



UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
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Washington, DC 20036-3457

Date: January 19, 2022

Subject: Equity Action Plan

Agency: U.S. Occupational Safety and Health Review Commission

Agency Equity Team: Multi-level team that is comprised of senior management, human resources, equal employment opportunity, budget, procurement and information technology staff members.

(1) Executive summary

A. Agency Name and Mission

The U.S. Occupational Safety and Health Review Commission (OSHRC or Review Commission) is an independent adjudicatory agency created by the Occupational Safety and Health Act of 1970 (the OSH Act). The agency's sole statutory mandate is to serve as an administrative court providing fair and expeditious resolution of disputes involving the Occupational Safety and Health Administration (OSHA), employers charged with violations of federal safety and health standards, and employees and/or their representatives. The Review Commission was created by Congress as an agency independent of the Department of Labor to ensure that OSHA's enforcement actions are carried out in accordance with the law and that parties are accorded due process.

B. Summary of Action Plan

The Review Commission has identified opportunities to bolster affirmative equity-enhancing policies in key areas in which the agency interacts with external stakeholders, other government agencies, and staff. Sections two (Summary of Early Accomplishments) and three (Equity Action Plan) of this report outline six key areas in which the agency has either taken steps to implement equity-affirming policies and programs or has developed an actionable framework to further enhance the focus on equity.

(2) Summary of Early Accomplishments

A. Internal Policy/Directives/ Rules (Focus Area #2 of the Agency's 90-Day Progress Report on Equity Assessment)

The equity team conducted a line-level review of all policy documents with open discussion on the potential impacts of each policy on equitable outcomes. Agency leadership has reviewed and updated several policies to ensure that they comply with applicable federal nondiscrimination laws and are free of both implicit and explicit biases. The following actions were taken to ensure that our policies and practices foster diversity, equity, inclusion, and accessibility:

1. Developed and issued to all agency personnel an Equity and Access Policy Statement to demonstrate our leadership's commitment to ensuring that current agency programs and policies and all future agency endeavors are implemented equitably.
2. Updated the agency's strategic plan for fiscal years 2022 to 2026, to include goals and measures for promoting diversity, equity, inclusion, accessibility, and organizational excellence, including a culture of professionalism, mutual respect, and organizational pride, and ensuring that staff members are adequately trained and developed in these areas.
3. Solicited feedback from our staff and external stakeholders (e.g., strategic planning committee, alert and notice on the agency's website) regarding our draft 2022 to 2026 Strategic Plan.
4. Revised several agency directives (e.g., telework; hours of work; recruitment, relocation, and retention incentives; occupant emergency plan; professional liability insurance; phased retirement; smoking, vaping, and using smokeless tobacco; attorney-advisor hiring) to remove gendered language and, where applicable, recognize all types of family structure.
5. Distributed an anonymous survey to gather feedback from employees and on-site contractors about work environment issues.
6. Held staff meetings between senior leadership and supervisors, as well as one-on-one meetings, to ensure that all employee views and opinions are heard on various work-related topics.
7. Revised the agency's equal employment opportunity statement to demonstrate the agency's commitment to diversity, equity, inclusion, and accessibility in all respects, including hiring.
8. Began collecting demographic data from job applicants to measure how our recruiting efforts are available and accessible to the broadest pool of applicants.
9. Implemented enhancements to employees' work-life balance without sacrificing performance and accountability (e.g., expanded our telework program, revised the agency's core hours to allow more flexibility with employee work schedules).

B. Electronic Case Management System (Focus Area #3 from the Agency’s 90-Day Progress Report on Equity Assessment)

The Review Commission recognizes that its ability to gauge the impact of expanding availability of instructional material in a language other than English will be difficult. Therefore, the Review Commission looks to address equitable access and usage of its electronic case management system by ensuring that instructional guides for using the application are available in the most requested alternative language (Spanish). By making the instructional material available, our gauge will be a measure of the number of requests for the same information above what is currently being sought.

The Review Commission will use translation mechanisms to provide existing printed instructional information in Spanish. Considering that Spanish is the second most requested language of users, the Review Commission believes that we can impact wider user comprehension of the application.

Data required to identify individuals as members of underserved communities is not collected or tracked by the Review Commission. Quantifying the effect of enhancements to this system will be measured as a net total change in public requests for foreign language instructional assistance. The agency would expect to have instructional material translated and available on our website within 18 months of the acceptance of the endeavor.

The Review Commission will track the project by making translated instructional documents available via our website. Transitional milestones:

- Identify documents to be translated;
- Engage translation vendor;
- Obtain translated material; and
- Post translated material to Review Commission’s public website (<https://www.oshrc.gov>)

C. Language Access (Focus Area #4 of the Agency’s 90-Day Progress Report on Equity Assessment)

The Review Commission’s Language Access Plan ensures that English as a Second Language (ESL) individuals who interact with the Commission are provided with language translation and/or interpretation services. These services ensure fair and equitable treatment for all persons regardless of their native/primary language. The Review Commission offers publication and document translation, telephonic interpreter service, and in-person interpreter service for our adjudicatory proceedings. The agency has been successful at providing these services in an equitable manner by providing interpretations in an individual’s native language. Although Spanish has been the most requested language for translation and interpretation, our Language Access Plan affords all ESL individuals access to services that they may not have other means to obtain. As the Review Commission focuses on gathering data to support expanding our language

services, our current Plan continues to satisfy the mandate of Executive Order 13985 to advance equity for all stakeholders.

