

U.S. DEPARTMENT OF AGRICULTURE  
WASHINGTON, D.C. 20250

<b>DEPARTMENTAL REGULATION</b>		<b>Number:</b> 4230-002
<b>SUBJECT:</b> Special Emphasis Programs	<b>DATE:</b> June 4, 2009	
	<b>OPI:</b> Office of the Assistant Secretary for Civil Rights	

1. PURPOSE

The purpose of this regulation is to provide guidance and direction on the establishment and administration of Special Emphasis Programs (SEP) throughout the Department of Agriculture. SEPs address the unique concerns of the following individuals: African Americans; American Indians/Alaska Natives; Asian Americans/Pacific Islanders; persons with disabilities; Gay, Lesbian, Bisexual, and Transgender individuals; Hispanic individuals; and women in achieving diversity, inclusion and equal opportunity in employment activities.

The measure of an effective SEP is the results achieved toward civil rights program objectives.

Examples of key indicators include:

- a. Progress towards achieving a diverse work force at all grade levels and in all occupations;
- b. A decrease in employment complaints and findings of discrimination;
- c. An increase in early complaint resolution rates;
- d. An increase in awareness and training efforts; and
- e. Recruitment efforts of underutilized and underserved communities.

2. AUTHORITY

In order to carry out SEP objectives, a wide range of civil rights laws, rules, executive orders, and regulations provide authority and guidance (see Appendix A).

### 3. SPECIAL INSTRUCTIONS/CANCELATION

This Departmental Regulation replaces DR 4230-002 dated October 24, 1995, in its entirety due to updates to laws, regulations, policies, and Executive Orders.

### 4. POLICY

The Department of Agriculture policy is to:

- a. Treat all employees, customers, and stakeholders with dignity and respect;
- b. Ensure inclusion, diversity, and equal opportunity in the workforce;
- c. Prohibit discrimination based on race, color, age, religion, sex, national origin, disability, familial status, marital status, sexual orientation, political beliefs, protected genetic information, and reprisal based on such discrimination; and
- d. Hold managers, supervisors, and employees accountable for results-oriented civil rights activities.

### 5. RESPONSIBILITIES

- a. Assistant Secretary for Civil Rights
  - (1) Develop Policy. Provide overall responsibility for policy development, direction, administration and enforcement of the Department's Special Emphasis Programs;
  - (2) Establish Department Special Emphasis Programs. Establish Department SEPs and appoint Special Emphasis Program Managers (SEPMs) for the following groups:
    - (a) African Americans;
    - (b) American Indian/Alaska Natives;
    - (c) Asian American/Pacific Islanders;
    - (d) Persons with Disabilities;
    - (e) Gay, Lesbian, Bisexual, and Transgendered;
    - (f) Hispanics; and
    - (g) Women.

- (3) Establish Departmental Special Emphasis Program Committees. Committees chaired by the Department SEPM and comprised of representatives from Mission Areas, agencies and/or offices, and other resource advisors as appropriate. The purposes of these committees are to:
- (a) Promote SEPs and address issues concerning each of the SEP groups;
  - (b) Identify and discuss Department diversity and civil rights issues periodically;
  - (c) Identify and discuss Mission Areas, agencies and/or offices diversity and civil rights issues;
  - (d) Educate and train through:
    - 1 Observance events (see Appendix D);
    - 2 Forums;
    - 3 Recruitment, retention and succession plans; and
    - 4 Training sessions.
  - (e) Facilitate and coordinate SEP activities at both the Department and agency level; and
  - (f) Review and implement action plans established pursuant to Equal Employment Opportunity Commission (EEOC) Management Directive (MD) 715 for adequacy and assess progress toward achieving affirmative employment goals, including reviewing statistical data on workforce composition.
- b. Under and Assistant Secretaries and Agency Heads
- (1) Establish Mission Area or agency level SEPs to support Departmental level SEP Committees.
  - (2) Overall responsibility for the direction, implementation and administration of the organization's SEPs.
  - (3) Secure the human and financial resources necessary for successful and results oriented SEPs at the Mission Area or agency level.
  - (4) Ensure that clear performance requirements establish the role, responsibilities and participation required of managers and supervisors in support of SEP efforts.

