

2012 EEO AFFIRMATIVE ACTION PLAN UPDATE

Prepared by

**NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION**
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PART I

I. CONTRACTOR COMPLIANCE AND EXTERNAL EEO PROGRAM INFORMATION

A. ORGANIZATION, RESOURCES, AND STRUCTURE

1. The Office of Operations Director, Darcy Rosendahl, retired from the department on June 24, 2011. Ronald J. Henke, the department's Office of Project Development Director, was selected to fill the position effective July 11, 2011. The Office of Operations includes the Civil Rights, Construction Services, and Maintenance Divisions.
2. The Office of Transportation Programs Director, Bob A. Fode, was selected as the department's new Office of Project Development Director effective September 1, 2011. The Office of Project Development includes the Bridge, Design, Environmental & Transportation Services, and Materials & Research Divisions.
3. The Programming Division Director, Steve S. Salwei, was selected as the department's new Office of Transportation Programs Director effective October 1, 2011. The Office of Transportation Programs includes the Local Government, Planning and Asset Management, and Programming Divisions.
4. The Civil Rights Division (CRD) Director, Deborah J. Igoe, retired from the department on December 31, 2011. Prior to her leaving, a new director, E. Diane Laub, was selected on August 1, 2011. Ms. Laub has a Bachelor of Business Administration and a Master's in Public Administration from the University of North Dakota.
5. Introductions to the new Office of Operations and CRD Directors were included in the October 21, 2011, issue of the department's DBE Supportive Services Newsletter. This newsletter is made available online to the contracting industry prior to every bid opening.
6. There were no other significant changes in the current organization alignment, resources, and staff assigned to CRD or the responsibilities of the CRD staff.

B. COMPLIANCE PROCEDURES

1. In early 2010, the department developed a request for proposals (RFP) for a state-funded disadvantaged business enterprise (DBE) supportive services contract. As a result, a six-month contract was entered into with Agency

MABU, a department-certified DBE firm. The contract began April 9 and ended September 30, 2010. The contract was then extended for a one-year period beginning October 1, 2010, and ending September 30, 2011. The contract has since been extended for another year beginning October 1, 2011, and ending September 30, 2012.

2. In January 2011, the department developed an RFP for its on-the-job training (OJT) supportive services contract. The RFP was advertised to the public on January 27, and proposals were due on March 3, 2011. As a result, the department entered into a nine-month contract with Wold Engineering, P.C., beginning April 1 and ending December 31, 2011. The contract has since been extended for a twelve-month period beginning January 1 and ending December 31, 2012.
3. In February 2012, the department's DBE supportive services contractor, in coordination with CRD, presented four online training sessions to department-certified DBE firms. The training topics were selected based on feedback received from the DBE firms as a result of a needs assessment survey conducted by the DBE supportive services contractor in December 2010. The sessions included:
 - February 7: 2012 NDDOT Outlook, Civil Rights Division Update and Correct Quoting Procedures - Ron Henke, Office of Operations Director; E. Diane Laub, Civil Rights Division Director; Pat Krieger, Civil Rights Program Administrator; and Amy Conklin CRD Administrative Assistant, NDDOT
 - February 9: Business Safety and Risk Management - Keven Anderson, Upper Great Plains Transportation Institute
 - February 14: Finding, Hiring, and Retaining Workforce - Jason Sutheimer, Human Resource Management Services, ND Office of Management and Budget
 - February 16: Bookkeeping: Best Practices and Resources - Deb Eslinger, Center of Technology and Business

Approximately eighteen individuals representing seventeen DBE firms took advantage of the training. In its March 2012 issue of the DBE Supportive Services Newsletter, the department announced that any DBE firms who were unable to attend the live training sessions may access the presentations and session recordings at any time through links provided in the announcement.

4. As was reported in our last three updates, the department revised its OJT Contract Special Provision on April 1, 2008. The formula used in determining the number of trainee positions assigned to contractors was adjusted due to an increase in the dollar amount of project materials. After reviewing the Construction Cost Index maintained by the Programming Division, the department determined no adjustment would be made to the formula for the 2012 construction season. However, the OJT Contract Special Provision was revised on October 1, 2011, to include:
 - A nonpayment clause should a contractor fail to provide the required training or to hire the trainee as a journeyworker.
 - A requirement for trainees working on a state funded only project to be paid the Davis-Bacon wage rate in effect at the time of award of the stated funded project for the type of work the trainee is performing.

5. With the advent of electronic bidding in North Dakota, the department no longer has the opportunity to jointly sit down and discuss issues as it did before. Therefore, in a continuing effort to communicate with the industry, the department hosted one NDDOT/Contractors Liaison Meeting during the reporting period. The November 14, 2011, meeting was video-conferenced from the central office to sites at the Devils Lake, Dickinson, Fargo, Grand Forks, Minot, Valley City, and Williston Districts. Agenda items included:
 - a. Introductions, including those of the department's new Office of Operations and CRD Directors.
 - b. Federal and state legislative update.
 - c. FHWA EDC Advisory Group.
 - d. Mandatory internet bidding with NDDOT starting July 1, 2012.
 - e. Major DBE regulation changes published in January 2011 and subsequent revisions to the department's DBE Program.
 - f. The department's tri-annual DBE goal for FY 2012-2014 is 7.40%. Currently, the department is at 6.35%.
 - g. The department's annual DBE goal for FY 2011 was 7.32%. The department achieved 7.27%.
 - h. Internet/Audience Questions and Answers.

6. Many states are now mandating electronic bids for all their contracts regardless of the size of the project. Mandating electronic bids has been proven to cut down on bidding errors and makes it possible to process bid results more efficiently. Therefore, beginning July 1, 2012, the department will mandate that all bids be submitted using the "Two-way electronic bidding method." On September 27, 2011, the department sent a notice to the industry regarding this mandate. The mandate was also discussed at the NDDOT/Contractors Liaison Meeting held on November 14, 2011. The July 1 implementation date will give potential bidders ample time to set up a bidding account with Bid Express if they currently do not have an account.

7. On June 21-22, 2011, the Federal Highway Administration (FHWA) Division Office hosted the National Highway Institute (NHI) Contract Administration Core Curriculum Course at the Comfort Inn in Bismarck. The course covered FHWA's requirements and policies for federal-aid construction contracts including subjects such as nondiscrimination, nonsegregated facilities, payment of predetermined minimum wages, compliance statements, and payrolls. Course presenters were Douglas Townes, NHI Instructor, Atlanta, Georgia, and Bernie Kuta, NHI Instructor, Lakewood, Colorado. Approximately twenty-five department staff attended the training, including two of the Civil Rights Program Administrators and the CRD Administrative Assistant. The agenda items included:
 - a. Federal Statutes and Regulations
 - Buy America
 - DBE
 - Drug Free Workplace
 - Equipment
 - Foreign Contractor and Supplier Restriction
 - Indian Preference on Federal-aid Projects
 - Materials
 - Noncollusion Statement
 - OJT
 - Public Agencies in Competition with the Private Sector
 - Public Interest/Cost Effectiveness Findings
 - Required Contract Provisions (FHWA Form 1273)
 - Salvage Credits
 - Standardized Changed Conditions Contract Clauses

 - b. State Procedures
 - Pre-award

- Post-award
- c. Office of Inspector General Overview and Guidance
 - d. Other Topics/Issues
 - Architect/Engineer Consultant Procurement
 - Emergency Relief (ER) Projects
 - Intelligent Transportation System (ITS) Projects
 - National Recreational Trails Program
 - Non-traditional Contracting Practices
 - Project Labor Agreements
 - Transportation Enhancement Projects
 - Wrap-up Insurance
8. Both the outgoing and the new CRD Directors and an Agency MABU staff member attended the last day of the 15th Annual Intertribal Council Summit and associated conferences held at the Civic Center in Bismarck on September 7-9, 2011. This annual gathering is an opportunity for Tribal leaders from around the region to exchange information about current issues in Indian Country. The summit was a collaborative event featuring two related conferences: Tribal Leaders Summit XIV and Tribal Transportation Planners Conference. The outgoing CRD Director participated as a panel member at a "Contracting Opportunities with State, Local, and Tribal Governments" session associated with the Tribal Leaders Summit on September 9. Ms. Igoe spoke on transportation-related procurement opportunities for the coming year and distributed a "Funding Facts" handout that also contained department-related web sites. Both CRD Directors and the Agency MABU staff member also attended a "Meet and Greet/Matchmaking" session to visit one-on-one with American Indian firms about DBE certification and procurement opportunities.
 9. One of the Civil Rights Program Administrators attended a "Prevailing Wage Online Conference For Government Contracting Officials" on October 4, 2011. This free webinar was hosted by the U.S. Department of Labor's Wage and Hour Division and was open to federal, state, and local contracting officials. Information on federal rules concerning prevailing wages and other labor law requirements was provided to participants. Conference participants learned about:
 - a. The Davis-Bacon Act and McNamara O'Hara Service Contract Act.

- b. The process of obtaining wage determinations and adding classifications.
- c. Compliance assistance and enforcement processes.
- d. The process for appealing wage rates, coverage, and compliance determinations.
- e. The labor standards provisions of the American Recovery and Reinvestment Act of 2009.

C. ACCOMPLISHMENTS FOR PAST FY 2011
(March 15, 2011, through March 14, 2012)

1. Contractor Compliance Review Activities:

- a. For federal fiscal year 2011 (October 1, 2010, through September 30, 2011), the department had established a goal of ten contractor compliance reviews. Five contractor reviews were conducted during this period. A sixth review was scheduled for September 8 but was postponed until October 6 due to the project's late start date. This review will count toward the department's 2012 goal.

The shortfall was due to excessive snowfall, rainfall, and flooding in the state. This affected the industry's opportunity and ability to begin work in the spring. Some of the flooding lasted six to eight weeks past the state's usual startup date of June 1.

Preference was again given to contractors that have never participated in a review before.

- b. Data on contractor compliance reviews for federal FY 2011:

(1) Number of compliance reviews conducted	<u>5</u>
(2) Number of contractors reviewed	<u>5</u>
(3) Number of contractors found in compliance	<u>5</u>
(4) Number of contractors found in noncompliance	<u>0</u>
(5) Number of show cause notices issued	<u>0</u>
(6) Number of show cause notices rescinded	<u>0</u>

(7) Number of show cause notices still under conciliation and unresolved 0

(8) Number of follow-up reviews conducted 0

c. The department underwent an FHWA assessment of its Title VII (Internal EEO), OJT, and Contractor Compliance Review Programs during the week of August 1-4, 2011. The assessment included a start-up briefing with executive management, interviews with the CRD and Human Resources Division (HRD) Directors and other staff members, and a close-out briefing with executive management. As a result, no recommendations were made for improvements in the OJT and Contractor Compliance Review Program areas.

2. Contract Sanctions:

No progress payments were withheld from contractors for failure to comply with EEO requirements.

There were no changes in the department's policies concerning contract sanctions.

3. EEO Complaints Against Contractors:

The department is not aware of any discrimination complaints filed against contractors during the reporting period.

4. Innovative Programs - Action Items Planned for FY 2012

a. Program Management:

At this time, the department is not aware of any significant program management changes contemplated or anticipated.

b. Contractor Compliance Review Activities:

The department is establishing a contractor compliance review goal of ten (10) for FY 2012. As was reported in our last update, the department revisited its selection criteria for possible revisions. Beginning with the 2010 construction season, the prime contract or subcontract amount must be at least \$3 million in order for the contractor to be considered for review. The amount was raised due to the high cost of construction materials, which is resulting in smaller projects of shorter duration. The department otherwise followed and will continue to follow the same procedures as in previous years.

c. Compliance and Enforcement Actions:

No changes in the current procedures are anticipated.

d. EEO Complaints Against Contractors:

No action is necessary at this time.

