



Affirmative Action Plans and Credit Unions: What You Should Know

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What really is “affirmative action” and how does it apply to your credit union? The intent of this article is to provide enough basic information so that your credit union can determine what, if any, action it needs to take to comply with applicable laws and regulations. Affirmative action is alive and well. Many credit unions are not aware if they are required to have an affirmative action program (and plans) or not. The consequences of non-compliance are serious.

What is an Affirmative Action Program?

Affirmative Action regulations implement Presidential Executive Order 11246 and they prohibit federal contractors from discriminating on the basis of race, religion, sex, color, and national origin. These regulations also require covered federal contractors to take affirmative action in employing minority group members and women, and to develop written affirmative action plans.

Does Your Credit Union Need an Affirmative Action Program?

There are several ways an employer may be required to have an affirmative action program. To make it simple for credit unions, those with 50 or more employees that sell and redeem U.S. Savings Bonds or act as a depository for federal funds are covered by Executive Order 11246 and, therefore, are required to have an affirmative action program.

What is the Purpose of an Affirmative Action Program?

Affirmative action covers such action as hiring, promotion, transfers, and training for protected groups of people. This is done to compensate for past discrimination, overcome ongoing discrimination, and provide equal employment opportunities without regard to race, color, religion, sex, or national origin.

Several aspects of the definition need to be noted:

- An AAP is not just a commitment to non-discrimination; it is a set of specific procedures.
- Affirmative action is not preferential treatment. It does not mean that unqualified persons should be hired or promoted over other persons. What affirmative action does mean is that positive steps must be taken to ensure equal employment opportunity for traditionally disadvantaged groups.
- The goal of “prompt and full utilization of minorities and women” does not mean that each placement opportunity in an underutilized job area must be given to a female or a minority. It means that when such opportunities occur, full consideration should be given to hiring or promoting qualified members of underutilized groups.

In order to be in compliance with legal obligations, covered credit unions need not succeed in accomplishing their AAP commitments – they need only *exercise good faith efforts* to do so. Good faith counts as much as meeting or even exceeding your goals. But good faith efforts must be well documented.

Development and Administration Requirements

Generally the Human Resources Manager is responsible, under the CEO, to complete and implement the initial and annual AAP. While consultants are often used to create the plans and updates, someone inside the organization needs to be assigned to be the coordinator of the plan and fill a number of other mandated roles of an AAP Coordinator.

Creating the initial Affirmative Action Plan is where things really get tough, and many credit unions utilize software or outside consultants/law firms to “outsource” the development of their plans.

Under Executive Order 11246 requirements, an Affirmative Action Plan for minorities and women is usually about 80-120 pages including both the narrative and statistical portions of the plan. Statistics indicate the average time it takes for an organization to prepare their initial Affirmative Action Plan for Women and Minorities is *180 hours*. The respective AAPs for Disabled and Veterans take substantially less time because they are substantially less complex. On average, an organization will take approximately 75 hours each year to complete their annual AAP update. Generally between one-half to three-quarters of the time in preparing the initial AAP and the annual update is spent by professional employees and the remainder by clerical employees under their direction.

In order to complete a plan, a credit union will spend extensive time gathering a wide variety of information including government rules and regulations, a variety of census data, data on internal work force composition and movement patterns, external labor market statistics, and documentation to support various components of the AAP. Unless you have done it before, both setting up the data collection systems and assembling the data itself can be frustrating in their complexity.

The statistical section has several separate analyses that must be completed, the results of which will indicate whether there are any job groups in which women or minorities are “underutilized” when compared to their availability in the labor force. When underutilization exists, an annual percentage goal equal to availability must be established. Placement goals are NOT rigid with inflexible quotas which must be met. Nor are they to be considered a ceiling or a floor for the employment of a certain group. The regulations expressly forbid quotas.

The yearly AAP also requires a specific analysis to determine relative success of the last year’s objectives and is used to identify job groups where additional, good faith efforts may be required.

On-Going Plan Maintenance

Each written AAP must be updated and re-implemented each year by defining a “Plan Year”, which can be a calendar year, fiscal year or any other year a credit union defines – as long as it is consistently applied. Data for the plan year should be used from as close to the end of the previous plan year as possible (e.g. the end of the last payroll within the last plan year).



Each credit union must develop and implement an auditing system that periodically measures the effectiveness of its total affirmative action program. The regulations specify the exact (extensive) nature of the auditing requirements, which are as important as any other component of the affirmative action program.

Consequences of Non-Compliance

Executive Order 11246 established the Office of Federal Contract Compliance Programs (OFCCP) to monitor these federal contractors through periodic audits, contractor assistance, and investigating charges of discrimination. There are serious consequences of non-compliance, including:

1. Potential “debarment” that is becoming barred from doing business with any federal agency in the future. If your savings bond revenue is significant, this could be a business issue for you.
2. The risk of audit. Most covered credit unions will be required to answer at least one inquiry and/or complete one or more report on their compliance status every year. Complicating the situation is that the OFCCP has authority to monitor employer compliance on areas of the law not directly under their jurisdiction. A good example is that the OFCCP has the authority to audit an employer’s form I-9s (record-keeping relating to whether employees are lawfully entitled to work in the US) and report violations to the US Immigration and Naturalization Service (INS).

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