



Canadian Human Rights Commission
Commission canadienne des droits de la personne

EMPLOYMENT EQUITY COMPLIANCE REVIEW

Human Resources Development Canada

2805 H3

Compliance Report

December 10, 2001

Compliance Review Officer : Virginia MacLatchy

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EXECUTIVE SUMMARY

A. INTRODUCTION

This is the *Compliance Report* of the Employment Equity Compliance Review of Human Resources Development Canada. It outlines the organization's activities related to compliance with the twelve statutory requirements of the *Act*, with a focus on the compliance status of the statutory requirements for which undertakings were negotiated as a result of the initial audit initiated on September 9, 1998. The results of this initial audit are documented in the *Interim Report* attached as Appendix D.

This *Compliance Report* will show that, as a result of a follow-up audit initiated on July 6, 2000, the organization has implemented the required undertakings and is now in compliance with all statutory requirements of the *Employment Equity Act*.

B. SUMMARY OF COMPLIANCE

N°	Human Resources Development Canada			
	COMPLIANCE PROFILE WITH THE EMPLOYMENT EQUITY ACT			
		Initial audit	Follow-up audit	Details in this Report
1	Workforce Survey & Data System	Partial compliance	Compliance*	5
2	Workforce Analysis	Partial compliance	Compliance	7
3	Employment Systems Review	Non-compliance	Compliance	10
4	Elimination of Barriers	Partial compliance	Compliance*	14
5	Accommodation	Substantial compliance	Compliance*	17
6	Positive Policies and Practices	Partial compliance	Compliance	20
7	Recruitment & Promotion Goals	Partial compliance	Compliance	23
8	Representation Goals	Non-compliance	Compliance	24
9	Monitoring, Review & Revision of Plan	Partial compliance	Compliance*	25
10	Information to Workforce	Partial compliance	Compliance	28
11	Consultation	Partial compliance	Compliance*	30
12	Maintenance of Records	Compliance	Compliance	33

* with requirements

C. DESIGNATED GROUP REPRESENTATION

Human Resources Development Canada's workforce data, attached as Appendix A, outlines the details of the under-representation of designated groups at the organization by occupational category. The overall representation based on a total workforce of 23,720 employees, as of September 2000, stands as follows:

Calculation by occupational categories

Women		Aboriginal peoples	
Scientific and Professional	-33	Executive	-6
Operational	-3	Scientific and Professional	-18
Technical	-1	Others	-1
Persons with disabilities		Visible Minorities	
Technical	-2	Executive	-7
		Scientific and Professional	-1
		Administrative and Foreign Service	-327
		Technical	-1
		Administrative Support	-180
		Others	-5

D. GENERAL PERFORMANCE

Human Resources Development Canada is a very large and decentralized department. It has undertaken numerous initiatives to develop and implement each requirement of its employment equity program. During the last year, it has made significant progress towards reducing its large gaps of visible minorities, partly through increased self-identification and also by making more use of its special measure for the external recruitment of visible minorities. It has committed itself to ambitious goals as a part of its response to the *Embracing Change* report. While the initiatives and commitment vary somewhat across the department, if the department implements the initiatives in its regional and departmental plans and monitors its progress closely, it should make reasonable progress towards full representation. Of concern is how the department will be able to accomplish this if the managerial accords at the Deputy Minister level do not set the example and include objectives related to the large areas of under-representation.

E. CONCLUSION

As of August 31, 2001, Human Resources Development Canada has demonstrated that it is in compliance with the twelve statutory requirements of the *Employment Equity Act*. As such, the compliance audit is concluded and the audit file is closed. There remain a few issues which the department still needs to address. These are listed as requirements throughout the report. Should they not be completed in a timely fashion, the audit may need to be re-opened.

It should be noted that Section 12 of the *Act* requires employers to make all reasonable efforts to implement their employment equity plan and to monitor its implementation on a regular basis to assess whether reasonable progress is being made. In the execution of its mandate, the Canadian Human Rights Commission will monitor the performance of organizations after they are found in compliance, through a review of the annual reports submitted to the Treasury Board Secretariat. Where this monitoring indicates that an organization is failing to make reasonable progress, the Commission may initiate a new audit. Where an employer falls short on the attainment of results because of a failure to make reasonable efforts, additional undertakings may be negotiated at that time.

I PROFILE OF ORGANIZATION

Human Resources Development Canada (HRDC) was created in 1993 from parts of five former departments. Its role is the design and delivery of national labour market and social development programs. Its business plan for the years 1999 to 2001 identifies its core business products as Income Security Programs, Employment Insurance, Human Resources Investment and Labour.

The department is responsible for the administration of the federal *Employment Equity Act* through its Workplace Equity program and in addition, its mandate includes programs that are related to the four designated groups, such as its Office of Disability Issues.

As a decentralized department, HRDC delivers its services through its eleven regional offices as well as numerous Human Resource Centres. The regions vary considerably in size and have each developed their own workforce analysis, employment systems review and employment equity plan.

Approximately, 97% of the employees are represented by six unions.

II AUDIT METHODOLOGY

Results of Initial Audit

Human Resources Development Canada was first notified of a compliance review on September 9, 1998. An on-site visit was conducted between March 26 and April 13, 1999, with a debriefing session held on April 20, 1999. The *Interim Report* outlines the results of this initial audit and details the organization's compliance status at that time.

The initial audit demonstrated that Human Resources Development Canada was already in partial compliance with a number of statutory requirements and assessment factors, but that undertakings were required in eleven areas for the organization to achieve compliance with the *Employment Equity Act*. The *Interim Report* outlined where undertakings were required and a timetable for their implementation. Human Resources Development Canada reached agreement with the Compliance Review Officer on the undertakings. The *Interim Report*, signed by the Deputy Minister, included provision for a follow-up audit scheduled to commence on July 6, 2000. (See Appendix D).

Results of Follow-up Audit

Approximately one month prior to the follow-up date, the Compliance Review Officer requested that the organization submit a progress report and the necessary documentation to verify the implementation of these undertakings. The material was received on September 2, 2000.

Following a review of the material, the Compliance Review Officer decided to grant the department a three-month extension to make some revisions and to complete the work required. A progress

report was submitted by the organization after the extension and received on January 5, 2001 with additional material received on March 1, 2001 and June 25, 2001.

Follow-up on-site visits were conducted from May 15, 2001 to June 18, 2001, at headquarters and in the Ontario and Alberta regions. A telephone interview was also held with the Regional Director General of the Nova Scotia region. Interviews and meetings were conducted with various personnel, including senior managers, designated group members, bargaining agents, human resources personnel, employment equity committees and hiring managers. A debriefing session was held on August 30, 2001 with the Director General, Human Resources Programs Directorate, Director, Resourcing, Employment Equity and Official Languages and an Employment Equity Consultant in attendance. The follow-up audit confirmed that Human Resources Development Canada is in compliance with all statutory requirements. There are a few issues which have not yet been addressed and the department is required to complete these in a timely fashion. By signing this report, the Deputy Minister commits the department to addressing these issues within the deadlines stated.

III AUDIT RESULTS

A. GENERAL OBSERVATIONS

The CHRC has developed assessment factors for each of the twelve statutory requirements of the *Act*, to assess an employer's progress in meeting its obligations. The following section presents the Compliance Review Officer's observations with regard to Human Resources Development Canada's compliance with these statutory requirements, focussing on the undertakings which were required as a result of the findings of the initial audit.

This section includes a brief description of provisions of the statutory requirements, the undertakings required and the findings of the Compliance Review Officer resulting from the follow-up audit, which include a description of the employer's performance and conclusions reached.

B. EMPLOYER ACCOMPLISHMENTS AND SOME ISSUES

The department has carried out numerous initiatives related to each statutory requirement, both at the departmental and regional levels. The large and decentralized nature of the department with sizable regions poses some challenges to carrying out a departmental program. This has resulted in many variations in how the requirements have been met. The consistency with which initiatives are carried out varies considerably. For example, some regions have made harassment training mandatory, some have mandatory training for managers only, while others do not provide this training. Communication is difficult and despite various methods used to provide information, there were numerous comments in the employment systems reviews and during the on-site visits that people were not aware of various initiatives and policies.

To address this concern, the department has, however, developed some exemplary communication initiatives such as the newsletters produced by the Alberta/NWT/Nunavut Regional Employment Equity Committee and the EE Guide for Managers produced in the Ontario region. It has also developed a departmental internal communications strategy.

The department recognized its under-representation of visible minorities and about three years ago, requested the authority for a special measure for the external recruitment of visible minorities. The Compliance Review Officer found evidence that considerable use is being made of the special measure.

The department has developed two departmental committees for the purpose of consultation. In addition, regions have also developed their own committees and there are some local committees.

While the department has some large areas of under-representation and workplace environment issues such as harassment and attitudinal barriers, it has made considerable progress towards closing the gaps. Individual managers have demonstrated their personal commitment to making the department a workplace of choice for designated group members as well as for all employees.