PART II

II. INTERNAL EMPLOYMENT ASSESSMENT PROGRAM AND ACCOMPLISHMENT REPORT

A. PROGRAM OVERVIEW

1. Overall Status of EEO Program:

The department's Title VII program has not experienced any significant changes during the past year other than those noted in the action items and those listed below.

a. The department's Affirmative Action Representatives (AARs) are continuing their efforts to promote equal employment opportunity (EEO) within the department. The AARs are required to provide a minimum of three EEO presentations annually to the employees of their respective divisions and districts. Videos and DVDs are made available, through the HRD training library, for presentation. Other EEO training materials are available for handouts or discussion.

b. During the reporting period, HRD purchased the following two new DVDs and book to add to the training library:

(1) Four Generations: The Greatest Potential

This age diversity DVD explores the social influences and cultural values of the four generations that can be found in today's workforce all over the world. With differences in attitudes, values, and communication, misunderstandings can happen and trigger conflicts that reduce morale, teamwork, and productivity. Each generation views the world from a unique perspective of experiences, and each person reacts to professional expectations and interactions from that generational basis. This makes for an interesting work day! The DVD and a companion handbook will be used as the basis for the "Generational Differences" training described as Action Item 2 for 2012.

(2) Sexual Harassment: A High Price to Pay

This two part series provides employees and management with a clear understanding of what legally constitutes sexual

harassment; what to do if sexual harassment occurs; as well as the severe consequences if harassment is not dealt with swiftly and adequately. Program I clearly demonstrates what sexual harassment is, the five main areas of sexual harassment as defined by law, specific guidelines of appropriate work behavior, and the repercussions of noncompliance. Program II clearly demonstrates how incidents of sexual harassment, including poorly handled or unresolved complaints, can translate into liability exposure and staggering monetary losses to organizations as well as to individual managers who fail to take immediate action. Program I of the DVD will be used as the basis for the "Sexual Harassment" training described as Action Item 3 for 2012.

(3) Perfectly Able: How to Attract and Hire Talented People with Disabilities

This book provides useful information on how to recruit talented individuals with a disability and strengthen team productivity; redefines diversity, arguing that the "numbers game" approach is an outdated concept and that full inclusion is the new diversity; calls attention to often undetected "special employment" attitudes that can create artificial limits for people with disabilities; supplies dozens of interview questions for pinpointing people with qualities and skills that organizations or companies need; and much more.

- c. In April, July, October 2011, and January 2012, CRD developed, published, and distributed to each division and district a two- to three-page newsletter for circulation among their employees. The newsletters contain articles and news clippings on EEO-related topics. The newsletters were to be made available on the department's PeopleSoft Enterprise Learning Management (ELM) System in 2010; however, due to logistical problems, implementation was postponed. CRD and HRD staff are continuing to pursue implementation in 2012. Through ELM, employees will be able to view the newsletters online and add the training activity to their training record. The division and district AARs will also be able to generate participation reports off the system. This will alleviate the need for the AARs to track and maintain paper training registration lists and/or routing slips.

- d. CRD developed and arranged formal EEO training for the AARs again this year. The eight-hour training session was held at the Comfort Inn in Bismarck on January 10 and 11, 2012. Thirty-nine department employees attended the training. Agenda items included:
 - (1) Welcome and Introductions - Amy Conklin, CRD Administrative Assistant
 - (2) Opening Comments - E. Diane Laub, CRD Director
 - (3) "Four Generations: The Greatest Potential" DVD and presentation - Gerard Schwan, Training Officer, and Linda Jensen, Training Manager, Human Resources Management Services
 - (4) Title VI Complaint, Title VII Complaint-Grievance, and Workplace Investigation Procedures - E. Diane Laub, CRD Director, and Mike Sandal, HRD Director
 - (5) Sexual Harassment: A High Price to Pay - Preview of New EEO Training DVD
 - (6) AAR Program Review, Comments, and Questions - E. Diane Laub, CRD Director, and Amy Conklin, CRD Administrative Assistant
- e. Department division and district directors and engineers are required to read, route, or provide a copy of the following policies to their staff at least once annually: NDDOT Policy Number: 1.2, Equal Employment Opportunity; NDDOT Policy Number: 17.3, Workplace Harassment; and NDDOT Policy Number: 20.1, Employee Grievance and Complaint Policy. The department was to make these policies available on ELM in 2010; however, due to logistical problems, implementation was postponed. CRD and HRD staff are continuing to pursue implementation in 2012. By logging into the system, employees will automatically acknowledge they have been made aware of the policies.
- f. During the month of January 2012, Title VII reviews were conducted on each of the department's divisions and eight district offices. A final report will be written and provided to executive management in March.
- g. Annually, the department awards educational grants to students in order to help develop a technical and professional workforce.

Summer employment and real world experience are benefits of the program for students. The application process is readily available and open to all students in the occupational areas in which the department provides grants. During the reporting period, grants were awarded to two nonminority males. One of the grant students was later offered and accepted a position with the department.

- h. In addition, the department has an internship program available to students. Annually, internship opportunities for college students are identified based on department need. The internship is designed as a learning experience where students can obtain real world experience in their field of study. New skills and abilities are often broadened. Interns are also able to explore career options based on the opportunities available. The application process is readily available and open to all students. During the reporting period, sixteen nonminority males, one minority male, and seven nonminority females were selected for internship positions.
- i. The American Association of Highway and Transportation Officials (AASHTO), of which the department is a member, became concerned about fewer students choosing engineering and transportation as a career. In the early 1990s, AASHTO consulted with a group of educators to develop a program which could be used in schools to expose students to engineering and transportation and, in this manner, pique their interest in a career in these fields.

The center of the program is TRAC PAC 2, which consists of seven self-contained, hands-on education modules featuring professionally developed curricula that meet the national standards of learning. Each module contains the equipment, software, and supplies needed to perform hands-on activities related to: bridge design, city planning, design and construction, environmental engineering, highway safety, magnetic levitation, motion, and traffic technology. Schools can choose which modules they would like to use. The modules are designed for use in Math, Science, Social Studies, and Tech Ed classes. The modules are not designed to replace the regular curriculum but, rather, may be used as the teacher wishes to illustrate concepts that their curriculum requires them to address.

Each participating state sets up a regional center to administer TRAC. The regional center is usually that state's Department of Transportation. It is responsible for placing the program in the schools

and for recruiting and training mentoring teams. The department provides training to the teachers and volunteers to familiarize them with the modules in the TRAC PAC. In addition, volunteers from the department are available to come into the class and explain how what the students have studied applies to engineering, transportation, and real life. The department remains available to provide technical assistance and to answer students' college and career questions.

The department sponsors the TRAC program at no cost to the schools. An agreement is entered into with the schools whereby the department provides grants for the modules, teacher training, and transportation costs to the National TRAC Challenge Finals. The department has had schools from North Dakota at the finals three out of the eight years it has been in the program.

The department started this program with three schools and four teachers in the 2003-2004 school year. The department now has twenty-four schools and thirty-two teachers participating in the program. The department has been targeting grades 7-10 as this gives the students time to get the math and sciences needed to prepare them for college, but it's not limited to those grades.

Of the twenty-four schools now participating in the TRAC program, fourteen are high schools, eight are middle schools, one is a career academy, and one is a technical training center. Two of the high schools are located on the Fort Berthold Indian Reservation; however, these schools lost their TRAC teachers. One of the middle schools is located on the Standing Rock Indian Reservation. The Wachter Middle School in Bismarck is located in an area with known minority concentration.

The Bismarck Public Schools Career Academy promotes science, technology, engineering, and math (STEM). Students come into the academy and are exposed to hands-on STEM projects. They work with all of the Bismarck schools, which makes it a good venue. The North Dakota State College of Science's Center for Nanoscience Technical Training at Fargo has an outreach program that reaches out to middle and high school students in the area. Their program also promotes STEM; and students are brought into their lab to work on STEM projects.

- (1) The department's goal was to get the two Fort Berthold high schools active again in the 2010-2011 school year but was unsuccessful. This will again be the department's goal in the 2011-2012 school year. The department is working with the administrator of these schools to get teachers involved.
- (2) The department also made a concerted effort during the 2010-2011 school year to add schools from the Fort Yates, Turtle Mountain, and Spirit Lake Indian Reservations. As a result, the Standing Rock middle school joined the program. The department will continue its efforts to add more schools from the state's four Indian Reservations.
- (3) During the 2010-2011 school year, the TRAC Coordinator and/or district volunteers made twenty-one school visits exposing nearly 1,393 students to engineering, transportation, and the department. In those classroom visits, the coordinator and/or volunteers briefly discuss engineering, transportation, the NDDOT Transportation Handbook, an engineering brochure, and an education grant brochure. They then move into a discussion of the TRAC modules the students have been working with. For example:
 - In the Motion Module, the students learn about the principles of momentum and impulse. The coordinator and/or volunteers discuss how engineers use these principles in designing safety appurtenances for transportation systems. They show the students a DVD from the Texas Transportation Institute on crash testing, which is a perfect example of how these principles apply to engineering and real life.
 - The coordinator and/or volunteers discuss the department's Liberty Memorial Bridge PowerPoint, which fits right in with the students working with the Bridge Builder Module. The PowerPoint covers the construction of one set of piers showing the construction from the river bottom to placing the deck. In addition, a video on the demolition of the old bridge is shown, which always brings some oohs and aahs.

- The coordinator and/or volunteers involve the students in a town planning project where the students have to lay out a highway alignment through the town. They discuss how all of this relates to engineering and transportation. The students really get into this project.
 - The coordinator and/or volunteers discuss the results of the students' work with the Safety Module, where the students are presented with five actual traffic safety issues. They are given some options and a budget and must decide on which options are best. They must then prioritize the projects with the limited budget.
- (4) The department conducted training for two new teachers and two new volunteers in January and April 2011. The training allowed them to become familiar with each of the modules.
- (5) On January 30-31, 2011, the department had an exhibit at the North Dakota Counselors Association Conference; and counselors from thirty schools picked up packets. The department followed up with some of the counselors but did not hear back from them.
- (6) The department also had an exhibit and gave a presentation at the North Dakota Science Teachers Conference held in Bismarck on February 24-25, 2012. A science teacher from the Indian boarding school in Wahpeton stopped by the exhibit, seemed very interested, and took a packet. The new science teacher at Parshall (Fort Berthold Indian Reservation) also stopped by the exhibit and stated they are again using the program. The TRAC Coordinator and/or a district volunteer will be visiting her classes in the coming year.
- j. Depending on the availability of attendees, the department provides monthly orientation for all new employees. The in-depth orientation lasts ten and a half hours over a period of two days, allowing for travel time from the district offices and sections. Executive management presents parts of the program describing the department's vision, mission, organization structure, goals, and values. The Financial Management Division discusses budgeting, funding, timesheets, and payroll. One of the CRD staff gives an overview of the seven Civil Rights program areas and the EEO, Workplace Harassment, and

Employee Grievance and Complaint Policies; identifies the department AARs; and shows a summary video on workplace harassment. The attendees are also provided a handout that covers everything on the video and are required to sign an acknowledgment that they have been informed about the department's EEO-related policies. There are also segments on security, training, benefits, the Americans with Disabilities Act, the department's employee assistance program, and policies and procedures that are covered by Information Technology Division (ITD), Communications Division (CD), and HRD personnel. The attendees are also given a tour of the central office, Materials and Research Division, and the Bismarck District.

During the reporting period, meetings were held on March 30-31, May 24-25, August 17-18, October 26-27, November 16-17, 2011, and January 25-26, 2012, with approximately 80 employees in attendance. This was the seventeenth year that one of the CRD staff has participated in the department's new employee orientation program.

- k. The department continues to participate in numerous career fairs and student information sessions held in the area, including the Minnesota State Community and Technical College in Detroit Lakes, Minnesota; Bismarck State College in Bismarck; North Dakota State College of Science in Wahpeton; North Dakota State University in Fargo; Rasmussen College in Bismarck; and University of North Dakota in Grand Forks. The career fairs and information sessions are directed primarily at engineering graduates who might be interested in employment with the department. In addition, the department participated in career days at Bismarck High School and Minot High School in 2011.
- l. In the spring and fall of 2011, the department participated in career fairs held at the United Tribes Technical College (UTTC), an American Indian under-graduate college located in Bismarck. In addition, the department posted various classified, temporary, and internship job announcements at UTTC. HRD staff also work to establish connections at local Indian Reservations and Tribal Colleges.
- m. Jamestown, North Dakota, was host to the Southeast Central Regional Science and Engineering Fair held in March 2011. The fair consisted of Class A and Class B students presenting projects in various scientific fields while competing in two divisions. The department sponsored an award for the Outstanding Project in the

Junior and Senior Divisions in the Engineering category. Categories at the fair ranged from animal science to medicine and health to energy and transportation. The department sponsored the award because of the need for engineers and transportation professionals. Fairs such as this encourage and promote an interest in the sciences, and the department hopes that some of the students who participated will chose these professions.