D. Adjudication Process (Focus Area #5 of the Agency’s 90-Day Progress Report on Equity Assessment)

As a result of iterative review processes with a renewed focus on equitable outcomes, the Review Commission has ensured accessibility to its adjudication process by:

- Revising its rules of procedure so that they are presented in plain language;
- Implementing an electronic filing system that provides access to all aspects of a pending case, and permits self-represented parties the option for paper filing in the event of a hardship;
- Posting agency procedures, procedural rules, and guidelines explaining the adjudication process on the Review Commission website in both English and Spanish;
- Ensuring access to small employers through the Commission’s Simplified Proceedings, which eliminates the formality and filings required in conventional adjudicatory proceedings; and
- Permitting employers to participate in our proceedings as self-represented parties and engage fully in the litigation of their cases.

E. Equity Training (Focus Area #6 of the Agency’s 90-Day Progress Report on Equity Assessment)

The Review Commission strives to maintain a diverse and inclusive work environment that establishes a sense of belonging among its staff. To ensure that our workforce is educated on these principles, all Review Commission employees and contractors completed a training course titled, “Diversity, Equity, Inclusion, and Accessibility: Implementing Executive Order 14035 in the Federal Workplace.” Diversity, equity, and inclusion training was intended to assist staff at all levels to work better with colleagues of differing identities and backgrounds. The training also aimed to build awareness and skills which support marginalized employees and helps to cultivate a safe, compassionate, and equitable office culture where everyone feels valued.

(3) Equity Action Plan

Procurement (Focus Area #1 from the Agency’s 90-Day Progress Report on Equity Assessment)

A. Barrier to Equitable Outcome(s)

The primary barrier to procurement opportunities for disadvantaged businesses is targeted access. Ensuring disadvantaged businesses have equitable access to procurement opportunities that are set aside for small business entities ensures enhanced opportunity for securing federal contract awards. Enhancing access requires both improvements to

agency-level procurement policy, as well as operational planning. For the purposes of procurement, underserved communities include businesses that meet the criteria of Title 13, Part 124 of the Code of Federal Regulations. Specifically, a small disadvantaged business (SDB) for purposes of any federal subcontracting program is a concern that qualifies as small under [Part 121 of Title 13](#) for the size standard corresponding to the six-digit North American Industry Classification System code that is assigned by the contracting officer to the procurement at issue, and that is owned and controlled by one or more socially and economically disadvantaged individuals. A firm may represent that it qualifies as an SDB for any federal subcontracting program if it believes in good faith that it is owned and controlled by one or more socially and economically disadvantaged individuals.

B. Action and Intended Impact on Barrier

OSHRC implemented a three-step approach to assess opportunities to better focus procurement toward more equitable outcomes. From that process, the agency has identified the following opportunities for expanding equitable access to procurement opportunities for SDBs.

1. Set goals that expand upon the current metrics related to both the number of procurement opportunities that are actively made available to SDBs and the agency spending that is awarded to this class of contractors.
2. Analyze program and agency-level procurement to identify areas to expand purchase opportunities to SDBs.
3. Interface with intragovernmental subject matter experts to discuss agency findings and identify possible programmatic enhancements on an iterative basis.

C. Tracking Progress

The target metrics related to equity in procurement will derive directly from step one of the equity procurement approaches. Targets will focus both on the percentage total number of procurement opportunities made available and the percentage total number of procurement dollars awarded to SDBs.

Success regarding expanding access to agency procurement opportunities for SDBs would essentially be a maximum percentage of the above metrics that can be achieved without detrimentally affecting agency operations. Metrics to be monitored with respect to operational efficiency are as follows:

- 1) Cost of increased staff hours for procurement personnel and administrative oversight.
- 2) Increased cost of actual goods and services due to decrease in economy-of-scale purchasing power when utilizing SDBs.

D. Accountability

The Review Commission will update internal policy to reflect its new goals related to the percentage of agency procurement opportunities and the percentage total of agency spending allocated to SDBs. These goals, related metrics, and budgetary data may be published in annual budget requests.

Internal Policy/Directives/ Rules (Focus Area #2 from the Agency's 90-Day Progress Report on Equity Assessment)

A. Barrier to Equitable Outcome(s)

The Review Commission has made significant progress in this focus area as mentioned above. One component still under review pertains to our procedural rules, which govern the agency's adjudication process. OSHRC's procedural rules directly impact the outcome of interactions with intragovernmental entities, agency staff, and the public. The primary barrier to determining the best method for ensuring that our procedural rules enhance equity is data collection and aggregation. This will inform our process of determining any necessary revisions and application of necessary changes.

B. Action and Intended Impact on Barrier

The equity team has created a working group that consists of agency leadership and adjudication personnel. This working group has met to discuss how our procedural rules account for equity considerations and whether our processes or practices require reformulation or revision. The working group is reviewing feedback and any proposed changes will then undergo the rulemaking process.

C. Tracking Progress

The equity team will routinely consult with the policy working group to obtain progress on their review and assessment of our procedural rules.

D. Accountability

The Review Commission will engage in the rulemaking process to revise its procedural rules if there are opportunities to enhance equity considerations. All recommended changes will be reviewed and approved by a vote of the agency's Commission members.