Recent monitoring by the department indicated that while some large gaps had reduced, others had increased and new areas of under-representation had developed. It should be noted that some of the increase in the gaps is explained by the use of higher availability estimates provided by the TBS in March 2001. This was particularly the case in the EX group where the estimates increased for each designated group other than visible minorities. The Deputy Minister and Associate Deputy Minister brought the issue of the increase in some areas of under-representation to the attention of managers with a request that they take the necessary action towards meeting employment equity objectives.

C. COMPLIANCE WITH STATUTORY REQUIREMENTS

Statutory Requirements 1 to 3, notably the workforce survey, the workforce analysis and the employment systems review are a necessary foundation upon which an organization's employment equity program should be based.

Statutory Requirements 4 to 9 are generally documented within the context of an employment equity plan. The plan must address all of the elements as specified in Section 10 of the *Employment Equity Act*, and it must contain short-term numerical goals for areas of under-representation which span a period of no greater than three years. Goals and initiatives, as outlined in the plan, must enable the organization to achieve reasonable progress in attaining appropriate representation in the workplace. The plan must be regularly reviewed, revised and updated; this must occur at least once within the period for which goals have been established. Organizations must monitor progress and make reasonable efforts to implement the plan.

Statutory Requirements 10 to 12 reflect an organization's responsibility to communicate and consult with its workforce, and to keep necessary records.

1. WORKFORCE SURVEY AND DATA SYSTEM

Statutory Requirement

The Act requires an employer to conduct a self-identification survey of the organization's workforce in order to collect data on the representation of the designated groups. The survey must be voluntary, respect the confidentiality of the employee, and result in a return rate sufficient to permit the employer to undertake a meaningful analysis. There must be a system in place capable of storing the data and providing up-to-date information.

Undertakings Required

HRDC agreed to modify its data system and to add specific codes to capture the input of individuals who have identified as a member of a visible minority or a person with a disability, without providing any further sub-group information.

Observations

Identification of sub-groups

Verification on-site during the follow-up audit demonstrated that the electronic data system will accept a person who does not identify the sub-group, provided that the person who enters the data records the sub-group as "other".

Interviews with some designated group members revealed that they had all provided the sub-group information. They were comfortable in providing this information as they wanted to give complete information. Some of those interviewed were not certain that the provision of this information was voluntary. All but one of the self-identification forms reviewed by the Compliance Review Officer included both the group and the sub-group information.

The *Employment Equity Act* does not require employees to provide sub-group information. Although an indication on the self-identification form that the provision of sub-group information is optional was not required at the time of the initial audit and undertakings, it is now a requirement. While the employees who were interviewed indicated that they were comfortable in providing this information, for future use, the department must make it clear, in its written communication to employees about the self-identification process, that this information is optional.

As well, since it is a practice that some Employment Equity Coordinators follow up with any employees who have not provided the sub-group information, this request needs to be worded carefully to indicate that the provision of this information would be appreciated but is optional.

Questionnaire

The most recent version of the self-identification questionnaire, February 1999, is in use in the department. In the samples of self-identification forms reviewed by the Compliance Review Officer, there were a couple of recently completed forms that were outdated versions and not in compliance. Human Resources staff must follow up to ensure that all of those personnel who distribute self-identification forms are aware that they should be using only the most recent version.

Self-identification Process

Nearly all employees who were interviewed recalled having had an opportunity to self-identify; however, the means varied. For some, the questionnaire was included with pay documents when they arrived, for others it was with their letter of offer for each new position they received. Most recalled a general workforce survey. One person reported that the only form she had received was part of the PSC application form and yet another reported that she did not receive any form - she found it herself on the web-site, completed it and submitted it.

It was also reported that since the questionnaires are distributed by the local offices, the procedures and amount of information provided to the employee vary considerably. The department has been revising its Orientation program for new employees. It is recommended that HRDC ensure that the information provided to new employees is consistent across the department, such as through the new Orientation program.

Some of the employees interviewed were not aware that they have a right to subsequently change information they have provided. Although this right is mentioned in the information booklet that accompanies the questionnaire, it would be useful to remind employees periodically of this right.

Completion Rate

The department has focused on increasing its completion rate of self-identification questionnaires. At the time of the initial audit, the rate was 68.3%. As a means of determining what would encourage employees to self-identify, one region held focus groups with employees. As well, the region sent a joint memo, signed by both the senior manager and the Union President, to employees to inform them about an upcoming self-identification survey. As of April 2001, the departmental completion rate had increased to 81.4%.

Some employees expressed a reluctance to self-identify as they were concerned that it would be perceived that they got their job only because of being a designated group member. Others felt that by not identifying, they would leave more opportunities open for other designated group members who did not yet have a job.

Recent monitoring revealed that only 39% of the new hires between April 1, 2001 and June 29, 2001 had completed a questionnaire. This points to the need for a consistent approach to the provision of questionnaires and employment equity information to new employees, as well as a consistent follow-up procedure.

Conclusion

HRDC is in compliance with this requirement; however, it must ensure that employees are aware of the optional nature of sub-group information. The department has indicated that it plans to review the questionnaire and will add a statement to this effect and that it anticipates that this revision can be made by December 31, 2001. As well, it is recommended that the provision of questionnaires and information about self-identification becomes more consistent across the department.

Human Resources Development Canada is in compliance with this statutory requirement, provided that it communicate to employees that the provision of sub-group information is optional. A revised self-identification form indicating this should be submitted to the Compliance Review Officer by January 31, 2002.

2. WORKFORCE ANALYSIS

Statutory Requirement

The Act requires an employer to complete a workforce analysis in order to determine the degree of under-representation of designated groups in each occupational group. This analysis must include an assessment of the representation of designated groups against reasonable estimates of their external representation in the Canadian workforce. Where under-representation is found, an analysis of hiring, promotion, and termination data must be completed in order to provide a focus for the employment systems review. Analysis for possible concentration in the lower levels should also be conducted for those groups with under-representation.

Undertakings Required

At the time of the initial audit, the department had carried out considerable work on its workforce analysis. However, it was required to revise its external availability estimates to use 1996 Census data, reasonable geographic areas of recruitment and national rather than regional Health and Activity Limitations Survey (HALS) data for persons with disabilities. HRDC also needed to conduct an analysis of its hires, promotions, separations and clustering for each area of under-representation, where numbers warranted. It needed to include its findings in a narrative summary.

Observations

Each region completed a workforce analysis and these were rolled up into a national workforce analysis. The availability estimates which were used take the occupational composition of the workforce into account by matching the occupational groups to NOC Unit Groups. The estimates for women, Aboriginal peoples and visible minorities also take geographic recruitment into account; whereas, for persons with disabilities, availability estimates were based on national HALS data. These approaches are appropriate.

The national workforce analysis, based on representation data as of March 1999, was submitted in December 1999 and was found to be in compliance. It was recommended that the department use a higher availability for visible minorities in the EX group (6%) which it agreed to do.

The department updates its data at least every 6 months. The representation data as of September 2000 was used as the basis for the departmental employment systems review and departmental short-term goals.

Areas of under-representation

Following are the department's areas of under-representation, based on September 2000 data. More detailed information on Human Resources Development Canada's workforce data can be found in Appendix A.

Women		Aboriginal peoples	
Scientific and Professional	-33	Executive	-6
Operational	-3	Scientific and Professional	-18
Technical	-1	Others	-1
Persons with disabilities		Visible Minorities	
Technical	-2	Executive	-7
		Scientific and Professional	-1
		Administrative and Foreign Service	-327
		Technical	-1
		Administrative Support	-180
		Others	-5

In view of the size of some of its occupational groups, the department also examined its under-representation at this level. The largest areas of under-representation are visible minorities in the Administrative Support category (nearly all in the CR group), visible minorities in the Administrative and Foreign Service category (mainly the PM group, also the CS and AS groups), women in the Scientific and Professional category (mainly the ES group) and Aboriginal peoples in the Scientific and Professional category (all in the ES group).

As compared to the September 2000 data, the most recent data, April 1, 2001, shows that some gaps have been reduced, primarily of visible minorities in the largest areas of under-representation: the Administrative and Foreign Service category (-327 to -289) and Administrative Support category (-180 to -147).

Conversely, other gaps have increased during this six-month time period e.g. for women in Scientific and Professional, the gap increased from -33 to -44, for visible minorities, the gap in EX increased from -7 to -8 and for Aboriginal peoples in EX, from -6 to -10. As well, there are now some gaps where there weren't any previously (women - EX -3 and persons with disabilities - EX - 3). It should be noted, however, that the size of the EX group increased from 241 to 258. In addition, the April 2001 data used revised availability data provided by the TBS. In most cases, this availability was higher than that used in the workforce analysis and reflected in the calculation of gaps in Appendix A.