- n. The department had a monthly publication called *The Grapevine*. It was a way to keep employees informed about a variety of topics including feature stories, district news, births, condolences, new hires, promotions, etc. *The Grapevine* was made available to all department employees and retirees. Changes in personnel policies; the availability of new training videos, DVDs, books, and materials through the department's training library; and other personal and professional items of interest were also reported in *The Grapevine*. However, employee communication at the department has started moving in a new direction. Effective January 1, 2012, the department discontinued publishing *The Grapevine*; is continuing to use MyDOT to communicate with employees; and began utilizing newer technology to inform and convey information through the use of electronic resources, educational videos, YouTube, and the Internet. During the reporting period, the following appeared in four of the final year's issues of *The Grapevine*:

- (1) The June 7, 2011, issue announced that three individual department employees and two groups of department employees were given "Above and Beyond Awards" for excellence in work performance. The "Above and Beyond Award" is sponsored by the Western Association of State Highway and Transportation Officials (WASHTO) and recognizes employees or groups of employees who saved a substantial amount of money, took on additional duties without compensation, or went outside of their normal job duties. One of the groups was recognized for their work with the Workplace Investigation Training described in Action Item 2 for 2011. This group of nine employees included one of the Civil Rights Program Administrators and the CRD Administrative Assistant. The announcement read:

"In late fall 2010, the department began extensive training for future Workplace Investigation (WPI) team members. One of the tasks of the team was to interview five to six individuals in a mock workplace investigation. To accomplish this end, a notice was put on MyDOT to recruit department staff to be interviewed in mock interviews. Nine individuals agreed to take part in this. Arrangements were made to meet with the actors and actresses; hand out short bios of the person they were to portray; and discuss different personality types, traits, and how information was to be delivered. These traits were meant to distract the interviewer from the process and to create sounds that would make transcribing the interview difficult. The ingenuity, teamwork, and leadership demonstrated by the actors and actresses greatly exceeded the WPI trainers' expectations. The WPI trainers are very appreciative of the time and talents the actors and actresses provided to make this training meaningful."

- (2) The June 7, 2011, issue also reported that eleven department employees, including the nine involved in the WPI training, made donations stemming from their "Above and Beyond Awards" to charity.
- (3) The July 11, 2011, issue announced that the department was awarded the bronze "Telly Award" for two videos produced by the Multi-Media Section of the Communications Division. The "Telly Award" honors the very best local, regional, and cable television commercials and programs, as well as the finest video and film productions and work created for the web. This year, over 11,000 entries were submitted from all 50 states. One of the videos, "Crossing the Water - An Oral History of Four Bears Bridge," was created after the completion of the Four Bears Bridge west of New Town. The video documents the social and historical significance of the bridge from the Tribal viewpoint, emphasizing the strong oral tradition in the community's Elbowoods period and the impact of the Tribe's relocation to New Town and other areas of the Reservation. The department also received two "Communicator Awards of Distinction" for the same two video productions. The "Communicator Award of Distinction" honors creative excellence for communications professionals. The award is

judged by the International Academy of the Visual Arts, an organization consisting of top-tier professionals from a "Who's Who" of acclaimed media, communications, advertising, creative, and marketing firms.

- (4) The October 5, 2011, issue reported on the department's new Workplace Investigation Team described in Action Item 2 for 2011. The article included a short description of the process followed when the department receives a complaint or grievance from an employee.
 - (5) The December 8, 2011, issue announced the retirement of the CRD Director and contained a short profile of her life and career with the department.
- o. The CRD Director attended the Spring Leader-Manager Meeting held at the Comfort Inn in Bismarck on May 18-19, 2011. During that meeting, an HRD staff member presented "Above and Beyond Awards" to sixteen department employees. Nine of the employees were recognized for their work with the Workplace Investigation Training described in Action Item 2 for 2011, including one of the Civil Rights Program Administrators and the CRD Administrative Assistant. The Leader-Managers Meetings are attended by executive management, office holders, and division and district directors and engineers.
 - p. The new CRD Director and three other department employees attended a one-hour "ADA Compliance: Self-evaluation and Transition Plans" webinar sponsored by the Association of Pedestrian and Bicycle Professionals (APBP) on September 21, 2011. Representatives from Hennepin County, Minnesota, and Miami/Dade County, Florida, presented case studies from their communities. The examples offered insight into common issues: the self-evaluation process, including methods of data collection and prioritizing projects; implementing, financing, and documenting corrective measures; how to update policies and practices; and establishing protocol for regular updates to the transition plan once it has been adopted. The webinar also included a brief update from the U.S. Access Board on the updated accessibility guidelines and the proposed rule-making on shared use paths.

- q. One of the Civil Rights Program Administrators and the CRD Administrative Assistant attended a Risk Management Seminar held at the Comfort Inn in Bismarck on October 5, 2011. The seminar was presented by the Risk Management Division of the ND Office of Management and Budget; ND Workforce Safety and Insurance; ND Attorney General's Office; PROtective Services, Inc.; and Risk Management of the Patient Safety Institute. Topics included veterans' preference in hiring; employment liability update; workplace violence/situational awareness; workplace investigations; and contract management.
- r. The new CRD Director attended the WASHTO Civil Rights Subcommittee Conference and Annual Meeting held in Santa Fe, New Mexico, on October 13-14, 2011. Conference sessions and meetings attended included:
- (1) Welcoming Remarks - Bryan E. Brock, Director, New Mexico DOT Office of Equal Opportunity Programs and WASHTO Civil Rights Subcommittee Chair
 - (2) Keynote Address - Alvin C. Dominguez, Cabinet Secretary, New Mexico DOT
 - (3) DBE Program: Regulation Changes and Impact on State Programs - Martha Kenley, National DBE Program Manager, FHWA Office of Civil Rights
 - (4) Panel Discussion - Small Business Program Requirements - Debra A. Gallegos, Director, Colorado DOT Center for Equal Opportunity; Jill Miller, Small Business Programs Manager, Oregon DOT; and Martha Kenley, National DBE Program Manager, FHWA Office of Civil Rights
 - (5) Panel Discussion - Local Agency Oversight and Compliance - Lisa Neie, Civil Rights Specialist, FHWA New Mexico Division; Kevein Resler, J.D., Civil Rights Program Manager, FHWA Nevada Division; Jon Dunham, Director, Civil Rights Office, Alaska DOT; and Norma Norman, J.D., Civil Rights Officer, Nevada DOT
 - (6) Panel Discussion - Disparity Studies: Their Use and Validity - Olivia Fonseca, Deputy Director, Office of Business and

Economic Opportunity, California DOT; and Martha Kenley, National DBE Program Manager, FHWA Office of Civil Rights

- (7) National Review Teams: Best Practices - Darren Kaihlanen, Civil Rights Specialist, FHWA Oklahoma Division; Anne Luedders, Management Analyst, FHWA Program Management Team; and Lisa Neie, Civil Rights Specialist, FHWA New Mexico Division
 - (8) FHWA Resource Center: Training, Technical Assistance, Technology Deployment, and Partnerships - Bernetta Collins, Director, FHWA Resource Center
 - (9) Vision For the Future - Warren Whitlock, Associate Administrator for Civil Rights, FHWA
 - (10) Closing Remarks - Bryan E. Brock, Director, New Mexico DOT Office of Equal Opportunity Programs and WASHTO Civil Rights Subcommittee Chair
 - (11) WASHTO Civil Rights Subcommittee Meeting - During the meeting, it was announced that the department's new CRD Director will be the Chair of the subcommittee for calendar year 2012, as set forth by the traditional, alphabetical by state name, rotation.
- s. Both the outgoing and the new CRD Directors attended the Fall Leader-Manager Meeting held at the Comfort Inn in Bismarck on October 19-20, 2011. During that meeting, the HRD Director gave a presentation concerning recent legislative changes to the state's veterans' preference law. The HRD Director communicated to the group that although the requirements of the veterans' preference law have been relaxed, the requirements toward achieving the department's affirmative action hiring goals have not and are still in effect. The Leader-Managers Meetings are attended by executive management, office holders, and division and district directors and engineers.
- t. One of the Civil Rights Program Administrators attended Module 1: Laws, Regulations, and Pedestrian Characteristics of a one-day training course on ADA/Construction, which was held over the department's Transportation Learning Network (video conferencing system) on January 11, 2012. The course was sponsored by Upper

Great Plains Transportation Institute in Bismarck and presented by Patrick E. Gomez, Civil Rights Specialist, FHWA Resource Center, Matteson, Illinois, and Ronald W. Eck, P.E., Ph.D., Senior Advisor, West Virginia Local Technical Assistance Program, Morgantown, West Virginia.

- u. On January 24, 2012, the CRD Director, two of the Civil Rights Program Administrators, the CRD Administrative Assistant, one of the OJT supportive services contractor staff members, and three of the DBE supportive services contractor staff members attended a Lorman Education Services sponsored teleconference titled “8 Issues When Doing Business or Contracting with Native American Tribes.” There are more than 500 federally-recognized American Indian Tribes in the United States, each established under a constitution unique to the Tribe. Each Tribe, through its constitution and subsequent legislation, has developed its own laws and regulations addressing issues of contracting, jurisdiction, and waivers, if any, of sovereign immunity. Anyone seeking to do business and/or contract with one or more Tribes must become familiar with the laws and regulations of each Tribe when preparing to engage in business with the Tribe. However, there are also basic tenets of American Indian law that can be applied to all aspects of doing business and/or contracting with individual American Indian Tribes. The 90-minute teleconference was designed to provide participants with the tools to recognize the uniqueness of each American Indian Tribe while applying basic tenets of contracting with these same Tribes.
- v. As was reported in our last two updates, executive management holds monthly conference calls with the department’s eight district engineers to discuss various issues and concerns. The HRD Director also attends when personnel-related items are discussed. During their monthly conference call held on June 8, 2009, the department’s Deputy Director for Engineering discussed making affirmative action a component in the performance appraisals of the directors and engineers in the divisions and districts for which he has oversight. Following the meeting, the HRD Director made a suggestion to the Deputy Director for Business Support and the Deputy Director for Driver and Vehicle Services that they consider doing the same. The HRD Director felt it would go a long way in improving the department’s efforts toward meeting its EEO affirmative action hiring goals. The Deputy Director for Engineering did include affirmative action as a

component in the performance appraisals of the people he supervises in 2010; however, the Deputy Director for Business Support and the Deputy Director for Driver and Vehicle Services did not. All three Deputy Directors have now included affirmative action as a performance measure for the people they supervise beginning with the 2011 performance appraisals written in April.

- w. As was previously reported, the department underwent an FHWA assessment of its Title VII (Internal EEO), On-the-Job Training, and Contractor Compliance Review Programs during the week of August 1-4, 2011. The assessment included a start-up briefing with executive management, interviews with the CRD and HRD Directors and other staff members, and a close-out briefing with executive management. As a result, the following recommendations were made for improvements in the Title VII (Internal EEO) Program:
- (1) At least quarterly, progress on hiring and promotion goals should be a specific agenda item at regular meetings between the HRD Director and the NDDOT Director. At least quarterly, an official status report should be provided to the NDDOT Director for that agenda item and kept on file for FHWA review if requested.
 - The HRD Director has agreed to meet quarterly with the NDDOT Director and other executive staff beginning in 2012 to discuss annual hiring and promotion goals and achievements.
 - Each quarter, HRD will provide a written report of this presentation to CRD for inclusion in future annual EEO Affirmative Action Plan Updates.
 - (2) First-time managers and supervisors should be required to attend a mandatory first-time supervisor training course that would include extensive discussion on EEO and their roles and responsibilities.
 - Currently, all NDDOT employees participate in at least one Title VI and three Title VII (Internal EEO) training sessions per year. CRD will develop training to be offered to first-time managers and supervisors to include extensive discussion on EEO and the managers' and supervisors'

roles and responsibilities. It is anticipated this course will be available in the spring of 2012.

2. Progress on Action Items in 2011 Update:

ACTION ITEM 2011-1: ADVERSE IMPACT REPORTING

Background Information:

The department completes an annual adverse impact analysis for each of the following personnel actions: new hires, promotions, terminations, and training. The reports help to determine if any minorities or females were adversely impacted by actions taken in these areas. The adverse impact analyses were previously computer generated and were tied to the state's payroll software.

