



Ohio Administrative Code

Rule 123:2-3-04 Development and accomplishment of affirmative action programs.

Effective: September 9, 1995

(A) A contractor or subcontractor may develop an acceptable affirmative action program by either of the following methods:

(1) Contractors or subcontractors may develop their own affirmative action programs including the contractor's or subcontractor's own minority utilization work hour goals. The development of the utilization work hour goals shall include an analysis of all trades employed by the contractor and/or subcontractor within the last year, an explanation of problem areas inherent in minority employment and an evaluation of minority underutilization in all trades. To determine where minorities are underutilized in any trade, the contractor or subcontractor shall consider the following factors:

- (a) The minority population of the labor area surrounding contractor or subcontractor job sites.
- (b) The minority employment rate in the labor area surrounding contractor or subcontractor job sites.
- (c) The percentage of the minority workforce in the immediate labor area.
- (d) The general availability of minorities in the immediate labor area.
- (e) The availability of minorities in an area from which the contractor or subcontractor can reasonably recruit.
- (f) The availability of promotable minorities within the contractor's or subcontractor's workforce.
- (g) The anticipated expansion, reduction and turnover of the contractor's or subcontractor's workforce.
- (h) The existence and proximity of qualified training institutions.



(i) The degree of training the contractor or subcontractor is reasonably able to provide to make all job classes available to minorities.

(2) Contractors or subcontractors may adopt the state minority utilization work hour goals, set forth in rule 123:2-3-02. Contractors and subcontractors may supplement the state minority utilization work hour goals with specific affirmative action steps that are developed by the contractor or subcontractor. The specific affirmative action steps may be unique to each contractor and subcontractor.

(B) The contractor's and subcontractor's affirmative action program must include the separate utilization work hour goal for women contained in rule 123:2-3-05 of the Administrative Code.

(C) Contractors and subcontractors must submit for approval, contractor and/or subcontractor developed affirmative action programs to the contracting agency. The affirmative action program may be submitted to the contracting agency either with the contractor's bid or prior to the submission of bids.

(D) Contractors and subcontractors must maintain all data applicable to the development of the contractor's or subcontractor's affirmative action program.

(E) A contractor or subcontractor will have met the goals of the applicable affirmative action program, either the state's affirmative action program or a contractor or subcontractor developed and state approved affirmative action program, if the contractor or subcontractor can establish one of the following:

(1) The contractor's or subcontractor's utilization work hours for minorities and women meet or exceed the goals of the affirmative action program for the total of all the contractor's or subcontractor's projects within the designated geographic areas.

(2) The contractor or subcontractor is a member of a contractor association or other employer organization which has as one of its purposes expanded utilization work hours for minorities and women and the total utilization work hours of minorities and women, by all member contractors and subcontractors of the association or organization on all projects in which they are involved within the



designated area, meet the utilization work hour goals for the designated geographic area.

(3) The contractor or subcontractor has a collective bargaining agreement with a labor union that supplies the contractor or subcontractor with over 80 percent of the contractor's or subcontractor's needed workforce and the total utilization work hours in the crafts the labor union has referred on all projects within the designated area meet the utilization work hour goals for the designated geographic area.

(4) The contractor, subcontractor or the employer association to which the contractor or subcontractor belongs has a collective bargaining agreement with a labor organization that supplies the contractor or subcontractor with over 80 percent of the contractor's or subcontractor's needed workforce in a particular trade. Such labor organization is subject to a court order or a consent decree containing an affirmative actions program and the labor organization meets the requirements of the affirmative action program.

(F) Where the contractor or subcontractor has denied any person equal employment opportunity, the contractor or subcontractor will not have met the goals of the contractor's or subcontractor's affirmative action program.