- (5) Commit to and visibly support SEPs.
- c. Agency Civil Rights Directors (or other officials with civil rights responsibilities)
- (1) Responsible for the administration, guidance, and direction of SEPs;
  - (2) Design results-oriented SEPs, appraising the effectiveness of the SEPs in meeting the agency's overall civil rights employment program goals and objectives;
  - (3) Select representatives for the seven Departmental SEP committees;
  - (4) Appoint an SEP Manager to represent the agency on each of the seven Departmental SEP committees;
  - (5) Ensure that SEP Managers carry out their duties and responsibilities; and
  - (6) Enter into a Memorandum of Understanding with the agency SEP representative to the Departmental SEP committee, their supervisor, the agency Civil Rights Director, and the Department SEP manager (see Appendix C for sample MOU).
- d. Departmental SEPMS
- (1) Serve as chair of the Department's SEP committee;
  - (2) Provide agency SEPMS' supervisors and agency Civil Rights Directors with annual accomplishment and performance reports;
  - (3) Review the agency SEPMS appointment to the Department's SEP committee and sign the MOU; and
  - (4) Duties and responsibilities outlined in Appendix B.
- e. Mission Area, Agency and/or Office SEPMS  
Pursuant to Section 5 (c)(3) of this Directive, Mission Area, agency or office, SEPMS will:
- (1) Represent their area on the Department's SEP committee;
  - (2) Serve as the point of contact and resource for the represented community;

- (3) Serve as a point of contact and resource for supervisors, managers, and employees; and
- (4) Perform the duties and responsibilities outlined in Appendix B.

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## Appendix A

### STATUTORY AND REGULATORY AUTHORITY<sup>1</sup>

Title VII of the Civil Rights Act of 1964, as amended, and Civil Rights Act of 1991 - Equal Employment Opportunity.

Americans with Disabilities Act of 1990, Rehabilitation Act Amendments of 1992.

Americans with Disabilities Act Amendments of 2008.

Rehabilitation Act of 1973, as amended. Sections 501 and 504.

The Equal Employment Opportunity Act of 1972.

Fair Labor Standards Act (The Equal Pay Act of 1963) and 1974 amendments.

Age Discrimination in Employment Act of 1967, as amended.

Civil Service Reform Act of 1978.

Farm Bills of 2002 and 2008.

29 C.F.R. Part 1614 - Federal Sector Equal Employment Opportunity.

Executive Order 11478 of August 12, 1969 (EEO in Federal Government) (superseded Executive Orders 11246 and parts of 11375 applicable to the Federal Government) as amended by E.O. 13087 of May 28, 1998, and as amended by E.O. 13152, of May 2, 2000.

Executive Order 11701 of January 24, 1973 (Employment of Veterans by Federal Agencies and Government Contractors and Subcontractors).

Executive Order 13166, of August 11, 2000 (Improving access to services for persons with limited English proficiency).

Executive Order 13145, of February 8, 2000 (Prohibiting discrimination in Federal employment based on genetic information).

EEOC Management Directive 110.

EEOC Management Directive 715.

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<sup>1</sup> USDA does not retain enforcement authority for all items listed, but they do provide guidance on how USDA conducts its employment activities and informs USDA actions.

## **Appendix B**

### **SEP MANAGER DUTIES**

Typical SEP Manager duties include:

Advising Departmental and agency management on the unique concerns of all SEP employment groups and analyzing employment data and recommending actions to increase representation of these groups within a given organization, if appropriate.

Monitoring employment policies, practices, and procedures to determine the existence of barriers to full participation as defined by the Agencies, and reporting findings to the appropriate officials with recommendations for corrective action. This includes participation in the development and monitoring of the organization's various civil rights programs, plans and reports (e.g. EEOC MD-715 Report).