North Dakota implemented a new web-based computer system that replaced the administrative software previously being used in both state government and higher education. Connect ND is built around several new programs created by the software developer PeopleSoft. These programs deal with human resource management, financial administration, and student administration.

Since the time the department's new basic human resources, payroll, recruitment, and training programs came online, the adverse impact analyses could no longer be generated from the old system. This made it necessary to write new reporting programs for PeopleSoft. Personnel from CRD, HRD, and ITD; Human Resources Management Services (HRMS) of the State Office of Management and Budget (OMB); and PeopleSoft met several times to determine the types of reports that can be generated from the new PeopleSoft programs and what data had to be entered in order to generate the information required to complete the adverse impact analyses. When the department attempted to run the new reports, it was discovered that the database still did not contain all of the information required. The CRD, HRD, and ITD personnel met again to discuss what needed to be changed in order to make the program functional. The group agreed that a different method for gathering the missing information needed to be developed, and the programs needed to be adjusted accordingly.

The CRD, HRD, and ITD personnel attended several training sessions on the applicant flow process, adverse impact analyses, and what is required to be included in the department's EEO Affirmative Action Plan. HRD developed

an applicant tracking process, including an EEO Profile Data form whereby applicants voluntarily self-identify their gender and race or ethnicity.

The department's new applicant tracking process was implemented on January 1, 2007. Data was collected and entered into PeopleSoft, and the adverse impact analyses on new hires and promotions were test run in November 2007. However, the reports were incorrect and in a more condensed format than what is required. Consequently, the department had to develop its own computer programs for generating the adverse impact information.

The CRD, HRD, and ITD personnel continued to work together to implement the new PeopleSoft reporting programs. During this time, it was discovered that the department does not have access to the PeopleSoft module necessary to generate the adverse impact analyses in the format required. Once again, the department had to use its own computer programs for generating the information.

The department has since been able to capture all of the data necessary to generate the information needed to complete the adverse impact analyses on new hires, promotions, and terminations using its own computer programs. However, the computer programs do not perform the calculations necessary for generating the adverse impact analyses. Consequently, the calculations and analyses are still being done by hand.

In 2009, CRD experienced major turnover in existing staff and added a new Civil Rights Officer II position. As a result, a great deal of staff time was devoted to training new personnel. In addition, the department's construction program increased in size due to the American Recovery and Reinvestment Act (ARRA) of 2009 stimulus funding. Because of the stipulation that 50 percent of the money allocated for roads and bridges had to be obligated within 120 days, bid openings doubled. This resulted in an increase in staff time needed for implementing the various components of the department's DBE program as they relate to the bidding process and contract awards. Subsequently, no measurable progress was made in developing new computer programs for generating the adverse impact analyses.

In late 2010, the department acquired access to the PeopleSoft module needed to generate the adverse impact analyses. HRMS began working on the "Recruiting Solutions" project, which is a module for PeopleSoft that will be an online application system. The module can also be used as an

applicant tracking system. With the legislature in session, however, HRMS was assigned another project that has taken precedence.

Evaluation of Accomplishment:

HRMS had hoped to implement the online application system by the end of 2011; however, the project has been postponed until the fall of 2012. Once operational, the CRD, HRD, and ITD personnel will continue to work together in developing and fine-tuning new adverse impact reporting programs using PeopleSoft.

Further Action:

This action item will be carried over as an action item for next year.

ACTION ITEM 2011-2: WORKPLACE INVESTIGATION PROCESS UPDATE

Background Information:

The department has a formal complaint and grievance procedure established for processing complaints related to discriminatory or unequal treatment and grievances related to work conditions, work relationships, or the interpretation of policies, rules, regulations, and/or legislation used in personnel practices. In 1994, a select team of on-call members was established and trained to assist HRD and CRD in conducting investigations of complaints and grievances. Nine employees from various divisions and one district were appointed on-call team members. The HRD Director and Assistant Director were appointed team leaders for personnel-related issues (grievances), and the CRD Director was appointed the team leader for discrimination issues (complaints). One on-call member typically assists the team leader in investigating complaints and grievances.

In April 1995, the department issued Personnel Policy Statement II-12, Workplace Investigation Process. The policy was and is currently the department's operating procedures for investigating complaints and grievances; allegations of theft and misuse of department property; fraud, negligence, abuse, physical and oral assault, fighting, and other actions which create a hostile work environment; and other serious workplace incidents.

In 1997, the department underwent many organizational changes due to the implementation of its first strategic business plan. This made it necessary to

recruit and train new team leaders and on-call team members. Fifteen new on-call members were selected, and three previous on-call members agreed to serve as new team leaders. A Workplace Investigation Team Manual was developed, and formal training based on the manual was presented to all new on-call members and team leaders in December 1997.

Although Personnel Policy Statement II-12 was revised in 2005, no other changes had been made to either the roster of team leaders and on-call team members or the Workplace Investigation Team Manual since 1997. In addition, no other formal training had been provided to the team leaders and on-call team members, many of whom are no longer active members.

Because more employees were needed for the teams so the same employees aren't used over and over, the department formed a Workplace Investigation Work Team to:

- Develop membership selection criteria for team leaders and on-call team members.
- Initiate recruitment of new members.
- Review Personnel Policy Statement II-2, Complaint and Grievance Policy, and the form Complaint or Grievance (SFN 9963) for possible updating.
- Review Personnel Policy Statement II-12, Workplace Investigation Process, for possible updating.
- Update the Workplace Investigation Team Manual.
- Develop and present Workplace Investigation Training.
- Update the recording and transcription equipment.
- Develop a transcription process and etiquette.
- Determine the types of and appropriate retention periods for investigation records.

In 2010, the following took place regarding the above nine initiatives:

- a. Selection criteria was developed and included the following skills: Good listener, good writer, organized, ability to maintain confidentiality, willing to do any and all team member tasks, ability to stay focused and be impartial, ability to multi-task, detail oriented, and ability to travel. A brief overview of potential team member tasks was

also developed. In addition, interested individuals were required to submit a sample of their writing from an original document. The above information was provided to all department employees as described in the following paragraph.

- b. All division and district directors-engineers were contacted for their staff recommendations, an email was sent to all department employees, and an article was placed on the department's internal website seeking workplace investigation team members. Volunteer nominations were accepted until noon on July 9. Volunteers were asked to read the department's new "Guidelines for Conducting a Workplace Investigation" and several chapters of the publication titled "The Essential Guide to Workplace Investigations" prior to attending training scheduled for August 9-11. Following those training sessions, the volunteers were interviewed for selection as members of the department's workplace investigation team. Initially, twenty-one individuals showed an interest in becoming a team member. Currently, there are eighteen new members.
- c. A new manual titled "Guidelines for Conducting a Workplace Investigation" was written and distributed to all individuals interested in becoming team members.
- d. The following training was provided:
 - (1) August 9, 2010 - A four-hour training session for executive management, all division and district directors-engineers, and other department supervisory personnel, as well as potential investigation team members, was held at the central office and video-conferenced to each of the eight district offices. Judith Cummings, Attorney-at-Law, presented the training which included: The benefits of an effective investigation, ten steps to a successful investigation, common mistakes and how to avoid them, discovering the problem, taking immediate action, who to get help from should an employee issue arise, some basics that a manager should be doing when problems begin to surface, and the special challenges of conducting workplace investigations of public employees. Approximately 121 department management and supervisory personnel, 3 CRD staff members, and 21 potential team members attended the training.

- (2) August 10-11, 2010 - A two-day training session, conducted by Judith Cummings, was held at the central office for the new team members. Ms. Cummings covered actual steps to be followed when conducting investigations, preparing for and conducting interviews, and the information contained in the publication titled "The Essential Guide to Workplace Investigations" that the team members were asked to read prior to the training.
 - (3) October 19-20, 2010 - A two-day training session was held to review the department's new "Guidelines for Conducting a Workplace Investigation."
 - (4) November 16-17, 2010 - A two-day training session was held with half of the new team members and included a mock investigation. The team members broke into groups, defined the issues, developed their questions, and conducted oral interviews.
 - (5) December 21-22, 2010 - A two-day training session was held with the other half of the new team members and included a mock investigation. The team members broke into groups, defined the issues, developed their questions, and conducted oral interviews.
 - (6) January 4, 2011 - A four-hour training session was held with the new team members to discuss the interview questions they developed and the additional items they requested or should have requested as a result of the interviews.
 - (7) February 15-17, 2011 - A four-hour training session was held with six of the new team members, at which time they were given documents from an actual workplace investigation conducted by the department and were instructed to write a final report.
- e. One new recorder was purchased and is housed in HRD.
 - f. Procedures were developed and are included in the new "Guidelines for Conducting a Workplace Investigation."

- g. An index was created for all documents to be retained and stored in Filenet.

Accomplishments:

During the reporting period, the following took place regarding the remaining two initiatives and training:

- a. HRD reviewed Personnel Policy Statement II-2, Complaint and Grievance Policy, and the form Complaint or Grievance (SFN 9963) for updating.
 - (1) Personnel Policy Statement II-2 was revised May 1, 2011, and renamed NDDOT Policy Number: 20.1, Employee Grievance and Complaint Policy.
 - (2) The form Complaint or Grievance (SFN 9963) was revised May 2011 and renamed Grievance or Complaint (SFN 9963).
- b. HRD reviewed Personnel Policy Statement II-12, Workplace Investigation Process, for updating. Personnel Policy Statement II-12 was revised May 1, 2011, and renamed NDDOT Policy Number: 20.2, Workplace Investigation Process.
- c. The following training was provided:
 - (1) March 16-18, 2011 - A four-hour training session was held with six other new team members, at which time they were given the same information as the first group of six and were instructed to write a final report.
 - (2) March 28-30, 2011 - A four-hour training session was held with the last group of six new team members, at which time they were given the same information as the others and were instructed to write a final report.
 - (3) September 7-8, 2011 - An eight-hour training session and graduation ceremony was held with the eighteen new team members. The training session included an overview of the training previously provided; a security briefing by a member of the North Dakota State Highway Patrol; a review of the final reports written by the three groups of new team members; a review of the process used to transcribe interviews; and a mock final report briefing with executive management. The

department Director, Office of Operations Director, CRD Director, HRD Director, and WPI team trainers attended the graduation ceremony to hand out certificates and congratulate the new team members. The nine department employees who participated in the mock interviews were also invited to attend the graduation ceremony.

Evaluation of Accomplishment:

All nine initiatives have now been completed.

Further Action:

This action item is complete. No further action is required.

3. EEO Complaints:

Three EEO complaints of discrimination were filed during the reporting period (March 15, 2011, through March 14, 2012). The following log has been completed and sent to FHWA:

#	Issue	Race	Gender	Agency Filed With				Race	Color	Religion	Gender (Sex)	Age	National Origin	Genetics	Workplace Harassment	Physical/Mental Disability/Handicap	Political Opinions/Affiliations	Status re Marriage/Public Assistance	Participation in Lawful Activity	Off NDDOT Premises	Retaliation	Status/Comments	Investigating Entity	
				NDDOT	HRMS/OMB	EEOC	NDDOL																	MM/DD/YY
1																								
2																								
3																								
4																								
5																								
6																								
7																								
8																								
9																								
10																								
	ISSUE:	Selection Discipline Harassment	Gender M/F	Promotion Removal Other:	Work Assignment Job Classification	RACE:		W - White B - Black H - Hispanic	AI - American Indian API - Asian/Pacific Islander 2+ - 2 or More															
	STATUS/COMMENTS:	Position Statement Submitted to NDDOL		Closed; No Discrimination Found		Complainant Withdrew Complaint		Under Investigation		Under Conciliation														
	COMMENTS:																							

B. PERSONNEL POLICIES-PRACTICES

1. Progress on Hiring Goals and Timetables:

The following chart on page 36 will show minority and female representation in the EEO-4 occupational groups from January 1, 2011, through December 31, 2011.

The department experienced a slight gain in the employment of American Indian females, other minority males, and other minority females and a more significant gain in the employment of nonminority females. The department also experienced a slight loss in the employment of American Indian males.