The department has indicated that it plans to adopt a more rigorous approach to communicating data to the regions and to make it more user friendly so that they can more readily monitor their progress.

Flow data and concentration analysis

The department conducted an analysis of the required flow data, as well as of acting appointments and student recruitment, related to areas of under-representation. It also looked voluntarily at areas that are fully-represented. This was based on 2 years of data (April 1997 - March 1999). It has since been updated with an additional year of data (March 1999 to March 2000).

A concentration analysis by occupational group was conducted and identified concentration in some areas. The purpose of this analysis was to identify areas where designated groups are concentrated in lower levels compared to other employees. The department undertook this analysis in order to provide a comprehensive look at any potential barriers to designated groups. Some concentration was identified for all designated groups:

- women - ES, AS, PE, PM, CS, SI, EX, TI
- Aboriginal peoples - AS, CR
- Persons with disabilities - CR
- Visible minorities - PM.

The main employment systems that appear to be problematic are those related to recruitment. Once designated group members are recruited, promotions and retention are generally what would be expected, based on their internal representation. The analysis noted that some of the increase in representation has been due to increased self-identification rather than recruitment. The department expressed a concern about the low level of recruitment of persons with disabilities, even though their current representation exceeds availability, since a significant number of the current employees could retire in the next few years.

The department summarized its findings and identified the following gaps and flow data systems as needing to be examined in an employment systems review:

- women - Scientific and Professional - recruitment and concentration
- EX - concentration
- Aboriginal peoples - EX - recruitment
- Scientific and Professional - recruitment
- Visible minorities - EX - recruitment, separations
- Scientific and Professional - recruitment
- Administrative and Foreign Service- recruitment and concentration
- Administrative Support - recruitment
- Persons with disabilities - student employment.

The department acknowledged that two of these areas (concentration of women in EX and student employment of persons with disabilities) were not mandatory but given their importance, it decided to include these in its mandatory review. It also identified other areas which it planned to voluntarily examine in its employment systems review.

Conclusion

HRDC has conducted a thorough workforce analysis which is in compliance with the Act. It has also voluntarily analysed other data, such as acting appointments and student hiring and updates its data and analysis of its data regularly.

Human Resources Development Canada is in compliance with this statutory requirement.

3. EMPLOYMENT SYSTEMS REVIEW

Statutory Requirement

The Act requires an employer to review its employment systems, policies and practices to identify barriers where the workforce analysis indicates under-representation of designated groups. This review should include an assessment of both those systems and practices which may have an impact on the workforce as a whole, as well as those which are specific to the occupational group with under-representation. The outcome of the review should be the identification of the probable causes of the under-representation which will provide the basis for an action plan to remove all barriers.

Undertakings Required

At the time of the initial audit, the department had not yet conducted a departmental level employment systems review. One region had conducted a regional review; however, it was not in compliance and comments on it were provided in the *Interim Report*, since the department had indicated its intention to use this review as the model for the rest of the department.

Accordingly, the department agreed to conduct an employment systems review and to give the regions the responsibility of ensuring that proper resources were committed to the reviews.

Observations

Methodology

An employment systems review (ESR) was conducted of each region by June 2000. This was followed by the departmental level ESR which built on the results of the regional ESRs and included additional research.

The methodology for the departmental level employment systems review included a document review, review of staffing files (approximately 100 EX at the corporate level, other staffing files in the regions), a review of the results of regional ESRs and interviews with employees, members of the EX group and staff in feeder groups to EX. It was noted that for some of the ESRs, it was difficult to get volunteers for the focus groups.

The Compliance Review Officer examined the departmental level employment systems review as well as the regional reviews from the Ontario, Alberta and Headquarters regions. Some of the reviews were more detailed than others. Often, the reviews did not include an examination of the impact of each aspect of how the department recruits and hires. For example, while anecdotal evidence gathered by the Compliance Review Officer indicated that some regions did not get a satisfactory number of referrals of candidates by the Public Service Commission, this was not specifically examined nor noted in some of the employment systems reviews. As well, the tools used in selection were not all examined for adverse impact. For example, in some ESRs, the use of competency-based interviewing was noted as having a potential adverse impact; however, this should have been investigated and conclusions reached in the employment systems review.

The Compliance Review Officer sampled the following larger areas of under-representation: visible minorities in Administrative and Foreign Service (PM and CS), visible minorities in Administrative Support (CR), women in Scientific and Professional (ES) and Aboriginal Peoples in Scientific and Professional (ES).

Barriers identified

Visible minorities - PM, CS (recruitment, separations, concentration of PM s)

The employment systems review examined recruitment systems and did not look at separations since, based on data for April. 1,1997 - March 2000, separations were at an acceptable level. More recent data, from 1999 to Sept. 2000, show that separations were higher than expected for this period of time. Data examined by the department showed that visible minorities participated equitably in acting appointments but that a higher percentage were in term appointments than the percentage for the rest of the department. This was attributed to the shorter tenure of some visible minority employees.

The department reported that the under-representation was due to a number of factors:

- a lack of outreach recruitment in most regions;
- some regional ESRs commented that the PSC could do a better job of outreach to designated group organizations, and advertising at job fairs and universities and colleges;
- the unfamiliarity of visible minorities with staffing processes in the Public Service and at HRDC (a couple of regions provide practice tests and sample questions and answers to potential candidates to assist them in preparing for selection boards);
- lack of use of targeted employment equity recruitment strategies and a discomfort on the part of some managers in doing this;
- lack of visible minorities on selection boards; and
- lack of managerial recognition of the need for language skills other than the two official languages to serve the public.

Various attitudinal issues were also noted. Some managers were not using the department's special measure for the recruitment of visible minorities for fear of backlash from other employees or they believed that visible minorities were not disadvantaged with regards to employment and therefore, did not need a special program. Some managers felt that a visible minority clientele could be well-served by a professional staff that did not include a substantial component of visible minorities. It was reported that some managers did not have a high comfort level working with people from different backgrounds or seeing them in positions of authority.

The ESR also noted some issues related to promotions. It was suggested that some regions rely too much on prolonged acting assignments followed by appointments. Some visible minorities felt that the requirement for French language skills, their accents, their use of cultural nuances as well as a lack of assertiveness in oral interviews pose barriers. Some also felt that advancement depended on if you had contacts in the right places in the organization.

The above explanations of under-representation, as presented in the ESRs, are for the most part, employee perceptions. While it is somewhat unclear in the ESR, it is assumed that the assumptions are correct and have been accepted by the department.

The ESR noted that the existence of PSC regional inventories of designated group members varies considerably across the country. Some regions have inventories of designated group members, some of which are only for certain designated groups and others have no inventories at all. During the follow-up on-site visits, comments were made regarding frustration with insufficient candidates being referred by the PSC.

While the data did not indicate that there was a problem with promotions, the perception of a number of visible minorities is that they do not get their fair share of promotions or acting appointments. The department has noted a problem of clustering of visible minorities in the PM group; the on-site visits provided evidence of employees who had spent a long time as term employees or at the same level. Others noted a large use of single name referrals and long term acting appointments as hiring methods which had a negative impact on the hiring and promotion opportunities for visible minorities.

During the on-site visits, concerns were expressed by some visible minority employees that they or their colleagues are under-employed with respect to their abilities or that the level at which they are hired is lower than their actual duties. This was attributed to an attitude that visible minority employees should be grateful to have a job.

Visible minorities - Administrative Support (CR)

The data from March 1999 to April 2000 and also from April 2000 to September 2000 indicated that recruitment was below availability. Separations were less than expected for the first time period but more for the second. The ESR conducted during the summer and fall of 2000 looked at recruitment practices. The size of the gap decreased significantly from March 1999 to March 2000 (from 486 to 237). Most of this decrease in the gap was due to increased self-identification as a result of re-surveys in some regions. The percentage of visible minorities who are in term positions was examined and it was found to be higher (36%) as compared to all employees in the group (27%). This is attributed to more visible minorities having been hired recently. The employment systems review notes that if this percentage increases in the near future, the department should monitor the situation. The Ontario region has decided to do a demographic study to determine if visible minority employees are in term positions longer than other employees.

Recommendation

It is recommended that such a study of visible minorities with respect to term employment would be useful for the entire department to undertake. The departmental Human Resource Branch intends to undertake such a study of term and acting appointments.

The ESR examined recruitment methods and noted that for the three-year period from April 1997 to March 2000, 93% of the hiring was from outside the Public Service and 7% from other government departments. The barriers identified include:

- variations in the amount and quality of outreach conducted by the PSC;
- inventories for visible minorities do not exist in some regions and cities;
- even where inventories exist, some managers have not been using the inventories;
- restriction of area of competition to local offices;
- some tests used (clerical, Agent 1, Claims Assessor) were perceived by some as having a adverse impact on visible minorities;

- selection boards do not always have visible minority representation nor are board members sensitized to EE and human rights issues;
- some regional ESRs noted that behaviour-based interviews may have an adverse impact on visible minorities;
- in a few instances, French language requirements were found to be a barrier to visible minorities. On the other hand, the perception that visible minorities do not speak French was also seen as a barrier;
- lack of requests for visible minority representation on selection boards;
- lack of visible minority representation on selection boards;
- lack of tracking systems to monitor the performance of visible minorities in selection processes;
- lack of targeted EE recruitment strategies and accountability; and
- need for consistent use of special programs by all regions.