Participating in studies and compliance reviews to identify possible systemic forms of discrimination and barriers to equal opportunity in employment activities.

Educating supervisors, managers and employees on the goals and objectives of SEPs through development of articles for organizational newsletters related to SEP issues, programs and activities.

Coordinating or sponsoring educational programs (seminars, workshops or other types of programs such as SEP observances) on a variety of subjects, e.g., career planning, interviewing techniques, supervisory development, and team building skills.

Assisting in identification of training needs and recruitment sources for minorities, women and persons with disabilities.

Coordinating or conducting forums on issues and concerns to a particular SEP group both internal and external to the Department.

Coordinating various activities with the appropriate offices which enhance opportunities for all employment groups, e.g. recruitment, training.

Working collaboratively with USDA recognized employee organizations (DR-4020-251-01) toward common goals, e.g., Federally Employed Women, IMAGE, GLOBE, Blacks in Government, Federal Executive Boards.

Evaluating effectiveness of activities and programs toward achieving SEP objectives.

In addition to these responsibilities, the Departmental SEPM serves as the chair of the Departmental SEP committee, enters into MOUs with agency SEPMs (as provided in Appendix C), and provides annual SEP accomplishment and performance reports to the agency Civil Rights Director and the agency SEPM's supervisor.

## **Appendix C**

### **SAMPLE MEMORANDUM OF UNDERSTANDING**

#### **FOR SPECIAL EMPHASIS PROGRAM MANAGERS (SEPM)**

This Memorandum of Understanding (MOU) is in accordance with Departmental Regulation 4230-002, on Special Emphasis Programs (SEP). The MOU is to ensure that no misunderstanding exists between the employee, [employee's name], and the employee's immediate supervisor, [supervisor's name], in the performance of full-time or collateral duties for the [program name] Special Emphasis Program.\*

This is a role that can be either a full-time or collateral duty position. For full-time positions, the [program name] Manager may be assigned additional duties, as deemed appropriate, but the [program name] duties shall be dominant.

It is understood and agreed that the duties of a collateral duty [program manager] Manager may require approximately [anticipated percent of time] percent of the employee's official time, and travel of [estimated travel time] per year on activities related to the [program name] position in the performance thereof. For collateral duty positions, an employee will be appointed to one two-year term, renewable at the discretion of the appointing official.

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

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

It is further understood that these duties may be removed at management's discretion at any time during the appointment term.

The employee's performance evaluation of the collateral duties will be in accordance with 5 U.S.C Chapter 43. [Department Special Emphasis Program Manager's Name], who is the [Department Special Emphasis Program Name] Program Manager, shall provide input to the employee's immediate supervisor and Civil Rights Director on the performance appraisal of the collateral duties at the time of the employee's performance rating.

A complete description of the employee's collateral duties as are referenced in Departmental Regulation 4230-002, Appendix B, SEP Manager Duties, is to be included.

It is understood that the employee shall be free from restraint, reprisal, interference, coercion, or discrimination, in connection with the performance of these collateral duties. Acknowledgment and understanding of this Memorandum is attested to by affixing our signature below.

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[Employee's Signature] [Date]

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[Supervisor's Signature] [Date]

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[Civil Rights Director's Signature and Agency Acronym] [Date]  
(If Civil Rights Director is not immediate supervisor)

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Department Special Emphasis [Program Manager's Signature] [Date]

\*A separate MOU must be completed for each special emphasis program to which an employee has been assigned.

## Appendix D

### SPECIAL OBSERVANCES

Currently, the following special observances fall within the scope of, and support the objectives of, the Department's current SEPs:

Martin Luther King, Jr. Birthday Celebration (January)

Black History Month (February)

Women's History Month (March)

Asian/Pacific American Heritage Month (May)

Gay/Lesbian/Bisexual/Transgender Pride Month (June)

Hispanic Heritage Month (September 15-October 15)

Disability Employment Awareness Month (October)

Native American Heritage Month (November)