PROGRESS ON MINORITY AND FEMALE HIRING GOALS
(Includes new hires, promotions, reclassifications)

Occupational Group	Beginning Employment on 01-01-11						Hiring Goals 2011						Actual Increases (New Hires, Promotions) for 2011						Losses for Period 2011						Ending Employment on 12-31-11						Goals Met						Net Gain or Loss								
	Amer Ind			Other Min			Non Min			Amer Ind			Other Min			Non Min			Amer Ind			Other Min			Non Min			Amer Ind			Other Min			Non Min			Amer Ind			Other Min			Non Min		
	Tot	M	F	M	F	F	M	F	M	F	F	Tot	M	F	M	F	F	Tot	M	F	M	F	F	Tot	M	F	M	F	F	M	F	M	F	F	M	F	M	F	F						
Officials-Administrators	77	1	0	0	0	20	1	1	1	1	1	7	0	0	0	0	4	5	0	0	0	0	1	79	1	0	0	0	0	23	No	No	No	No	Yes	S	S	S	S	+3					
Professionals	230	1	1	5	2	61	1	1	0	1	9	17	0	0	1	0	7	23	0	0	0	0	8	224	1	1	6	2	60	No	No	--	No	No	S	S	+1	S	-1						
Technicians	227	4	1	2	1	72	0	1	0	1	12	30	0	0	1	2	13	29	0	0	1	0	16	228	4	1	2	3	69	--	No	--	Yes	No	S	S	S	+2	-3						
Paraprofessionals	4	0	0	0	0	4	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	0	0	0	0	4	No	No	--	--	--	S	S	S	S	S						
Administrative Support	75	0	0	1	1	69	1	1	0	0	0	10	0	1	0	0	9	6	0	0	0	0	6	79	0	1	1	1	72	No	Yes	--	--	--	S	+1	S	S	+3						
Skilled Craft	378	6	0	1	0	13	1	1	1	1	6	30	1	0	0	0	0	34	2	0	0	0	0	374	5	0	1	0	13	No	No	No	No	No	-1	S	S	S	S						
Service-Maintenance	35	0	0	0	0	6	1	1	1	1	1	33	2	0	0	0	2	23	2	0	0	0	0	45	0	0	0	0	8	No	No	No	No	Yes	S	S	S	S	+2						
TOTALS	1026	12	2	9	4	245	6	7	3	5	29	127	3	1	2	2	35	120	4	0	1	0	31	1033	11	3	10	6	249						-1	+1	+1	+2	+4						

S - Stayed the same

a. Officials-Administrators

Goal: One American Indian male, one American Indian female, one other minority male, one other minority female, and one nonminority female.

There were seven openings in this occupational group:

One nonminority female external applicant was selected through an internal/external job posting; one nonminority female temporary external applicant was selected through an internal/external job posting; and three nonminority male and two nonminority female internal applicants were selected through internal/external job postings*.

*All job openings are posted internally and externally. External applicants may be referred by Job Service North Dakota, by a University Placement Center, through a newspaper advertisement, through the department's website, by a friend, etc. The source is not always included on the application.

No minorities applied for the job posting filled by the nonminority female external applicant. Two nonminority female internal and six nonminority female external applicants applied for the job posting filled by the nonminority female external applicant. No minorities and no other females applied for the job posting filled by the nonminority female temporary external applicant. No minorities applied for the job postings filled by the nonminority male and nonminority female internal applicants. One nonminority female internal applicant applied for a combined job posting filled by one nonminority female and three nonminority male internal applicants but lacked the required experience. One nonminority female internal and seven nonminority female external applicants applied for the other job posting filled by a nonminority female internal applicant.

APPLICANTS	AI-M	AI-F	OM-M	OM-F	NONMIN MALE	NONMIN FEMALE
Internal					18	6
External					17	15

There were five losses in this occupational group:

Four nonminority males and one nonminority female retired.

Overall gains were three nonminority females. Overall loss was one nonminority male. With the exception of the nonminority female, the hiring goals were not met.

b. Professionals

Goal: One American Indian male, one American Indian female, one other minority female, and nine nonminority females.

There were seventeen openings in this occupational group:

Five nonminority male, one other minority male, and seven nonminority female external applicants were selected through internal/external job postings; three nonminority male temporary external applicants were selected through internal/external job postings; and one nonminority male internal applicant was selected through an internal/external job posting.

No minorities applied for the job postings filled by the nonminority male and nonminority female external applicants. No females applied for two of the job postings filled by nonminority male external applicants. One nonminority female external applicant applied for a combined job posting filled by two nonminority male external applicants but lacked the required experience. Three nonminority female external applicants applied for the other job posting filled by a nonminority male external applicant but lacked the required experience. Two nonminority female internal and twenty-four nonminority female external applicants applied for the seven job postings filled by nonminority female external applicants. No minorities applied for the job postings filled by the nonminority male temporary external applicants. Five nonminority female external applicants applied for one of the job postings filled by a nonminority male temporary external applicant but lacked the required experience. No other minorities and no females applied for the job posting filled by the other minority male external applicant. No minorities and no females applied for the job posting filled by the nonminority male internal applicant.

APPLICANTS	AI-M	AI-F	OM-M	OM-F	NONMIN MALE	NONMIN FEMALE
Internal					11	2
External			1		98	40

There were twenty-three losses in this occupational group:

Three nonminority males and two nonminority females were selected for positions in the Officials-Administrators group through internal/external job postings; one nonminority female was reclassified into the Administrative Support group; one nonminority male and three nonminority females transferred to other state agencies; three nonminority males resigned for other employment; one nonminority female resigned to relocate; one nonminority male and one nonminority female resigned for personal reasons; six nonminority males retired; and one nonminority male was discharged for violating department policy.

Overall gain was one other minority male. Overall losses were six nonminority males and one nonminority female. The hiring goals were not met.

c. Technicians

Goal: One American Indian female, one other minority female, and twelve nonminority females.

There were thirty openings in this occupational group:

Nine nonminority male, one other minority male, thirteen nonminority female, and one other minority female external applicants were selected through internal/external job postings; three nonminority male and one other minority female temporary external applicants were selected through internal/external job postings; one nonminority male internal applicant was selected through an internal/external job posting, and one nonminority male was a grant student.

No minorities applied for the job postings filled by the nonminority male and nonminority female external applicants. No females applied for six of the job postings filled by nonminority male external applicants. Twelve nonminority female external applicants applied for one of the job postings filled by a nonminority male external applicant who was selected due to veterans' preference. One nonminority female external applicant applied for a combined job posting filled by two nonminority male external applicants but lacked the required experience. Forty-five nonminority female external applicants applied for four of the job postings filled by nonminority female external applicants. Seven nonminority female external applicants applied

for a combined job posting filled by two nonminority female external applicants. Three nonminority female external applicants applied for a combined job posting filled by two nonminority female external applicants. Twenty-three nonminority female external applicants applied for a combined job posting filled by five nonminority female external applicants. No minorities applied for the job postings filled by the nonminority male temporary external applicants. One nonminority female external applicant applied for one of the job postings filled by a nonminority male temporary external applicant but lacked the required experience. No other minorities applied for the job postings filled by the other minority male and other minority female external applicants. Five nonminority female external applicants applied for the job posting filled by the other minority female external applicant. No other minorities and no females applied for the job posting filled by the other minority female temporary external applicant. No minorities and no females applied for the job posting filled by the nonminority male internal applicant.

APPLICANTS	AI-M	AI-F	OM-M	OM-F	NONMIN MALE	NONMIN FEMALE
Internal					5	
External			1	2	94	110

There were twenty-nine losses in this occupational group:

One nonminority male was selected for a position in the Professionals group through an internal/external job posting; two nonminority males and three nonminority females resigned for other employment; one nonminority female resigned to relocate for other employment; one other minority male resigned to relocate; two nonminority females resigned due to dissatisfaction with pay; one nonminority male and five nonminority females resigned for personal reasons; one nonminority male resigned with no reason indicated; six nonminority males and two nonminority females retired; one nonminority male was discharged for violating department policy; two nonminority females were discharged for failure to perform the essential job functions; and one nonminority female was discharged for failure to successfully complete her probationary period.

Overall gains were two nonminority males and two other minority females. Overall losses were three nonminority females. With the exception of the other minority female, the hiring goals were not met.

d. Paraprofessionals

Goal: One American Indian male and one American Indian female.

There were no openings in this occupational group.

There were no losses in this occupational group.

There were no overall gains and no overall losses. The hiring goals were not met.

e. Administrative Support

Goal: One American Indian male and one American Indian female.

There were ten openings in this occupational group:

Six nonminority female and one American Indian female external applicants were selected through internal/external job postings; two nonminority female temporary external applicants were selected through internal/external job postings; and one nonminority female was reclassified from the Professionals group.

No other minorities applied for the job postings filled by the nonminority female and American Indian female external applicants. One nonminority female internal and twenty-three nonminority female external applicants applied for one of the job postings filled by a nonminority female external applicant. One nonminority female internal and thirty nonminority female external applicants applied for another of the job postings filled by a nonminority female external applicant. Twenty-seven nonminority female external applicants applied for a combined job posting filled by two nonminority female external applicants. Thirty-one nonminority female external applicants applied for a combined job posting filled by one American Indian female external, one nonminority female temporary external, and two nonminority female external applicants. Two nonminority female internal and twenty-six nonminority female external applicants applied for the other job posting filled by a nonminority female external applicant.

APPLICANTS	AI-M	AI-F	OM-M	OM-F	NONMIN MALE	NONMIN FEMALE
Internal						4
External		1			23	145

There were six losses in this occupational group:

One nonminority female resigned for other employment; one nonminority female resigned for personal reasons; and four nonminority females retired.

Overall gains were three nonminority females and one American Indian female. There were no overall losses. With the exception of the American Indian female, the hiring goal was not met.

f. Skilled Craft

Goal: One American Indian male, one American Indian female, one other minority male, one other minority female, and six nonminority females.

There were thirty openings in this occupational group:

Fifteen nonminority male external applicants were selected through internal/external job postings; one nonminority male temporary external applicant was selected through an internal/external job posting; and thirteen nonminority males and one American Indian male were reclassified from the Service-Maintenance group.

No minorities and no females applied for the job postings filled by the nonminority male external applicants. No minorities and no females applied for the job posting filled by the nonminority male temporary external applicant.

APPLICANTS	AI-M	AI-F	OM-M	OM-F	NONMIN MALE	NONMIN FEMALE
Internal					3	
External					75	

There were thirty-four losses in this occupational group:

One nonminority male was selected for a position in the Technicians group through an internal/external job posting; nine nonminority males and one American Indian male resigned for other employment; three nonminority males resigned for personal reasons; eighteen nonminority males and one American Indian male retired; and one nonminority male was discharged for failure to perform the essential job functions.

There were no overall gains. Overall losses were three nonminority males and one American Indian male. The hiring goals were not met.

g. Service-Maintenance

Goal: One American Indian male, one American Indian female, one other minority male, one other minority female, and one nonminority female.

There were thirty-three openings in this occupational group:

Twenty-eight nonminority male, two American Indian male, and two nonminority female external applicants were selected through internal/external job postings and one nonminority male temporary external applicant was selected through an internal/external job posting.

No minorities applied for the job postings filled by the nonminority male and nonminority female external applicants. Two nonminority female external applicants applied for a combined job posting filled by two nonminority male external applicants but lacked the required experience. One nonminority female external applicant applied for one of the job postings filled by a nonminority female external applicant. No minorities and no females applied for the job posting filled by the nonminority male temporary external applicant. No other minorities and no females applied for the job postings filled by the American Indian male external applicants.

APPLICANTS	AI-M	AI-F	OM-M	OM-F	NONMIN MALE	NONMIN FEMALE
Internal					2	
External	2				150	5

There were twenty-three losses in this occupational group:

Thirteen nonminority males and one American Indian male were reclassified into the Skilled Craft group; two nonminority males and one American Indian male resigned for other employment; one nonminority male resigned to relocate; two nonminority males resigned for personal reasons; one nonminority male resigned without notice; one nonminority male was discharged for failure to report for work; and one nonminority male was discharged for failure to successfully complete his probationary period.

Overall gains were eight nonminority males and two nonminority females. There were no overall losses. With the exception of the nonminority female, the hiring goals were not met.

