**Welcome to CDOT Affirmative Action in Employment Training**

*To CDOT Employees:*

*We are pleased to welcome you to this online awareness training designed to assist you in understanding the concepts and requirements relating to affirmative action.*

*At CDOT, we want to foster a work culture that values diversity and one in which all employees feel welcomed and appreciated. We will not condone behavior that undermines our core values, which include a passion for dignity, respect, and integrity. As a step toward this goal, we are providing this important professional development opportunity designed to help you understand affirmative action.*

*You are encouraged to carefully review the content of this training module. Your participation will ensure that all members of the CDOT community have the foundation for a common understanding to help make us the best transportation department in the country.*

*CDOT is a partner in a Stewardship and Oversight Agreement with the Federal Highway Administration (FHWA) and the foundation for CDOT’s affirmative action plan is contained in 23 CFR Part 230 and the Federal Transportation Administration (FTA) Circular 4701.1.*

*CDOT is committed to equal employment opportunity and affirmative action for all Colorado residents.*

*Click HERE for the CDOT Equal Employment Opportunity and Affirmative Action Policy Directive 600.0 signed by the Transportation Commission.*

*Click HERE for the CDOT Affirmative Action Report and Plan.*

**Overview**

This training module is designed to provide all CDOT employees with an overview and practical understanding of the fundamental principles and requirements of affirmative action.

You will learn about:

* The origins and history of affirmative action
* Affirmative action myths and misinformation
* The required elements of an affirmative action plan
* Affirmative action strategies
* Expectations of CDOT supervisors and managers

**Definitions**

An Affirmative Action Program refers to an organizational effort to have its workforce reflect the race, ethnicity and gender of the qualified local population.

The Affirmative Action Report and Plan is an annual publication that outlines the organizational effort taken when a workforce does not naturally reflect that qualified local minority population. It includes an analyses of its workforce and the qualified local population. The Plan identifies gaps and sets goals and timetables to close those gaps.

Diversity relates to valuing the unique qualities, experiences and work styles of individuals that can contribute to increased staff engagement, retention and productivity as well as enhancing an organizations relationship with its customers and community.

**Important Milestones in the History of Affirmative Action**

In 1941, President Franklin Roosevelt's Executive Order 8802 outlawed segregationist hiring by federal defense contractors. In 1953, the Truman Committee, a U.S. Senate committee formed by President Truman, urged the Bureau of Employment Security "to act positively and affirmatively to implement the policy of nondiscrimination..." The Civil Rights Act of 1964 and Voting Rights Act of 1965 extended equal protection.

In 1961, President John F. Kennedy issued Executive Order 10925, which ordered federal contractors to take "affirmative action" measures to achieve fairness in the workplace.

In 1965, President Lyndon Johnson issued Executive Order 11246, which required federal contractors to "take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin."

In 1967, Johnson expanded the Executive Order to include affirmative action requirements to benefit women.

In 1969, President Richard Nixon initiated the "Philadelphia Order," a plan guaranteeing fair hiring practices in construction jobs.

In 1971, the U.S. Supreme Court ruling in Griggs vs. Duke Power Company required employment qualifications to be job related.

In 1978, the Supreme Court ruled in Regents of the University of California v. Bakke that while race was a legitimate factor in school admissions, the use of quotas was not constitutional.

In 1989, in City of Richmond v. Croson, a program setting aside 30% of city construction funds for black-owned firms was challenged. The Supreme Court ruled that the program violated the equal protection clause of the 14th Amendment.

In 1996, in Hopwood v. University of Texas Law School, the plaintiffs challenged the school's affirmative action program. The 5th Circuit Court of Appeals ruled that any consideration of race is unconstitutional. The Supreme Court declined to review the decision.

In 1997, California Proposition 209 amended the state constitution to prohibit state institutions from considering race, ethnicity and sex in the areas of public employment, contracting and education.

In 2014, for federal contractors, President Barack Obama expanded Executive Order 11246 to prohibit discrimination based on sexual orientation and gender identity

**What is (and is not) Affirmative Action?**

Affirmative action can include the following:

* Remedial action, such as implementation of an Affirmative Action Program
* Temporary measures, such as hiring qualified minority temporary employees
* Results-oriented programs and activities, for example, having a formal recruitment program
* Removal of obstacles that might have led to the gaps between workforce and population, such as having diversity on interview panels
* All else being equal, hiring or promoting qualified minority and female applicants

Affirmative action is not:

* A quota systemI
* Reverse discrimination
* Always court ordered or necessitated by regulation or law (can be voluntary) hiring of minorities and women regardless of qualifications

**Who Benefits from Affirmative Action Policies?**

Affirmative Action benefits everyone economically, either directly or indirectly by:

* Affirmative Action programs lead to the establishment of clear norms by employers, giving all workers equal access to jobs, promotions, and training
* Affirmative Action policies have resulted in increases in the representation of minorities across all levels of employment in the United States and within organizations that were once exclusively non-minority males
* Affirmative Action expands the talent pool for jobs and creates a more diverse work environment
* Women, Blacks/African Americans, Hispanics/Latinos, Asians/Pacific Islanders, and American Indians/Alaskan Natives, veterans, disabled veterans, and persons with disabilities benefit from the organizational promotion of equality

**Components of an Affirmative Action Plan**

* *A Narrative Statement* answers the question, “What we do”
* A *Workforce Analysis* answers the question "Who are we?"
* A *Availability Analysis* answers the question "Who is out there?"
* A *Workforce vs. Availability (aka Utilization) Analysis* answers the question "How do we compare to the local qualified workforce and what are the gaps?"
* A *Goals and Timetables* answer the question "What are we going to do to close the gaps?"