The Compliance Review Officer found evidence to support these explanations. The ESR noted the potential impact of behavioural-based interviews and did not find any evidence of a negative impact. Based on the interviews, the use of this technique varies and depends somewhat on the type of job. Some of those interviewed reported having no problem with this type of testing, while others reported that they found it uncomfortable to “toot their own horn” and that this affected their performance in the interview and success in the competition. Some visible minority employees who have been hired recently reported very positive experiences with the department and that they had been given training and developmental opportunities.

Women - Scientific and Professional (ES - recruitment, separations)

The data indicated that hires may not be a current problem but were historically. For the one-year period April 1, 1999 to March 31, 2000, separations were a little higher than expected.

The ESR reported that the department feels that the availability may be too high and it plans to review this with the Treasury Board. The current under-representation is attributed to the low availability of women for these jobs when they were staffed (in the past, the ES jobs were considered by the TBS to be a non-traditional group for women).

It was also suggested that there has been low turnover in the past and therefore, few hiring opportunities (however, as noted above for 1999 - 2000, the turnover was higher than expected).

Aboriginal peoples in Scientific and Professional (ES)

The data showed that recruitment was slightly below availability for the period reviewed. The employment systems review determined that ES positions are filled through Post Secondary Recruitment or through promotions from the SI group. The findings include a concern that the availability estimates may be too high, based on data showing a lower availability of graduates from the required university programs as well as in the internal feeder group, the SI group. In addition, the lack of focus on the recruitment of Aboriginal candidates in the past was cited as a barrier. During the past two years (April 1999 - April 2001), the department has not recruited any Aboriginal people into the ES group.

Harassment

The regional and departmental employment systems reviews reported that there was not much evidence of harassment in the department; rather there were incidents of insensitive remarks or hurtful behaviour as well as a sense of isolation. The PS Survey, however, reported that while 17% of men and 19% of women reported that they had experienced harassment in their work units, 24% of visible minorities did. It is acknowledged that the question was not clear that it was the current work unit and could have referred to a previous employer. The departmental results of the PS Survey also showed that about 1/3 of visible minority employees felt that they had experienced discrimination in their work unit compared to 16% of all HRDC employees.

Staff reported that there were few formal complaints of harassment. Based on the evidence gathered during the on-site interviews, some people who have experienced harassment feel that it is not worthwhile to complain. The department reported that no statistics are available regionally or nationally on harassment complaints by designated group. In one region, the external consultant was told not to look at the results of complaints, appeals or grievances in conducting the employment systems review. It would appear that the department should have been able to cross-reference complaints and grievances with the designated group status (if any) of the individual to determine if there was a disproportionate share on the part of certain designated groups. This seems to be a potentially valuable source of information for the ESRs which was not utilized.

Conclusion

The department has taken a systematic approach to developing a departmental ESR by first having each region conduct a review of the regional practices. While the impact of some of the practices, particularly related to recruitment, could have been investigated more to determine the degree of any adverse impact, the department has identified barriers to explain each area of under-representation. However, anecdotal evidence of harassment gathered by the Compliance Review Officer, as well as the results of the PS Survey, suggest that the ESR may not have put sufficient focus on this issue. It is recommended that, as soon as possible, the department implement its planned initiative to track complaints by designated group status to determine if designated group members are still experiencing a higher level of harassment. As noted above, it is recommended that the initiative on the part of the Ontario region to undertake a demographic study of term appointments be expanded to the whole department.

Human Resources Development Canada is in compliance with this statutory requirement.

4. ELIMINATION OF BARRIERS

Statutory Requirement

The Act requires an employer to specify in its employment equity plan the short-term measures which will be implemented to remove, within a reasonable period of time, the barriers identified through the employment systems review.

Undertakings Required

The employment equity plan in place at the time of the initial audit was not based on a workforce analysis that was in compliance nor on the results of an employment systems review. The department agreed to develop a new departmental employment equity action plan to include the new initiatives that would need to be developed as a result of the departmental employment systems review.

Observations

Follow-up

At the time of the follow-up audit, the department had not yet developed its employment equity plan. It was required to complete the undertaking during the extension.

The departmental employment equity plan for 2001 - 2004 is appropriately structured and deals with each area of under-representation, the barriers identified, measures to address the barriers, responsibility and time frame. The time frames are general, covering a year. It is suggested that where possible, they specify the quarter of the year in which the initiatives are to occur. As well, it is suggested that the timeframe for one initiative, that of providing information on alternative work arrangements in the form of guides and guidelines to all staff, be advanced from 2003-2004, as it was nearly completed in July 2001.

Some measures tend to be general in nature as the departmental plan is a roll-up of the regional plans. At the regional level, some issues identified in the ESRs and in their recommendations were not included in the plans. Some employees interviewed also noted this same issue with respect to some regional plans.

Some examples of initiatives included in the departmental plan for the areas of under-representation sampled are as follows:

Visible minorities in the Administrative and Foreign Service and Administrative Support categories (PM, CS, CR)

Some regions have approached the PSC to advise them that they need to provide more designated group candidates in their inventories and to do more outreach. When the PSC has not been able to do the outreach, some regions have started to do it themselves.

Training will be offered to selection board members on how to assess competencies and how best to use tools so that designated group members are not adversely affected.

Managers will be encouraged to request referrals for visible minority candidates from the PSC and to use the PSC inventories. Some regions have developed staffing checklists which include employment equity. The Alberta region puts an Employment Equity Checklist on each staffing file which asks if employment equity objectives have been taken into account in the staffing process. It lists a number of options for the staffing consultant to consider and discuss with the manager, including outreach and restricting the competition to designated group members only.

Women in the Scientific and Professional category (ES)

The EE Plan includes an initiative to promote the development of learning plans to allow for promotions from the SI group to the ES group. As well, the department plans to offer mentoring to those employees of the SI group who feel that they need this in order to pursue their careers in the ES group. The department also plans to review the availability estimates with the TBS. Given the success the department has had recently in recruiting women into this group at the currently established levels of availability, this would not be appropriate. (During the past two years, April 1999 to April 2000 and April 2000 to April 2001, the department recruited women at 97.3% and 93.6% of availability respectively.)

Aboriginal Peoples in the Scientific and Professional category (ES)

As a means of addressing the lack of focus given to hiring of this group in the past, the department plans to liaise with Statistics Canada to explore possibilities of sharing their inventories. This latter department has an ES training program that aims at including a good proportion of Aboriginal peoples. HRDC will also request the PSC to routinely refer Aboriginal candidates for these positions. It is expected that the results of this initiative will be monitored and appropriate action taken, if required. The department will also promote learning plans and provide mentoring for employees in the SI group to qualify for promotions to the ES group.

Review of new policies and practices

The department has not yet developed a process to ensure that any new policies and practices that are developed are reviewed to ensure that they do not result in any adverse impact for designated group members. It plans that a new committee, the Human Resource Union Management Consultative Committee (HRUMCC) will be established, probably by late January 2002, or at least in this fiscal year, to carry out this role. Regional policies, programs and new services will need to be reviewed by this forum to ensure a consistent approach in the department.

Conclusion

The departmental plan includes measures to remove barriers identified in the employment systems review. It is supported by more specific measures in the regional plans. Of concern is that not all of the recommendations of the regional employment system reviews have been addressed in the plans. While the areas that have not been dealt with do not constitute grounds for non-compliance, there is a requirement to address those areas with measures, where an issue has not already been dealt with. As well, the department still needs to implement a mechanism to ensure that new policies and practices are reviewed for possible adverse impact on designated group members.

The Compliance Review Officer is confident that, if implemented, the departmental plan should lead to reasonable progress towards full representation.

Human Resources Development Canada is in compliance with this statutory requirement, provided that it submits evidence that it has developed a mechanism to review new policies and practices by March 31, 2002. It is also required to review the recommendations of the regional employment systems reviews and include an initiative to address all recommendations in the regional employment equity plans, unless they have already been dealt with. Evidence of the fulfilment of this requirement is to be submitted to the Compliance Review Officer by January 31, 2002.

5. ACCOMMODATION

Statutory Requirement

The Act requires an employer to include provisions in the employment equity plan for the “reasonable” accommodation of employees’ needs. Subsequent amendments to the Canadian Human Rights Act have eliminated the term “reasonable” and require accommodation of special needs short of undue hardship. Accommodation should address both physical accessibility issues and the need for adjustments to policies and procedures to accommodate all designated group employees. These measures apply to current employees as well as to employees at the point of hire.