2. Adverse Impact

a. New Hires

	Applicants	Selections	Selection Ratio	Adverse Imp Ratio	Adverse Impact
EEO A: OFFICIALS-ADMINISTRATORS					
NONMIN MALE	16	0	0.00	0.00	Y
NONMIN FEMALE	10	2	0.20	1.00	N
EEO B: PROFESSIONALS					
NONMIN MALE	104	8	0.07	0.43	Y
OTHER MIN MALE	1	1	1.00	1.00	N
NONMIN FEMALE	42	7	0.16	1.00	N
EEO C: TECHNICIANS					
NONMIN MALE	99	13	0.13	1.00	N
OTHER MIN MALE	1	1	1.00	1.00	N
NONMIN FEMALE	110	13	0.11	0.84	N
OTHER MIN FEMALE	2	2	1.00	1.00	N
EEO E: PARAPROFESSIONALS					
EEO F: ADMINISTRATIVE SUPPORT					
NONMIN MALE	23	0	0.00	0.00	Y
NONMIN FEMALE	149	8	0.05	0.05	Y
AMER IND FEMALE	1	1	1.00	1.00	N
EEO G: SKILLED CRAFT					
NONMIN MALE	78	16	0.20	1.00	N
EEO H: SERVICE-MAINTENANCE					
NONMIN MALE	152	29	0.19	0.47	Y
AMER IND MALE	2	2	1.00	1.00	N
NONMIN FEMALE	5	2	0.40	1.00	N
TOTAL					
NONMIN MALE	472	66	0.13	0.26	Y
AMER IND MALE	2	2	1.00	1.00	N
OTHER MIN MALE	2	2	1.00	1.00	N
NONMIN FEMALE	316	33	0.10	0.20	Y
AMER IND FEMALE	1	1	1.00	1.00	N
OTHER MIN FEMALE	2	1	0.50	1.00	N

CATEGORY F: ADMINISTRATIVE SUPPORT

Adverse impact was indicated on nonminority females. Since this is a nonminority female dominated category, no further analysis is required.

TOTAL

Upon reviewing the adverse impact analysis regarding new hires, it was noted that, with the exception of Category F, the only indication of adverse impact occurring with nonminority females was when all categories were totaled. When the same data was broken down by EEO-4 categories, no other adverse impact was indicated. No further analysis is required.

b. Promotions

	Applicants	Selections	Selection Ratio	Adverse Imp Ratio	Adverse Impact
EEO A: OFFICIALS-ADMINISTRATORS					
NONMIN MALE	33	7	0.21	1.00	N
NONMIN FEMALE	14	3	0.21	1.00	N
EEO B: PROFESSIONALS					
NONMIN MALE	43	5	0.11	0.16	Y
NONMIN FEMALE	3	2	0.66	1.00	N
EEO C: TECHNICIANS					
NONMIN MALE	6	1	0.16	0.16	Y
NONMIN FEMALE	1	1	1.00	1.00	N
EEO E: PARAPROFESSIONALS					
EEO F: ADMINISTRATIVE SUPPORT					
NONMIN FEMALE	2	1	0.50	1.00	N
EEO G: SKILLED CRAFT					
NONMIN MALE	22	8	0.36	1.00	N
EEO H: SERVICE-MAINTENANCE					
TOTAL					
NONMIN MALE	104	7	0.06	0.24	Y
NONMIN FEMALE	20	5	0.25	1.00	N

The only indication of adverse impact occurring was with nonminority males. No further analysis is required.

c. Terminations

	Total Terminations	Controllable Terminations	Selection Ratio	Adverse Imp Ratio	Adverse Impact
EEO A: OFFICIALS-ADMINISTRATORS					
NONMIN MALE	4	4	1.00	1.00	N
NONMIN FEMALE	1	1	1.00	1.00	N
EEO B: PROFESSIONALS					
NONMIN MALE	12	6	0.50	1.00	N
NONMIN FEMALE	5	1	0.20	0.40	Y
EEO C: TECHNICIANS					
NONMIN MALE	11	6	0.54	1.00	N
NONMIN FEMALE	16	7	0.43	0.79	Y
OTHER MIN MALE	1	1	1.00	1.00	N
EEO E: PARAPROFESSIONALS					
EEO F: ADMINISTRATIVE SUPPORT					
NONMIN FEMALE	6	3	0.50	1.00	N
EEO G: SKILLED CRAFT					
NONMIN MALE	31	22	0.70	1.00	N
AMER IND MALE	2	1	0.50	0.71	Y
EEO H: SERVICE-MAINTENANCE					
NONMIN MALE	8	3	0.37	0.37	Y
AMER IND MALE	1	1	1.00	1.00	N
TOTAL					
NONMIN MALE	66	41	0.62	0.93	N
AMER IND MALE	3	2	0.66	1.00	N
OTHER MIN MALE	1	1	1.00	1.00	N
NONMIN FEMALE	28	12	0.42	0.63	Y

CATEGORY B: PROFESSIONALS

Adverse impact occurred on one nonminority female who resigned to relocate for other than employment reasons.

CATEGORY C: TECHNICIANS

Adverse impact occurred on seven nonminority females. Two resigned due to dissatisfaction with pay, three resigned for other employment, and two took early retirement.

CATEGORY G: SKILLED CRAFT

Adverse impact occurred on one American Indian male who resigned for other employment.

CATEGORY H: SERVICE-MAINTENANCE

Adverse impact occurred on three nonminority males. Two resigned for other employment and one resigned to relocate.

TOTAL

Upon reviewing the adverse impact analysis regarding terminations, it was noted that with the exception of categories B, C, G, and H, adverse impact was indicated on four nonminority females when all categories were totaled. One nonminority female under the Officials/Administrators category took early retirement. One nonminority female under the Administrative Support category resigned for other employment. Two nonminority females under the Administrative Support category took early retirement.

d. Training

The following indicates the percentage of available employees by race and gender along with the percentage of training occurrences. Whether or not adverse impact occurred was determined by applying the 4/5 or 80% rule. In addition, any differences of less than 2% were not addressed.

(1) Officials-Administrators

Available white female	29.11%	Occurrences white female	31.34%
Available AI female	0.00%	Occurrences AI female	0.00%
Available other female	0.00%	Occurrences other female	1.76%
Available white male	69.62%	Occurrences white male	64.44%
Available AI male	1.26%	Occurrences AI male	1.06%
Available other male	0.00%	Occurrences other male	1.41%

There was no adverse impact in this category.

(2) Professionals

Available white female	26.78%	Occurrences white female	28.32%
Available AI female	0.44%	Occurrences AI female	0.00%
Available other female	0.89%	Occurrences other female	0.75%
Available white male	68.75%	Occurrences white male	67.70%
Available AI male	0.44%	Occurrences AI male	0.00%
Available other male	2.67%	Occurrences other male	3.23%

There was no adverse impact in this category.

(3) Technicians

*Available white female	30.26%	Occurrences white female	26.14%
Available AI female	0.43%	Occurrences AI female	0.65%
Available other female	1.31%	Occurrences other female	0.00%
Available white male	65.35%	Occurrences white male	68.76%
Available AI male	1.75%	Occurrences AI male	2.75%
Available other male	0.87%	Occurrences other male	1.70%

*No adverse impact was indicated when the 4/5 rule was applied.

(4) Paraprofessionals

Available white female	100.00%	Occurrences white female	100.00%
Available AI female	0.00%	Occurrences AI female	0.00%
Available other female	0.00%	Occurrences other female	0.00%
Available white male	0.00%	Occurrences white male	0.00%
Available AI male	0.00%	Occurrences AI male	0.00%
Available other male	0.00%	Occurrences other male	0.00%

There was no adverse impact in this category.

(5) Administrative Support

Available white female	91.13%	Occurrences white female	92.33%
Available AI female	1.26%	Occurrences AI female	0.00%
Available other female	1.26%	Occurrences other female	0.67%
Available white male	5.06%	Occurrences white male	6.67%
Available AI male	0.00%	Occurrences AI male	0.00%
Available other male	1.26%	Occurrences other male	0.33%

There was no adverse impact in this category.

(6) Skilled Craft

Available white female	3.47%	Occurrences white female	4.73%
Available AI female	0.00%	Occurrences AI female	0.00%
Available other female	0.00%	Occurrences other female	0.00%
Available white male	94.91%	Occurrences white male	93.28%
Available AI male	1.33%	Occurrences AI male	1.61%
Available other male	0.26%	Occurrences other male	0.38%
There was no adverse impact in this category.			

(7) Service-Maintenance

Available white female	17.77%	Occurrences white female	30.28%
Available AI female	0.00%	Occurrences AI female	0.00%
Available other female	0.00%	Occurrences other female	0.00%
Available white male	82.22%	Occurrences white male	66.97%
Available AI male	0.00%	Occurrences AI male	2.75%
Available other male	0.00%	Occurrences other male	0.00%
There was no adverse impact in this category.			

3. Action Items Planned for FY 2012 (March 15, 2012 - March 14, 2013):

ACTION ITEM 2012-1: ADVERSE IMPACT REPORTING

Background Information:

The department completes an annual adverse impact analysis for each of the following personnel actions: new hires, promotions, terminations, and training. The reports help to determine if any minorities or females were adversely impacted by actions taken in these areas. The adverse impact analyses were previously computer generated and were tied to the state's payroll software.

North Dakota implemented a new web-based computer system that replaced the administrative software previously being used in both state government and higher

education. Connect ND is built around several new programs created by the software developer PeopleSoft. These programs deal with human resource management, financial administration, and student administration.

Since the time the department's new basic human resources, payroll, recruitment, and training programs came online, the adverse impact analyses could no longer be generated from the old system. This made it necessary to write new reporting programs for PeopleSoft. Personnel from CRD, HRD, and ITD; HRMS of OMB; and PeopleSoft met several times to determine the types of reports that can be generated from the new PeopleSoft programs and what data had to be entered in order to generate the information required to complete the adverse impact analyses. When the department attempted to run the new reports, it was discovered that the database still did not contain all of the information required. The CRD, HRD, and ITD personnel met again to discuss what needed to be changed in order to make the program functional. The group agreed that a different method for gathering the missing information needed to be developed, and the programs needed to be adjusted accordingly.

The CRD, HRD, and ITD personnel attended several training sessions on the applicant flow process, adverse impact analyses, and what is required to be included in the department's EEO Affirmative Action Plan. HRD developed an applicant tracking process, including an EEO Profile Data form whereby applicants voluntarily self-identify their gender and race or ethnicity.

The department's new applicant tracking process was implemented on January 1, 2007. Data was collected and entered into PeopleSoft, and the adverse impact analyses on new hires and promotions were test run in November 2007. However, the reports were incorrect and in a more condensed format than what is required. Consequently, the department had to develop its own computer programs for generating the adverse impact information.

The CRD, HRD, and ITD personnel continued to work together to implement the new PeopleSoft reporting programs. During this time, it was discovered that the department does not have access to the PeopleSoft module necessary to generate the adverse impact analyses in the format required. Once again, the department had to use its own computer programs for generating the information.

The department has since been able to capture all of the data necessary to generate the information needed to complete the adverse impact analyses on new hires, promotions, and terminations using its own computer programs. However,

the computer programs do not perform the calculations necessary for generating the adverse impact analyses. Consequently, the calculations and analyses are still being done by hand.

In 2009, CRD experienced major turnover in existing staff and added a new Civil Rights Officer II position. As a result, a great deal of staff time was devoted to training new personnel. In addition, the department's construction program increased in size due to the American Recovery and Reinvestment Act (ARRA) of 2009 stimulus funding. Because of the stipulation that 50 percent of the money allocated for roads and bridges had to be obligated within 120 days, bid openings doubled. This resulted in an increase in staff time needed for implementing the various components of the department's DBE program as they relate to the bid opening process and contract awards. Subsequently, no measurable progress was made in developing new computer programs for generating the adverse impact analyses.

In late 2010, the department acquired access to the PeopleSoft module needed to generate the adverse impact analyses. HRMS began working on the "Recruiting Solutions" project, which is a module for PeopleSoft that will be an online application system. The module can also be used as an applicant tracking system. With the legislature in session; however, HRMS was assigned another project that has taken precedence.

Problem Identified:

HRMS had hoped to implement the online application system by the end of 2011; however, the project has been postponed until the fall of 2012.

