons without targeted disabilities? If “yes”, describe the trigger below.

- | | |
|-----------------------------------|-----------|
| a. Voluntary Separations (PWTD) | No |
| b. Involuntary Separations (PWTD) | No |

4. If a trigger exists involving the separation rate of PWD and/or PWTD, please explain why they left the agency using exit interview results and other data sources.

No trigger exists.

B. ACCESSIBILITY OF TECHNOLOGY AND FACILITIES

Pursuant to 29 C.F.R. § 1614.203(d)(4), federal agencies are required to inform applicants and employees of their rights under Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. § 794(b), concerning the accessibility of agency technology, and the Architectural Barriers Act of 1968 (42 U.S.C. § 4151-4157), concerning the accessibility of agency facilities. In addition, agencies are required to inform individuals where to file complaints if other agencies are responsible for a violation.

1. Please provide the internet address on the agency's public website for its notice explaining employees' and applicants' rights under Section 508 of the Rehabilitation Act, including a description of how to file a complaint.

<https://www.fmshrc.gov/documents/notice-rights-accessibility-technology-and-facilities>

2. Please provide the internet address on the agency's public website for its notice explaining employees' and applicants' rights under the Architectural Barriers Act, including a description of how to file a complaint.

<https://www.fmshrc.gov/documents/notice-rights-accessibility-technology-and-facilities>

3. Describe any programs, policies, or practices that the agency has undertaken, or plans on undertaking over the next fiscal year, designed to improve accessibility of agency facilities and/or technology.

To our knowledge all agency facilities and technology are already accessible, however we will work to ensure that any future technologies are accessible, and work to ensure that we properly respond to any feedback and/or complaints regarding accessibility issues.

C. REASONABLE ACCOMMODATION PROGRAM

Pursuant to 29 C.F.R. § 1614.203(d)(3), agencies must adopt, post on their public website, and make available to all job applicants and employees, reasonable accommodation procedures.

1. Please provide the average time frame for processing initial requests for reasonable accommodations during the reporting period. (Please do not include previously approved requests with repetitive accommodations, such as interpreting services.)

We had two reasonable accommodation requests in FY2019. While the paperwork with exact dates is currently unavailable (COVID-19 telework), both requests were timely processed within 30 days.

2. Describe the effectiveness of the policies, procedures, or practices to implement the agency's reasonable accommodation program. Some examples of an effective program include timely processing requests, timely providing approved accommodations, conducting training for managers and supervisors, and monitoring accommodation requests for trends.

During FY2019 we improved and streamlined process for requesting and providing medical information.

D. PERSONAL ASSISTANCE SERVICES ALLOWING EMPLOYEES TO PARTICIPATE IN THE WORKPLACE

Pursuant to 29 C.F.R. § 1614.203(d)(5), federal agencies, as an aspect of affirmative action, are required to provide personal assistance services (PAS) to employees who need them because of a targeted disability, unless doing so would impose an undue hardship on the agency.

Describe the effectiveness of the policies, procedures, or practices to implement the PAS requirement. Some examples of an effective program include timely processing requests for PAS, timely providing approved services, conducting training for managers and supervisors, and monitoring PAS requests for trends.

Our PAS policy is included in our Reasonable Accommodations Policy. We have not yet processed any PAS requests.

Section VI: EEO Complaint and Findings Data

A. EEO COMPLAINT DATA INVOLVING HARASSMENT

1. During the last fiscal year, did a higher percentage of PWD file a formal EEO complaint alleging harassment, as compared to the government-wide average?

N/A

2. During the last fiscal year, did any complaints alleging harassment based on disability status result in a finding of discrimination or a settlement agreement?

N/A

3. If the agency had one or more findings of discrimination alleging harassment based on disability status during the last fiscal year, please describe the corrective measures taken by the agency.

N/A: No complaints alleging harassment based on disability were filed, active or resolved during FY 2019

B. EEO COMPLAINT DATA INVOLVING REASONABLE ACCOMMODATION

1. During the last fiscal year, did a higher percentage of PWD file a formal EEO complaint alleging failure to provide a reasonable accommodation, as compared to the government-wide average?

N/A

2. During the last fiscal year, did any complaints alleging failure to provide reasonable accommodation result in a finding of discrimination or a settlement agreement?

N/A

3. If the agency had one or more findings of discrimination involving the failure to provide a reasonable accommodation during the last fiscal year, please describe the corrective measures taken by the agency.

N/A: no complaints alleging failure to provide reasonable accommodation were filed, active or resolved during FY 2019

Section VII: Identification and Removal of Barriers

Element D of MD-715 requires agencies to conduct a barrier analysis when a trigger suggests that a policy, procedure, or practice may be impeding the employment opportunities of a protected EEO group.

1. Has the agency identified any barriers (policies, procedures, and/or practices) that affect employment opportunities for PWD and/or PWTD?

No

2. Has the agency established a plan to correct the barrier(s) involving PWD and/or PWTD?

No

3. Identify each trigger and plan to remove the barrier(s), including the identified barrier(s), objective(s), responsible official(s), planned activities, and, where applicable, accomplishments.

Trigger 1	0% PWTD in workforce	
Barrier(s)	Not yet identified	
Objective(s)	Meet or exceed 2% goal	
Responsible Official(s)		Performance Standards Address the Plan? (Yes or No)
Disability Program Coordinator; EEO Director		No
Barrier Analysis Process Completed? (Yes or No)		Barrier(s) Identified? (Yes or No)
No		No
Sources of Data	Sources Reviewed? (Yes or No)	Identify Information Collected
Workforce Data Tables	Yes	
Complaint Data (Trends)	N/A	
Grievance Data (Trends)	N/A	
Findings from Decisions (e.g., EEO, Grievance, MSPB, Anti-Harassment Processes)	N/A	
Climate Assessment Survey (e.g., FEVS)	N/A	
Exit Interview Data	N/A	
Focus Groups	N/A	
Interviews	N/A	
Reports (e.g., Congress, EEOC, MSPB, GAO, OPM)	N/A	
Other (Please Describe)	N/A	

4. Please explain the factor(s) that prevented the agency from timely completing any of the planned activities.

Trigger recently identified; agency currently conducting analysis and putting together a plan to identify and address relevant barriers.

5. For the planned activities that were completed, please describe the actual impact of those activities toward eliminating the barrier(s).

N/A

6. If the planned activities did not correct the trigger(s) and/or barrier(s), please describe how the agency intends to improve the plan for the next fiscal year.

N/A