Undertakings Required

At the time of the initial audit, the department had a number of initiatives in place dealing with accommodation. The main issue was that not all employees and managers were aware of what was possible and what the duty to accommodate entailed. Therefore, HRDC agreed to develop, in conjunction with the regions and other corporate areas, a strategy and timetable to communicate the accommodation policies and procedures to managers and staff.

Observations

Accommodation Guideline

At the time of the follow-up audit, the department had developed a guide entitled “*Accommodating Disabilities: A Guide*”. Although it mentioned that accommodation applies to all employees, the focus was on employees with disabilities. It noted that the accommodation of persons with disabilities is a legal requirement and it implied that it was not for the other designated groups.

During the extension, the department was required to revise this draft guide on accommodation to emphasize that accommodation applies to all four designated groups and to applicants and to indicate that it includes religious accommodation. It was also to include information about an appeal procedure to be followed if requests are denied.

At the time the extension was granted, (September 2000), the Treasury Board Secretariat (TBS) had indicated that its policy on accommodation would be released shortly and therefore HRDC was also given the option of publishing and implementing the new TBS policy on accommodation. However, since the TBS policy was not yet published as of March 2001, the CHRC informed the TBS that the

offer that departments could bring themselves into compliance by using the TBS policy, had to be rescinded. The Compliance Review Officer also informed HRDC of this change. Note, that as of the date of this report, December 10, 2001, the TBS policy has not been approved as an official policy.

In August 2001, HRDC submitted a revised accommodation guide, *Workplace Accommodation*. It meets the requirements of indicating that the duty to accommodate applies to all designated group employees as well as to applicants. It notes that accommodation is to the point of undue hardship and indicates procedures for managers and employees to follow, including an appeal process should a request be denied. It has been communicated to employees by being placed on the web-site in July 2001.

Recommendation

It is recommended that an addition dealing with recourse be made to the section in the guide, *Workplace Accommodation*, as follows:

Where it is believed that appropriate accommodation is not being given, an employee may also consider filing a complaint with the Canadian Human Rights Commission. Employees wanting additional information on this process can contact the Commission for further details.

The employment systems reviews found that there was some inconsistency in the application of accommodation, in particular with respect to alternative work arrangements. There was also uncertainty on the part of managers and employees as to what is allowed in terms of religious accommodation. Due to this uncertainty, some employees indicated that they did not bother to ask for religious accommodation.

Recommendation

Therefore, it is recommended that the department also develop a shorter summary document to ensure that it is widely read. This document should contain the essential elements of the guide making clear the duty to accommodate and the fact that accommodation applies to all designated groups and to applicants as well as employees.

During the on-site visits, the Compliance Review Officer received numerous comments about the various types of accommodation that had been provided by the department as well as the openness to providing accommodation.

Timeliness in providing accommodation

It was noted in the employment systems review that there are some problems in the timeliness of the provision of accommodation. As well, some of the personnel involved in the hiring process were not aware that, according to the *Public Service Employment Regulations*, a probationary period begins only when the employee has been provided with the necessary accommodation. The department is aware of the timeliness issue and has included the issue of managerial accountability for providing accommodation in a timely manner in its employment equity plan.

Applicants

The Compliance Review Officer examined a sample of letters sent to applicants for the purpose of arranging testing. They mentioned that accommodation could be provided. The department has also

indicated that the need to offer accommodation to applicants is included in the training for all staffing consultants and will be included in the course for managers which is under development, HRM 101. It is also included in the new Workplace Accommodation guide.

Funding

The employment systems review noted some issues with funding for the provision of accommodation. There was a perception on the part of a few managers that they did not need to provide accommodation if they did not have the budget for it. Some of the confusion was attributed to the normal way of operating in which a manager is not to spend more than is in the budget. As well, some centrally managed accommodation funds have been decentralized and this has resulted in the misperception that funding no longer exists. The new Workplace Accommodation guide indicates that it is an employer's responsibility to cover the cost of accommodation of all employees. Managers who do not have the funds are to consult Human Resources or other sources of funding.

Training

A course on the Duty to Accommodate is being developed and piloted by the Office of Disability Issues with the Canada Customs and Revenue Agency. Although it includes a discussion of accommodation in general, it focusses on disabilities. The target audience for the course is departmental managers.

Other initiatives

The department has a Disability Management Program and some regions have a staff member who deals with disability management cases.

Other initiatives include the provision of a Well-fit Centre in Phase IV at headquarters, jointly with PWGSC. This centre has certain adapted equipment for persons with disabilities. As well, the Adaptive Computer Technology Centre now has e-ACT, an on-line source of information and links re: accommodation.

Recommendation -Accessibility

While the headquarters and regional buildings visited by the Compliance Review Officer were accessible, it is recommended that each region do a survey of all of its buildings to establish a list of those that require changes to make them accessible over a reasonable period of time. At a minimum, any facilities used for human resource functions must be made accessible in a timely fashion and alternate arrangements would need to be made during the interim.

Conclusion

HRDC has a number of initiatives in place related to accommodation. As well, through its Office of Disability issues, it takes leadership in government with respect to certain accommodation issues. The main issue identified at the time of the initial audit and in the employment systems review was that of communication. The department has partially addressed this in its new Workplace Accommodation guide; however, various methods of communication are needed to ensure that all those who need to know are made aware. The issue of accommodation must also be included in any appropriate managerial training, such as HRM 101, and in the Orientation Program for New

Employees. A few recommendations with respect to meeting the requirement of providing accommodation have been included in the report.

Human Resources Development Canada is in compliance with this statutory requirement, provided that it include information on accommodation in appropriate management training courses as well as in the Orientation Guide.

6. POSITIVE POLICIES AND PRACTICES

Statutory Requirement

The Act requires an employer to include positive policies and practices in the employment equity plan, to ensure that short and long-term goals are achieved. These policies are aimed at improving opportunities to under-represented groups with respect to hiring, training, promotion and retention. While they may be initiated to benefit a particular group in overcoming barriers and the effects of past exclusion, these measures may be open to all employees.

Undertakings Required

The initial audit revealed that the department had a number of positive policies and practices and special measures in place, including policies on harassment and employment equity as well as a special measure for the external recruitment of visible minorities.

As an undertaking, the department agreed to assess the appropriateness of its current policies and practices once it had conducted its regional and departmental employment systems reviews to ensure that they are sufficient to enable it to meet its hiring and promotion goals.

Observations

Positive policies and practices

Employment Equity

HRDC uses the TBS policy on employment equity. A number of the employees interviewed were not aware of this policy. It would appear that more communication is required in addition to putting the policy on the web-site.

Recommendation

Since the new course for managers, HRM 101, will have a component on employment equity, this would appear to be an opportune way to make managers aware of the policy. The Orientation Guide for new employees should also contain a copy of the policy or a reference to it. Current employees may also need a reminder that there is a policy.

Harassment

The department continues to use the Treasury Board policy. The on-site visits found that nearly all of those interviewed were aware of the policy and either had seen it or thought they could find it on

the departmental or regional web-site. In some cases, the policy was posted on employee bulletin boards. Recently, the department has communicated the new TBS policy on harassment to all employees by means of a brochure and a letter from the Deputy Minister which gives the web-site address for a copy of the policy. Managers were also sent a booklet on how to implement the new TBS policy.

Training on harassment has been sub-delegated to the regions. They were given the elements to be contained in courses which were to be delivered regionally. Some interviewees had attended mandatory training; others had not. It appears that training has been made mandatory in some areas and not in others or mandatory for managers only. Some regions and branches monitor attendance. The training appears in some cases, to have been a remedial measure where there were problems. In others, it is a measure to address some of the issues of the PS Survey.

Since there were some employees who had not seen the policy, it is recommended that it be included in the Orientation Guide which is in the process of being re-designed. The Compliance Review Officer was made aware of instances of harassment that had been dealt with effectively by the manager and other cases where the manager did not address the problem or it was left up to the employees to handle themselves. The department should ensure that, through training and performance agreements, managers are aware that they have a responsibility to ensure a harassment-free workplace and to deal with any incidents effectively. It intends to include the subject of harassment in its new management course, HRM 101, and link it to sustaining a high performance organization.

Diversity training

Some regions have offered diversity training to employees. As well, there are individual managers throughout the organization who champion diversity.

At the departmental level, a diversity framework is being developed. It will identify the basic elements to be covered in diversity training. Although the methodology has not yet been determined, it may be a departmental course provided to the regions to be delivered regionally.

Exit interviews

HRDC implemented a departmental exit interview process in January 2000. However, not many of those who have left have completed the questionnaire. In view of this low completion rate, the department has established a working group to do a survey of practices in other organizations. The results of the completed questionnaires could be helpful in finding explanations of the separations of designated group members if they were compiled by designated group.