Proposed Action:

Once operational, the CRD, HRD, and ITD personnel will continue to work together in developing and fine-tuning new adverse impact reporting programs using PeopleSoft.

Responsible Officials:

Civil Rights Program Administrator
Human Resources Officer
Human Resources Technician
ITD Personnel

Target Date:

December 31, 2012

ACTION ITEM 2012-2: GENERATIONAL DIFFERENCES TRAINING

Background Information:

The department requires that all employees receive EEO training annually. As one of the three required EEO presentations to be provided by division and district AARs, CRD and HRD attempt to annually target a specific group for training in some phase of the programs CRD administers.

Problem Identified:

Today's workplace has four generations working side-by-side at locations all over the world. With differences in attitudes, values, and communication, misunderstandings can happen and trigger conflicts that reduce morale, teamwork, and productivity. Each generation views the world from a unique perspective of experiences, and each person reacts to professional expectations and interactions from that generational basis. But these differences need not be barriers to a bigger bottom line. Generational diversity can be made to work by understanding and empathizing with colleagues from a different generation; reducing and resolving conflicts and communication problems; facilitating better teamwork and increasing productivity; and recognizing and respecting each other's value and input.

Proposed Action:

The department is sponsoring training focused on this issue. The training is mandatory for all employees and will count as one of the three required EEO training sessions. There will be two separate four-hour "Generational Differences" training sessions presented by Linda Jensen and Gerard Schwan, Human Resources Management Services, to be held around the state and at the central office. One session will be held for supervisors and the other for non-supervisory employees. The training will provide attendees the understanding of what each generation wants and practical advice on how to coach, motivate, and receive results from a diverse workforce. Those attending will be helped to bridge the gap between a manager raised in one generation and a worker raised in another. The goal is to help participants accept holding themselves accountable for effectively executing the management fundamentals that get results by solving generational problems presented to them.

Target Dates:

February 22 & 23 - Fargo District
February 29 - Grand Forks District
March 1 - Grand Forks District
March 27 & 28 - Devils Lake District
April 11, 12, & 13 - Bismarck District
May 16 & 17 - Williston District
May 1, 3, 4, 22, 23, 24, 30, & 31 - Central Office
June 6, 7, 13, 14, 19, 20, 21, & 26 - Central Office
Other Dates and Locations to be Determined

Responsible Officials:

CRD Director
HRD Training Officer

ACTION ITEM 2012-3: SEXUAL HARASSMENT TRAINING

Background Information:

As stated in Action Item 2012-2, the department requires that all employees receive EEO training annually. As one of the three required EEO presentations to be provided by division and district AARs, CRD and HRD attempt to annually target a specific group for training in some phase of the programs CRD administers.

Problem Identified:

It has been a few years since the department provided training for employees on sexual harassment. Because the workplace is continually changing, the department felt it is time to refresh everyone's insight and to gain new information about sexual harassment.

Proposed Action:

The department is sponsoring training focused on this issue in conjunction with its annual Spring Safety Meetings scheduled for all district and central office employees. Program I of the department's new DVD, "Sexual Harassment: A High Price to Pay" will be used as the basis for the training. Program I clearly demonstrates what sexual harassment is, the five main areas of sexual harassment as defined by law, specific guidelines of appropriate work behavior, and the

repercussions of noncompliance. This training is mandatory for all employees and will count as one of the three required EEO training sessions.

Target Dates:

April 2 - Dickinson District
April 3 - Williston District
April 4 - Minot District
April 5 - Bismarck District
April 9 - Devils Lake District
April 10 - Grand Forks District
April 11 - Fargo District
April 12 - Valley City District

Responsible Officials:

CRD Director
CRD Administrative Assistant

C. EMPLOYMENT STATISTICAL DATA

1. Total State Population as of 2000 (Bureau of Census):

	<u>Number</u>	<u>Percent</u>
Total Population	642,200	100.00
White	593,181	92.37
Black or African American	3,916	0.61
American Indian and Alaskan Native	31,329	4.88
Asian	3,606	0.56
Native Hawaiian and Other Pacific Islander	230	0.03
Other	2,540	0.39
Two or More Races	7,398	1.15
Hispanic or Latino	7,786	1.21
Not Hispanic or Latino	634,414	98.79

Total State Population as of 2010 (Bureau of Census):

	<u>Number</u>	<u>Percent</u>
Total Population	646,844	100.00
White	576,099	89.06
Black or African American	6,889	1.06
American Indian and Alaskan Native	36,102	5.58
Asian	4,986	0.77
Native Hawaiian and Other Pacific Islander	216	0.03
Other	528	0.08
Two or More Races	9,388	1.45
Hispanic or Latino	12,636	1.95
Not Hispanic or Latino	634,208	98.04

2. Representation Analysis:

The following labor market figures were derived from the 2000 U.S. Census:
(2010 U.S. Census labor market figures will be available in 2013.)

Occupational Group	Available in Labor Market %					Present in NDDOT on 12-31-11 %					Representation Rate + or - %					Needed Employment Gains %				
	Amer Ind		Other Min		White	Amer Ind		Other Min		White	Amer Ind		Other Min		White	Amer Ind		Other Min		White
	Male	Female	Male	Female	Female	Male	Female	Male	Female	Female	Male	Female	Male	Female	Female	Male	Female	Male	Female	Female
Officials-Administrators	1.6	1.5	.7	.6	33.4	1.3	0.	0.	0.	29.1	-.3	-1.5	-.7	-.6	-4.3	+.3	+1.5	+.7	+.6	+4.3
Professionals	1.1	1.9	1.3	1.2	46.6	.4	.4	2.7	.9	26.8	-.7	-1.5	+1.4	-.3	-19.8	+.7	+1.5	0.	+.3	+19.8
Technicians	2.0	1.2	.8	.8	56.0	1.8	.4	.9	1.3	30.3	-.2	-.8	+.1	+.5	-25.7	+.2	+.8	0.	0.	+25.7
Paraprofessionals	1.0	5.9	0.	0.	87.0	0.	0.	0.	0.	100.0	-1.0	-5.9	0.	0.	+13.0	+1.0	+5.9	0.	0.	0.
Administrative Support	.2	2.9	0.	1.1	91.5	0.	1.3	1.3	1.3	91.1	-.2	-1.6	+1.3	+.2	-.4	+.2	+1.6	0.	0.	0.
Skilled Craft	2.3	.4	1.7	.6	11.0	1.3	0.	.3	0.	3.5	-1.0	-.4	-1.4	-.6	-7.5	+1.0	+.4	+1.4	+.6	+7.5
Service-Maintenance	2.3	1.4	2.2	.8	34.4	0.	0.	0.	0.	17.7	-2.3	-1.4	-2.2	-.8	-16.7	+2.3	+1.4	+2.2	+.8	+16.7

3. Computing Desired Employment Gain Figures:

Occupational Group	Current Employment Figures (by number)						Under-representation Figures (by percent)						Needed Employment Gains (by number)					
	Total	Amer Ind		Other Min		White	Amer Ind		Other Min		White	Amer Ind		Other Min		White		
		Male	Female	Male	Female	Female	Male	Female	Male	Female	Female	Male	Female	Male	Female	Female		
Officials-Administrators	79	1	0	0	0	23	.3	1.5	.7	.6	4.3	1	1	1	1	3		
Professionals	224	1	1	6	2	60	.7	1.5	0.	.3	19.8	1	3	0	1	44		
Technicians	228	4	1	2	3	69	.2	.8	0.	0.	25.7	1	1	0	0	58		
Paraprofessionals	4	0	0	0	0	4	1.0	5.9	0.	0.	0.	1	1	0	0	0		
Administrative Support	79	0	1	1	1	72	.2	1.6	0.	0.	0.	1	1	0	0	0		
Skilled Craft	374	5	0	1	0	13	1.0	.4	1.4	.6	7.5	3	1	5	2	28		
Service-Maintenance	45	0	0	0	0	8	2.3	1.4	2.2	.8	16.7	1	1	1	1	7		

4. Five-year Hiring Goals for Minorities and Women:

Occupational Groups	2012					2013					2014					2015					2016				
	Amer Ind		Other Min		White	Amer Ind		Other Min		White	Amer Ind		Other Min		White	Amer Ind		Other Min		White	Amer Ind		Other Min		White
	Male	Female	Male	Female	Female	Male	Female	Male	Female	Female	Male	Female	Male	Female	Female	Male	Female	Male	Female	Female	Male	Female	Male	Female	Female
Officials-Administrators	1	1	1	1	1	0	0	0	0	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0
Professionals	1	1	0	1	9	0	1	0	0	9	0	1	0	0	9	0	0	0	0	9	0	0	0	0	8
Technicians	1	1	0	0	12	0	0	0	0	12	0	0	0	0	12	0	0	0	0	11	0	0	0	0	11
Paraprofessionals	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Administrative Support	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Skilled Craft	1	1	1	1	6	1	0	1	1	6	1	0	1	0	6	0	0	1	0	5	0	0	1	0	5
Service-Maintenance	1	1	1	1	2	0	0	0	0	2	0	0	0	0	1	0	0	0	0	1	0	0	0	0	1

EXHIBIT 1: EXECUTIVE POLICY NUMBER I 2-1.7A

Agency: North Dakota Department of Transportation
Division: Executive Office
Group: Executive Policy Manual
Category: I-Organization
Policy Number: I 2-1.7A
Title: Civil Rights Division
Original Date: 10/23/2006
Revised Date: 10/15/2010
Review By Date: 10/15/2011

PURPOSE: To establish the duties of the Civil Rights Division and grant the Civil Rights Division authority to carry out the duties assigned.

POLICY: The Civil Rights Division shall report to the Office of Operations and be responsible for performing and overseeing the following tasks:

- Administer the Disadvantaged Business Enterprise (DBE) Program
- Administer the Equal Employment Opportunity (EEO) Contractor Compliance Program
- Administer the Equal Employment Opportunity (EEO) On-the-Job Training Program (OJT)
- Administer the Labor Compliance Program
- Administer the Title VI and Nondiscrimination Program
- Administer the Title VII (Internal EEO Affirmative Action) Program
- Oversee the DBE/OJT Supportive Services Programs

Maintain:

- Davis-Bacon Wage and Payroll Requirements Handbook
- DBE and OJT Contract Special Provisions
- DBE Directory
- DBE Program Administration Manual
- EEO Affirmative Action Plan Update

Executive Policy Number I 2-1.7A

Page 2

- External Civil Rights Manual
- Labor Rates from U.S. Department of Labor
- On-the-Job Training Program
- Resources for Affirmative Action Representatives Manual
- Title VI and Nondiscrimination Program Plan
- Guidelines for Conducting a Workplace Investigation

Francis G. Ziegler, P.E.
Director

EXHIBIT 2: EXECUTIVE POLICY NUMBER II 4-1

Agency: North Dakota Department of Transportation
Division: Civil Rights
Group: Executive Policy Manual
Category: II-Management, Project and Program Development
Policy Number: II 4-1
Title: Equal Employment Opportunity
Original Date: 08/22/1985
Revised Date: 10/15/2010
Review by Date: 10/15/2011

PURPOSE: The purpose of this policy is to establish the authority of the Civil Rights Division to enact and enforce equal employment opportunity (EEO) procedures for the North Dakota Department of Transportation (NDDOT).

POLICY: The NDDOT provides EEO so that no NDDOT employee or applicant for employment will be discriminated against because of:

- race, color, religion, national origin, sex, age, physical or mental disability/handicap
- political opinion or affiliation
- status with regard to marriage or public assistance
- participation in any lawful activity off the employer's premises during non-working hours, which is not in direct conflict with the essential business-related interests of the employer

The EEO Program applies to all employees of and applicants for positions with NDDOT, and requires that they be treated equally. The program allows no discrimination of any kind in:

- recruitment, placement, advertising or solicitations for employment
- training during employment or selection for training (including apprenticeship)
- rates of pay or other forms of compensation
- promotions, transfers, demotions, layoffs, or terminations
- recognition or awards
- any related function

NDDOT also guarantees all employees the right to work in an environment free of sexual and other harassment based on race, color, religion, sex, age, national origin, and handicap or disability. Specifically, sexual harassment is deliberate or repeated, unsolicited, and unwelcome verbal comments, gestures, graphic materials, or physical contacts of a sexual nature. Unlawful sexual harassment occurs when these actions are made a condition of employment, are used as the basis for an employment decision affecting the employee, interfere with an employee's work performance, or create an intimidating, hostile, or offensive work environment. In addition, it is unlawful harassment for any employee to engage in any conduct or activity or to display any graphic material that is based on an employee's race, color, religion, sex, age, national origin, and disability/handicap or when it is offensive or shows hostility or aversion toward an employee or the employee's relatives, friends, or associates; it adversely affects an employee's employment opportunities; it unreasonably interferes with an employee's work performance; or it creates an intimidating, hostile, or offensive work environment. NDDOT also protects employees from sexual and other harassment by non-NDDOT employees during working hours.