**Affirmative Action Strategies**

Examples of strategies for attaining goals may include:

Outreach and recruitment such as attending college job fairs and Construction Career Days

Review of internal processes to assess bias and barriers such as annual reviews of position descriptions or obtaining consultation to develop optimal interview questions

Mentoring and upward mobility programs such as the CDOT Intern and Tuition Reimbursement Programs

Training and engagement programs such as CDOTU and Employee Council

Diversity-related training such as this

Knowing what to do when it comes to Affirmative Action can be a dilemma.

#  “Affirmative Action Dilemma”?

* Steve Smith is a supervisor at CDOT. As part of his duties, he supervises fifteen employees. Fourteen of these employees are men. One of the employees is a black male, and one is a white female. Headquarters
* Smith is replacing one of the white male employees. The position has been posted both in-house as well as externally in accordance with the hiring policies. After reviewing all of the applications, Smith believes that John Jackson, employed with the organization for the past twelve years, is the best qualified applicant. However, in the pool of applicants, there are three qualified females and two qualified black males.
* What would you advise Steve Smith to do?

# Response to "Affirmative Action Dilemma?"

The objective in any employment selection process is to identify the best-qualified candidate for the position based on job-related criteria. In this situation, while Steve's intentions may be honorable, any decision to select a candidate based on his or her gender or race would be discriminatory and in violation of Title VII of the 1964 Civil Rights Act.

* However, if Steve’s belief that John is the best-qualified candidate is based solely on John's longevity with the organization, Steve may be depending too heavily on only one element of the job qualifications. Steve should evaluate each candidate's entire application comprehensively, including the nature and length of each person's job-related work experience, education, other job skills, knowledge, and abilities, to make his selection decision.

Comment: Achieving a workplace that represents the local qualified workforce does not happen overnight. In some cases, qualified minority and female candidates may simply be unavailable. That is why it is important to consider affirmative action starting at the very early stages of recruiting, as well as throughout the selection and hiring processes. State Transportation agencies, such as CDOT, must publish an annual affirmative action plan that determines whether the employer needs placement goals to achieve a better representation of minorities in specific job groups.

Click HERE for the CDOT Affirmative Action Report and Plan.

**The Challenges Ahead**

Affirmative action programs still faces many challenges. Some lie in implementation, such as:

Eradicating myths, misinformation, and ambivalence

Overcoming organizational inertia, culture, and complexity to reach and involve every employee, regardless of position or rank

Providing management with skills and tools to motivate, supervise, and reward a diverse workforce

Overcoming resistance, controversy, and perceived lack of relevance to systemic change and new expectations

**What are Expectations of CDOT Supervisors and Managers**?

Understanding CDOT’s Equal Employment Opportunity and Affirmative Action policy and familiarity with the CDOT Affirmative Action Report and Plan is critical as a Director, Manager or Supervisor. When practiced, you can easily avert the most common complaints and be supportive of CDOT’s EEO/AA requirements.

As a Supervisor or Manager you need to take the following action in support of EEO and AA:

Work with your Workforce Specialist and RCRM to determine the best hiring/promotion strategy

Communicate any systemic barriers to EEO and AA to appropriate manager or authority

Ensure that no biases or barriers exist when conducting hiring, promoting, or training actions

Inform your employees about EEO and AA policies, employee complaint procedures, and have completed Strength from Diversity, Putting the Brakes on Workplace Harassment, and Safety – Creating a Safer Workplace training

* Immediately report any concern or complaint of sexual harassment, discrimination or hostile work environment to the Regional Civil Rights Office or, for HQ staff, Employee Relations Office
* Ensure your subordinate managers and supervisors understand the EEO and AA policies and procedures

Monitor all employment actions (hiring, promotion, training, and other terms and conditions of employment) to ensure EEO and AA opportunities are fully utilized

* Model respectful behavior and adherence to CDOT policies and procedural directives
* Hire the best qualified candidate for the job

**Post Training Assessment**

1. Who signed the CDOT Equal Employment and Affirmative Action policy directive?:

Shailen Bhatt, CDOT Executive Director
Michael Lewis, CDOT Chief Operating Officer and Deputy Director
CDOT Transportation Commission Secretary
none of the above
2. CDOT’s affirmative action plan establishes goals for hiring, and promoting women and minorities with the intent to eliminate the present effects of past discrimination.

True
False
3. Which of the following analyses is not considered an essential component of CDOT’s affirmative action plan?

Workforce analysis
Availability analysis
Compensation analysis
Workforce vs. availability analysis
4. Affirmative action practice specifically prohibit hiring or promotion quotas.

True
False
5. Affirmative Action programs guarantee that members of minority groups will be selected over non-minority applicants.

True
False
6. Discrimination occurs when a more qualified member of a non-protected class (generally white males) is not hired or promoted in favor of a member of a protected class.

True
False
7. What is NOT considered an expectation of a CDOT supervisor or manager in regards to affirmative action?
* Encourage only minority candidates to apply for your vacancy

Work with your Workforce Specialist and RCRM to determine the best hiring/promotion strategy

Model respectful behavior and adherence to CDOT policies and procedural directives

Hire the best qualified candidate for the job

1. Which is not a challenge for an affirmative action program?

Eradicating myths, misinformation, and ambivalence

X Obtaining local population information

Overcoming organizational inertia, culture, and complexity to reach and involve every employee, regardless of position or rank

Providing management with skills and tools to motivate, supervise, and reward a diverse workforce

Overcoming resistance, controversy, and perceived lack of relevance to systemic change and new expectations