Mentoring program

Some regions have implemented a mentoring initiative and others are investigating the possibility. For example, in the Nova Scotia region, a mentoring program is being conducted to provide counselling or career advice for designated group members. It is being carried out in conjunction with other federal government departments and has proven quite successful, with between 50 and 60 participants.

Special Measures

The department had developed a number of special measures at the time of the initial audit which are outlined in the attached *Interim Report* (Appendix D). The department has made concerted efforts to deal with a number of the barriers identified in the employment systems reviews by implementing current special measures as well as developing others.

Visible Minorities

The department has an authority for a special measure for the external recruitment of visible minorities. The Compliance Review Officer found considerable evidence of the use of this program. Competitions are frequently run as parallel closed/open to visible minorities/ open to anyone. Sometimes, the department uses just an open competition for visible minorities. The tendency is to develop three eligibility lists and to appoint from the internal list first or to appoint one person from each list in turn. While the ESRs noted a level of discomfort on the part of managers in using these measures, this seems to have been somewhat overcome by discussions with the unions first to make sure that they understand and are supportive. Some managers noted that they deal with any backlash if it occurs but do not let the possibility of this deter them from implementing their employment equity goals. The Compliance Review Officer met a number of employees across the department who have been hired in this manner. Some of these employees did note a need to defend their appointment and to deal with the type of insensitive comments mentioned in the ESR.

To address the barrier of insufficient visible minorities participating as selection board members, training is being offered to interested visible minority employees. For example, the Ontario and Alberta regions have offered selection board training and their names are now being marketed to managers and in some cases interdepartmentally.

Some regions have conducted their own outreach in the absence of adequate outreach being conducted by the PSC. This has included sending job postings to designated group organizations and placing advertisements in ethnic press newspapers. In the headquarters region, the department attended a PSC Job Fair and has hired 23 visible minorities as a result. The Employment Equity Action Plan includes an initiative to explore the creation of a student internship program for visible minorities in 2003-2004.

The department plans to start a network for all designated group members and the Alberta region plans to establish one for visible minorities. Networks already exist in Saskatchewan, Nova Scotia and Manitoba.

To address the issue of career development and promotions, the Ontario region held a three-day symposium for 150 visible minority and Aboriginal employees on career development and networking. The Saskatchewan region has also held similar events for visible minorities, persons with disabilities and Aboriginal employees.

Aboriginal Employees

The department currently has an Aboriginal Student Internship Program with matching funding from a central fund. A review of self-identification forms which were completed recently demonstrated that a number of Aboriginal students have been hired under this program.

With respect to the under-representation of Aboriginal peoples in the ES group, the department plans to establish a special development program in 2003- 2004, if its targeted recruitment initiatives have not been not successful by that time.

All Designated Groups

HRDC intends to request that its external recruitment authority for visible minorities be expanded to include all of the designated groups.

Conclusion

The department has developed a number of positive policies and practices, including special measures. The extensive use of the departmental special measure for the external recruitment of visible minorities is encouraging and indicates that the department is making a concerted effort to address its areas of under-representation and in particular, to meet its ambitious goals as a part of its response to the *Embracing Change* report.

Human Resources Development Canada is in compliance with this statutory requirement.

7. RECRUITMENT AND PROMOTION GOALS

Statutory Requirement

The Act requires an employer to develop short-term goals for the hiring and promotion of designated group members in each occupational group in which under-representation has been found. These goals must be included in the employment equity plan.

Undertakings Required

At the time of the initial audit, the department had developed short-term recruitment and promotion goals. These goals needed to be reviewed once the department's areas of under-representation were confirmed and revised, if necessary. The department agreed to carry out this undertaking.

Observations

The department submitted short-term recruitment goals. All goals for women are set at availability. For the Executive group and the gap of persons with disabilities in the Technical category, numerical goals rather than percentage goals have been established, due to the small numbers involved. The department has set all other recruitment goals at 1.5 times the current availability for those categories where there is under-representation. This takes into account normal turn-over of designated group members, and compensates for current under-representation. The goals established for visible minorities represent the department's commitment to implementing the recommendations of the *Embracing Change* report. The department's short-term goals are outlined in Appendix B.

HRDC's recruitment goals are applicable to all recruitment from outside the department, whether it be from other departments or outside the Public Service.

The department did not submit any promotion goals; however, the flow data analysis as of April 2000 indicated that shares of promotions received by designated group members in areas of under-representation were acceptable. Nonetheless, as noted in the section on the employment systems review, there is a perception on the part of some designated group members, especially of visible minorities, that they do not get their fair share of promotions.

Conclusion

Through its planned monitoring of data every six months, the department will need to review the achievement of its goals closely. In view of the fact that new gaps have developed in the April 2001 data and others have increased in size, the short-term recruitment goals may need to be revised to address these additional gaps and to replace employees who leave. The department also needs to monitor promotional flow data on an ongoing basis and if this indicates that designated group members in areas of under-representation are not receiving their fair share of promotions, the department will need to address this by setting appropriate promotion goals.

Human Resources Development Canada is in compliance with this statutory requirement.

8. REPRESENTATION GOALS

Statutory Requirement

The Act requires an employer to develop longer-term goals for increasing designated group representation in the employer's workforce. These goals may be numerical or qualitative in nature.

Undertakings Required

HRDC had not developed appropriate long-term goals at the time of the initial audit and agreed to do so as an undertaking. It agreed to develop longer term goals including a strategy to achieve these goals. The goals and strategy would be included in the employment equity plan.

Observations

At the time of follow-up, the department had not developed long-term representation goals but agreed to do so during the extension. Following the extension, it submitted a goal to reach full representation and equitable distribution and retention of all designated groups within a five-year period and has indicated that every effort will be made to accomplish this sooner.

Conclusion

This representation goal is acceptable and if the short-term goals and measures in the employment equity plan are implemented as planned, the department should be able to achieve this long-term goal.

Human Resources Development Canada is in compliance with this statutory requirement.

9. MONITORING, REVIEW AND REVISION OF PLAN

Statutory Requirement

The Act requires the employer to monitor the implementation of its employment equity plan on a regular basis, and to review and revise the plan within three years of its approval. A system of managerial accountability is an important component of this activity in order to ensure that reasonable progress is being achieved.

Undertakings Required

The initial audit revealed that the Deputy Minister had conveyed the importance of commitment to employment equity to senior managers through various means such as memos and a document entitled *A Representative Workforce - Executive Heads Make it Happen*. The performance appraisal of executives included a general assessment of how well the person handles human resources, including employment equity. It was, however, not evident that there was a consistent system of tangible rewards and sanctions in place with respect to performance in employment equity.

Accordingly, the department agreed to develop a process to ensure that managers are accountable and committed to the organization's employment equity objectives.

The department's initiatives with respect to monitoring of its employment equity plan were acceptable as long as it continued to review its plan on a regular basis and adjusted it as required.

Observations

Follow-up audit

HRDC reported that Regional Executive Heads would report annually to the Deputy Ministers on their progress relative to their action plans and a national review process would be put in place to monitor the national objectives. This process would take place in conjunction with the department's annual update report to the Treasury Board on its Employment Equity Action Plan. Employment equity had been made part of the performance agreement of EXs but specific sanctions had not been specified.

During the extension, the Department was required to provide additional information on the accountability process, in particular how this process ensures that all managers are accountable and committed to the organization's employment equity objectives.

Follow-up after the extension

The employment systems review found that although employment equity was mentioned in a number of managerial contracts, very few contained measurable goals. In addition, there were no specific performance criteria against which achievement could be measured and no sanctions for non-achievement. The ESR noted the variation of managerial goals from region to region in terms of degree of commitment and of how specific the goals were. It also noted the discomfort felt by some managers in dealing with employment equity.

The HRDC Corporate Goals and Priorities 2000-2001 document notes that the accountability of managers needs to be more structured and strengthened and it also mentions that the ESRs noted a lack of accountability as a problem.

The Employment Equity Action Plan, 2001 - 2004, includes an initiative in 2001-2002 to develop a process for including measurable goals for attaining a representative workforce in managerial contracts, as well as accountability for reaching these goals. Performance criteria will be developed against which the achievement or non-achievement of these goals can be assessed. The use of sanctions for non-performance will be investigated.

Managerial accords

The Deputy Ministers' Office (DMO) sets the objectives in the Deputy Ministers' performance accords. The ongoing commitments for the three Deputy Ministers are usually the same and the key commitments differ. Each direct report is asked to work with the DMO to set his/her own objectives. In 2000-2001, the DMO had a key commitment, under Supporting our People: Recruitment, Retention and Learning, "we will recruit a diverse workforce reflective of Canadians' diversity". One of the associated performance measures was that, in external recruitment, at least one in ten would be visible minorities ("en route to one in five" by 2002-2003).