Discrimination and workplace harassment are grounds for disciplinary action.

NDDOT's EEO and workplace harassment policies are **good management practice**, and all employees—but especially NDDOT managers—are expected to support them.

Anyone who believes that he or she has been discriminated against or harassed should contact either the Civil Rights Division Director at 328-2576 in Bismarck (TTY: 701-328-4156) or any NDDOT Affirmative Action Representative.

The Civil Rights Division, which is part of the Office of Operations, is responsible for administering this program.

The EEO Affirmative Action Plan and provisions for providing an environment free of sexual and other harassment must be included in the EEO Affirmative Action Program.

The Human Resources Division along with the Civil Rights Division must establish operational policies and procedures in the Personnel Manual covering the proper areas.

Each division and district must designate an Affirmative Action Representative (AAR) who may be the local contact in matters involving apparent violations of this policy. The AAR will report these matters to the Civil Rights Division.

NDDOT will maintain a Workplace Investigation Process to conduct investigations and prepare a final report and summary of findings to the Director when a discrimination complaint is filed.

Francis G. Ziegler, P.E.
Director

EXHIBIT 3: NDDOT ORGANIZATION CHART

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION ORGANIZATION CHART January 3, 2012

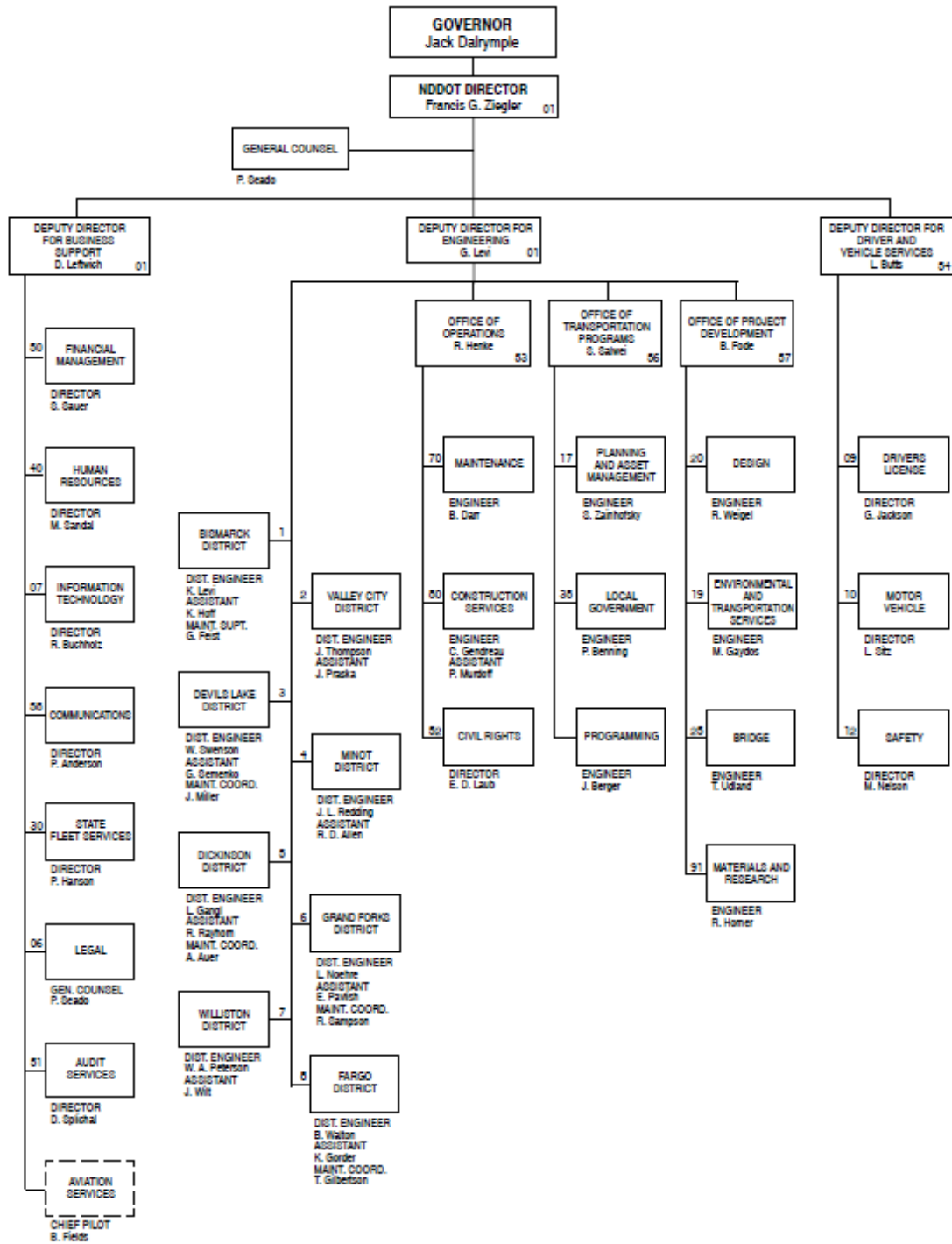


EXHIBIT 4: STATE ASSURANCE WITH REGARD TO EQUAL EMPLOYMENT OPPORTUNITY

STATE ASSURANCE WITH REGARD TO EQUAL EMPLOYMENT OPPORTUNITY AS REQUIRED BY THE FEDERAL-AID HIGHWAY ACT OF 1968

Pursuant to the requirements of Section 22(a) of the Federal-aid Highway Act of 1968, the State of North Dakota, desiring to avail itself of the benefits of Chapter 1, Title 23, United States Code, and as a condition to obtaining the approval of the Secretary of Transportation of any programs for projects as provided for in Title 23, United States Code, Section 105(a), hereby gives its assurance that employment in connection with all proposed projects approved on or after August 23, 1968, will be provided without regard to race, color, creed, or national origin.

More specifically, and without limiting the above general assurance, the North Dakota Department of Transportation (NDDOT) hereby gives the following specific assurances:

1. NDDOT will establish an Equal Employment Opportunity Program in furtherance of the above General Assurance, which shall include a system to ascertain whether contractors and subcontractors are complying with their equal employment opportunity contract obligations and the degree to which such compliance is producing substantial progress on the various project sites in terms of minority group employment. NDDOT will furnish such information and reports regarding contractor and subcontractor compliance as may be requested by the Federal Highway Administration.
2. The NDDOT program shall include effective procedures to assure that discrimination in employment on the grounds of race, color, creed, or national origin will not be permitted on any projects; and if discrimination exists at the time this assurance is made, it will be corrected promptly.
3. NDDOT has appointed an Equal Employment Opportunity Coordinator whose primary duty shall be to administer NDDOT's Equal Employment Opportunity Program as established pursuant to these assurances.
4. NDDOT will, on its own initiative, take affirmative action, including the imposition of contract sanctions and the initiation of appropriate legal proceedings under any applicable state or federal law, to achieve equal employment opportunity on federal-aid highway projects and will actively cooperate with the Federal Highway Administration in all investigations and enforcement actions undertaken by the Federal Highway Administration.

5. NDDOT will establish and maintain effective liaison with public and private agencies and organizations which are, or should be, involved in equal employment opportunity programs. Such agencies and organizations include, but are not limited to labor unions, contractor associations, minority group organizations, the U. S. and State Employment Service, and the U. S. and State Department of Labor.
6. NDDOT hereby agrees that it will seek the cooperation of unions, contractors, appropriate state agencies, and other related organizations in the establishment of skill training programs and will assure that all persons will have an opportunity to participate in such programs without regard to race, creed, color, or national origin.
7. NDDOT hereby agrees that its own employment policies and practices with regard to NDDOT employees, any part of whose compensation is reimbursed from federal funds, will be without regard to race, color, creed, or national origin.
8. NDDOT shall include in the advertised specifications notification of the specific equal employment opportunity responsibilities of the successful bidder as those responsibilities are currently defined and required by the Federal Highway Administration. No requirement or obligation shall be imposed as a condition precedent to the award of a contract for a project unless such requirement or obligation is otherwise lawful and is specifically set forth in the advertised specifications. Procedures for the prequalification of federal-aid contractors and subcontractors to determine their capability to comply with their equal employment opportunity contract obligations will be issued as a supplement to this interim assurance for implementation by December 1, 1968.
9. NDDOT will obtain and furnish to the Federal Highway Administration such information and reports as may be requested to enable the Federal Highway Administration to determine compliance by NDDOT with this assurance.

March 15, 2012

Date


Francis G. Ziegler, P.E.
Director

EXHIBIT 5: TITLE VII/EEO AND WORKPLACE HARASSMENT POLICY STATEMENT

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION CIVIL RIGHTS DIVISION

Policy 2-1 Title VII

Original Date: July 7, 2011

TITLE VII/EEO AND WORKPLACE HARASSMENT POLICY STATEMENT

I, as Director of the North Dakota Department of Transportation (NDDOT), am personally committed to and support Equal Employment Opportunity (EEO) for all people regardless of race, color, religion, sex, age, national origin, physical or mental disability or handicap, genetics, political opinion or affiliation, status with regard to marriage or public assistance, or participation in lawful activity off NDDOT's premises during non-working hours, which is not in direct conflict with the essential business-related interests of NDDOT. To this end, NDDOT has committed to undertake an affirmative action program, including goals and timetables, in order to overcome the effects of past discrimination of minorities and women. The affirmative action program is a goal-setting program with measurement and evaluation factors similar to other major NDDOT programs. The program assures equal opportunity in all employment practices, including but not limited to recruitment, placement, advertising or solicitations for employment; training during employment or selection for training (including apprenticeship); rates of pay or other forms of compensation; promotions, transfers, demotions, layoffs, or terminations; recognition or awards; or any related function.

NDDOT also guarantees all employees the right to work in an environment free of sexual and other harassment based on race, color, religion, sex, age, national origin, and disability or handicap. Specifically, sexual harassment is deliberate or repeated, unsolicited, and unwelcome verbal comments, gestures, graphic materials, or physical contacts of a sexual nature. Unlawful sexual harassment occurs when these actions are made a condition of employment, are used as the basis for an employment decision affecting the employee, interfere with an employee's work performance, or create an intimidating, hostile, or offensive work environment. In addition, it is unlawful harassment for any employee to engage in any conduct or activity or to display any graphic material that is based on an employee's race, color, religion, sex, age, national origin, and disability or handicap or when it is offensive or shows hostility or aversion toward an employee or the employee's relatives, friends, or associates; it adversely affects an employee's employment opportunities; it unreasonably interferes with an employee's work performance; or it creates an intimidating, hostile, or offensive work environment. NDDOT also protects employees from sexual and other harassment by non-NDDOT employees during working hours.

The responsibility for implementing NDDOT's affirmative action program is assigned to the Civil Rights Division Director. However, all management staff share in this responsibility and will be assigned specific tasks to assure that compliance is achieved. The responsibility for positive affirmative action in the discharge of the affirmative action program, including performance reviews of managers and supervisors in such functions, will be expected of and shared by all management staff. The performance by managers and supervisors will be evaluated by the success of the affirmative action program in the same way their performance is evaluated by the success of other NDDOT programs. I believe that successful achievement of EEO goals will provide benefits to NDDOT through comprehensive utilization and development of underutilized human resources.

Employees and applicants for employment have the right to file complaints alleging discrimination with NDDOT. Anyone who believes that he or she has been discriminated against or harassed should contact either the Civil Rights Division Director at 701-328-2576 or 701-527-8834 in Bismarck or any NDDOT Affirmative Action Representative. TTY users may call Relay North Dakota at 711 or 1-800-366-6888 (toll free).

March 15, 2012

Date


Francis G. Ziegler, P.E.
Director