A major concern about the commitment of the department at the senior level to addressing its main areas of under-representation, those of visible minorities, is the fact that the DMO objectives for 2001-2002 do not include performance measures related to visible minorities, but rather to persons with disabilities, a designated group which is already well-represented in the department. It is hard to imagine how the department will be able to make reasonable progress towards the objectives it has set in response to the *Embracing Change* report, the objectives in its employment equity plan and its numerical goals, if this commitment is not in the Deputy Ministers' accords. The Deputy Minister's draft accord has a performance measure which refers to addressing employment equity and persons with disabilities goals. A draft of the accord of the Associate Deputy Minister, the departmental employment equity champion, does make specific reference to visible minorities and the department's commitments to address the *Embracing Change* report. If finalized, these objectives would demonstrate leadership to the department.

Although the other managerial accords are to flow from those of the deputy ministers, evidence gathered during the audit demonstrated that some accords already included increasing the

representation of visible minorities in their ongoing commitments. Performance measures include ensuring a one in five share of external recruitment and supporting the implementation of local initiatives. The Compliance Review Officer noted that some of the objectives are more detailed than others; and some are included as a part of the objective carrying out good human resource management. Others have a general statement that the manager will implement the Action Plan. Some, but not all, mention visible minorities specifically and have numerical goals.

Below the EX level, the department does not have a formal performance appraisal process, as the Treasury Board policy does not require it. Some branches and areas are starting to use a performance appraisal process on a pilot basis. The department uses learning plans for employees which involves a discussion between managers and employees as to objectives and learning needs. Some managers who were interviewed noted that even though they did not have written objectives, they knew very clearly what their manager's priorities were and what they were expected to do.

A concern, noted during the on-site visits, is that some managers, who are involved in the staffing process for occupational groups where there is under-representation, were not aware of the under-representation and felt that their workforces were already diverse and that they did not need to make any special efforts to hire designated group members. It is hoped that the department's intention to provide more user-friendly statistical information to the regions will be useful in making managers aware of their responsibilities towards achieving employment equity goals.

The Ontario region has implemented an annual goal-setting exercise for all of its Human Resource Centres and branches; however, the employment systems review reported that not all managers actually carried out the exercise.

As noted in Section 2 of this report, the department monitored its progress towards achieving its goals and recently found that progress was not sufficient. The department has recognized the seriousness of this situation and has taken appropriate action. By means of a memo dated August 28, 2001, the Deputy Minister and Associate Deputy Minister advised all Executive Heads that the employment equity statistics with respect to recruitment and representation from April 1, 2001 to June 29, 2001 showed that insufficient progress was being made towards meeting the departmental goals. They reminded the Executive Heads that "efforts towards meeting the EE objectives are now part of the performance appraisals of Executives" and they asked them to "show leadership and take the necessary measures to remedy the situation".

Commitment

Through the on-site visits, the Compliance Review Officer found evidence of a large number of employees who demonstrated their commitment to employment equity, either as managers, champions, employees or committee members. As well, the department plans to develop a national/regional award system to recognize advances and achievements made by managers and employees in implementing EE and diversity. On the recommendation of the participants at the Visible Minority Symposium last year, the department is considering declaring the year 2002 as EE and Diversity year to celebrate diversity. It would include such activities as developing a calendar incorporating pictures of departmental employees and having a special week to celebrate diversity.

Monitoring

The Corporate Employment Equity office plans to provide regular reports to the EE and Diversity Committee and the Sub-committee on Visible Minority Issues. They will report on the initiatives in the Employment Equity Action Plan every six months, and on the data quarterly. Reports on the data are provided to the regional EE coordinators every six months who usually provide this information to their senior management committees. Regional employment equity committees are involved in monitoring the progress of implementing the regional employment equity plans.

Conclusion

The fact that the DMO accord does not currently mention a commitment to increasing the representation of visible minorities is a serious concern and does not give the Compliance Review Officer confidence that there is commitment at that level to addressing the department's serious under-representation of visible minorities. The draft accord of the Associate Deputy Minister does include such a commitment; however, at the time of the writing of this report, it has not yet been finalized. The accord of the Deputy Minister refers to persons with disabilities. The mitigating factor is that some managers have included a commitment to increasing the representation of visible minorities in their own accords, despite the absence at the senior level.

The department has not developed a means to ensure that the achievement of employment equity goals has an impact on rewards and sanctions. It is encouraged to carry out its proposed initiative on this issue, as planned, in 2001-2002. This should help to ensure more consistency of managers being held accountable for the achievement of employment equity objectives.

Human Resources Development Canada is in compliance with this statutory requirement, provided that it submit evidence, by January 31, 2002, that the Deputy Ministers' accords have been revised and include a commitment to address the under-representation of visible minorities.

10. INFORMATION TO WORKFORCE

Statutory Requirement

The Act requires an employer to provide information to its employees, on an ongoing basis, about the purpose of employment equity and about the steps taken by the organization to implement its program. The information must be kept up-to-date and must be provided to new employees as well as to existing ones.

Undertakings Required

At the time of the initial audit, the department had communicated some information on employment equity at the departmental level, by such means as the departmental newsletter and the employment equity home page of the intranet. The regions had also conducted their own communication initiatives, including two special newsletters dedicated to Employment Equity, which were an initiative of the Regional Employment Equity Committee of Alberta/NWT/Nunavut.

As an undertaking, the department was required to regularly communicate employment equity information to all current and new employees, including managers. To carry out this requirement, the department agreed to develop a communication strategy to ensure that all staff are kept informed of departmental employment equity activities in a timely fashion.

Observations

Follow-up audit

At the time of the follow-up audit, the department had developed an Internal Communications Strategy. The EE and Diversity Committee had been consulted on its development. The strategy defined specific activities and tools as well as messages by target audience. The tools included fact sheets on such issues as the results of the WFA, a covering note from the DM, regional information/awareness sessions, articles in internal newsletters, an updated web site, a poster campaign and an EE screen saver. No time frame was given for implementation other than that it would be after the ESRs had been conducted, as it could change based on the results of these reviews.

Accordingly, during the extension, the department was required to develop the workplan for its communication strategy, including a timeframe and demonstrate that it had begun to carry out the strategy.

Follow-up after extension

In August 2001, the department provided a draft of its revised communications plan for Employment Equity and Diversity. The plan includes an update on initiatives that had been planned for the year 2000 - 2001, indicating if they have been implemented and if not, the reasons for this.

The results of the employment systems reviews indicated that despite various efforts by the department and regions, communication was still a problem and some people were not aware of the employment equity policy and the departmental program.

During the on-site visits, employees also reported that, despite the department's initiatives, there are people, including managers, who are not aware of the employment equity program, of the *Embracing Change* report nor of their obligations under the *Employment Equity Act*. Most of those interviewed reported that they had seen e-mails on employment equity and commemorative events, but had not seen the Employment Equity policy and were not aware that the *Interim Report* was on the web-site. Some reported that it was only recently that they had seen information on employment equity being communicated.

Copies of some communication materials developed on a regional basis were provided. The Ontario region has developed a comprehensive EE Guide which includes information on the audit process and resources for managers. There is a departmental level web-site and regions have developed their own web-sites and have links to the departmental one. The departmental site includes information on self-identification, alternative work arrangements and a copy of the *Interim Report* on the audit. Regional sites include such information as a comparison of employment equity and diversity, the employment systems review process and in the Ontario region, the activities of the Employment Equity and Diversity Committee. The Quebec region has developed a creative means of

communicating the requirements of the employment equity program by means of a virtual golf game. For its efforts, it recently received a regional Employment Equity award from the Treasury Board.

The Systems Branch at headquarters has a full-time Diversity Project Manager who is involved in promoting diversity awareness through such means as awareness sessions, a logo contest and a multi-cultural day involving foods from different countries and participation by staff from various embassies.

Conclusion

The department has made considerable efforts to communicate its obligations and initiatives related to employment equity to managers and employees. There appears to be a need for continuing and ongoing communication to current and new employees. The department should ensure that its revised Orientation training and package and any managerial courses related to human resources include information on employment equity. The Communications Plan should include these initiatives as means of getting the messages to a broad audience. In addition, it should address the need to communicate the names of the members of the EE and Diversity Committee to employees.

Human Resources Development Canada is in compliance with this statutory requirement.

11. CONSULTATION

Statutory Requirement

The Act requires an employer to consult with employee and union representatives on the development, implementation and revision of the employer's employment equity plan, and on the assistance they could give with respect to communication and implementation of employment equity in the organization.

Undertakings Required

The findings of the initial audit were that the department had consulted its bargaining agents at the national level on the previous employment equity plan. However, the bargaining agents indicated that they would have preferred to have been consulted earlier in the process to have been able to provide more meaningful input during the development of the plan. The approximately 1000 non-unionized employees had not been consulted. Accordingly, the department agreed to develop a process to communicate information on employment equity to bargaining agents, for consultative purposes, at the same time as it is distributed to employee representatives.

Observations

Consultation on the required areas

At the time of the follow-up audit, the department had established a national Employment Equity and Diversity Committee (EEDC) which included bargaining agents and representatives of management and Human Resources. The department had not yet developed its employment equity plan nor discussed its development with the committee. Therefore, during the extension, it was required to consult its bargaining agents and representatives of non-represented employees on the development, implementation and revision of its employment equity plan and to provide copies of agendas, minutes or other records of discussion and decisions, as evidence that consultation on the required issues had been carried out.

The department has provided agendas and records of decisions of its meetings, indicating that consultation was carried out on the employment equity plan and communication. The Internal Communication Strategy was on the agenda of the EEDC a couple of times and it was suggested by some members that it be a standing item since it was evolving. Some of the members who were interviewed did not recall having discussed communication issues, although it is possible that they may have been absent.

Representativeness of national committee

The department established the national Employment Equity and Diversity Committee for the purpose of consultation and collaboration on employment equity and diversity plans and strategies for HRDC. The committee is chaired by the Associate Deputy Minister and includes bargaining agents, designated group members and representatives of management, a representative of the regions and Human Resources. All bargaining agents were invited to participate but not all attend meetings. Those who are not able to attend meetings have been provided with the documentation by e-mail in recent months.

Human Resources staff nominated the representatives of non-unionized employees, based on the criteria of having an interest or background in employment equity or being an EE champion. The Compliance Review Officer had concerns about the representativeness of these non-unionized members since they had not been chosen by employees nor did employees have an opportunity to volunteer. Furthermore, the names of the members had not been communicated to employees so that they would know whom to contact. Therefore, the extension letter indicated that the department should put a strategy in place to ensure that any turnover of representatives of non-unionized employees is dealt with by seeking an expression of interest on the part of these employees.

Interviews with employees revealed that some were concerned about the representativeness of the members and whether they were able to represent the concerns of designated group members. Concerns were also expressed that the role of being a representative was not clear to some members - that they were to express not only their own personal opinions and experiences, but those of the employees they represent.

The department noted that there had not been any turnover of the non-unionized members. As of September 2001, it had not communicated the names of the members nor implemented a process to ensure that future members are representative of non-unionized employees. Since the department

now has a new Employment Equity Champion who is the chairperson of the EEDC, it is taking this opportunity to review the roles and structure of the committee. It is anticipated that this will take place during the fall of 2001 and that the department will be able to provide the Compliance Review Officer with information on how it has addressed the concern that the members of the committee be representatives of employees' views.

Sub-committee on Visible Minority Issues

The department has also established a Sub-committee on Visible Minority Issues which has been meeting since June 2000 and is chaired by the Associate Deputy Minister. Its members include some members of the EE and Diversity Committee, champions, bargaining agents, visible minorities and management representatives. There is a regional representative on the Sub-committee. Since some members of the Sub-committee, including the chairperson, are also on the EE and Diversity Committee, this provides a means of raising issues to the EE and Diversity Committee.

The roles of the Sub-committee on Visible Minority Issues include promoting the department's zero tolerance of harassment and discrimination, the recruitment and retention of visible minority group members, awareness and support for the needs of visible minority employees as well as providing advice to senior management. The committee was consulted on the EE Plan, although some members did not feel that this was their role.

Consultation on the regional employment systems reviews, employment equity plans and initiatives occurs at the regional level. In a couple of regions, the consultation on the employment equity plan either did not occur or was done only by mail and not discussed at a meeting, which the committee members did not find satisfactory. Some regions have developed committees at the zone or Human Resource Centre level. These committees may have varied roles including advisory, monitoring of the implementation of the employment equity plan and a working group role. The Ontario Regional EE Committee develops a workplan for its activities and receives management support for its initiatives.

Conclusion

While the department has conducted considerable consultation on the required issues, there remain concerns about the representativeness of the non-unionized members of the Employment Equity and Diversity Committee. At a minimum, the names of members need to be communicated, either in the departmental newsletter, or by some other means. The role of the members needs to be clarified so that it is clear that they are to present the views of those they represent.

Human Resources Development Canada is in compliance with this statutory requirement, provided that it submit evidence, by January 31, 2002, that it has implemented a mechanism to ensure that the members of the Employment Equity and Diversity Committee are representative of employees.

12. MAINTENANCE OF RECORDS

Statutory Requirement

The Act requires an employer to maintain employment equity records of the key activities concerning employment equity. This includes records on the representation in the workforce, on the employment equity plan and the implementation of employment equity.

Undertakings Required

This statutory requirement was in compliance at the time of the initial audit, subject to verification on-site and to the provision of the documents required during the follow-up audit. Therefore, there was no undertaking required.

Observations

HRDC has been able to provide the required documents during the follow-up audit on representation, the workforce analysis, the employment systems review and employment equity plan.

During the on-site visit, the Compliance Review Officer conducted a spot check of self-identification forms completed during the past six months as well as of all forms for some occupational groups. At headquarters, there was a discrepancy between the number of forms for ES on file and the number recorded in the data as having self-identified. It is acknowledged that one of the reasons for this may be reconciliation with TBS data. In another region, the information for one employee who was new during the last few months had supposedly been entered into the electronic data system but it could not be found when the Compliance Review Officer asked to see it. This causes some concern about the accuracy of the electronic data.

Conclusion

The department has provided records of the required documents. It is recommended that, on a periodic basis, it conduct its own spot checks to ensure that the hard copies of self-identification questionnaires and the electronic data are consistent.

Human Resources Development Canada is in compliance with this statutory requirement.

IV NEXT STEP

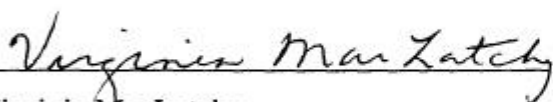
Human Resources Development Canada has demonstrated that it warrants a finding of compliance with the twelve Statutory Requirements of the *Employment Equity Act*. There are, however, some components of these requirements where additional work must be completed and these requirements are identified in the report. Nevertheless, the nature of these requirements do not warrant a finding of non-compliance, although the department will be required to report on their completion as indicated in the report. By signing this report, the organization commits itself to implementing each of the requirements stated herein.

There are also some *recommended* actions to several aspects of HRDC's overall approach. HRDC is not required to implement these recommendations although it is the opinion of the Compliance Review Officer that doing so would contribute to the effectiveness of the employment equity program.

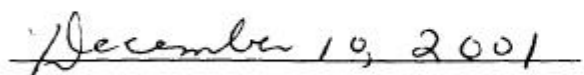
Once signed, the compliance audit is therefore concluded and the audit file is closed. The audit may be re-opened if it is later determined that the additional requirements have not been implemented.

It should be noted that Section 12 of the Act requires employers to make all reasonable efforts to implement their employment equity plan and to monitor its implementation on a regular basis to assess whether reasonable progress is being made. Attached as Appendix C is a summary of the basic steps organizations are required to take in this respect.

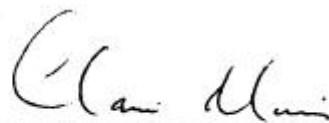
In the execution of its mandate, the Canadian Human Rights Commission will monitor the performance of organizations after they are found in compliance, through a review of the annual reports submitted to the Treasury Board Secretariat. Where organizations are failing to make reasonable progress, the Commission may initiate a new audit. Where employers fall short on the attainment of results because of a failure to make reasonable efforts, additional undertakings may be negotiated at that time.



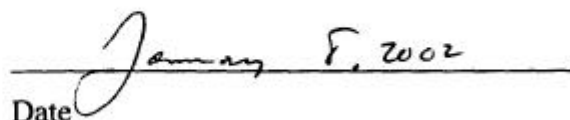
Virginia MacLatchy
Compliance Review Officer
Canadian Human Rights Commission



Date



Claire Morris
Deputy Minister
Human Resources Development Canada



Date

APPENDIX B

Human Resources Development Canada Goals 2001 - 2004

Designated Group	EEOG	Gap	Short-term goals	Long-term goal
Women	Scientific and Professional	-33	50.2% (54% for ES)	Reach full representation and equitable distribution and retention of all designated groups within a five-year period. Every effort will be made to accomplish this sooner.
Women	Technical	-1	at availability	
Women	Operational	-3	at availability	
Aboriginal People	EX	-6	2 per year for 3 years	
Aboriginal People	Scientific and Professional	-18	6%	
Persons with disabilities	Technical	-2	5%	
Visible minorities	EX	-7	2-3 per year for 3 years	
Visible minorities	Scientific and Professional	-1	1 in one to three years	
Visible minorities	Admin and Foreign Service	-327	2001-02-11%, 2002-03 - 20% (PM-9%, AS-11%, CS-17%)	
Visible minorities	Technical	-1	1 in one to three years	
Visible minorities	Administrative Support	-180	2001-2002 - 14% (1 in 7), 2002-2003 - 1 in 5	

Source:

- Gaps - as in Appendix A, based on representation data as of Sept. 2000
- Goals - HRDC National EE Action Plan 2001-2004