

# ***Strategic Evaluation of the Employment Equity Programs***

**Final Report**

***Evaluation Directorate  
Strategic Policy and Research Branch  
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## *List of Abbreviations*

EEP	Employment Equity Programs
FCP	Federal Contractors Program for Employment Equity
HRSDC	Human Resources and Skills Development Canada
LEEP	Legislated Employment Equity Program
RFWS	Racism-Free Workplace Strategy
WEIMS	Workplace Equity Information Management System





# *Executive Summary*

This report contains the findings and conclusions for the Strategic Evaluation of the Employment Equity Programs (EEP). The evaluation assessed issues of rationale and relevance, delivery, success and impact of the program, and alternative program designs.

The Employment Equity Programs involve three distinct programs, developed in response to the *Employment Equity Act*. The *Act* is designed to correct conditions of workplace disadvantages historically experienced by four designated groups, including women, Aboriginal peoples, visible minorities and persons with disabilities. The EEP include the Legislated Employment Equity Program (LEEP), the Federal Contractors Program for Employment Equity (FCP), and the Racism-Free Workplace Strategy (RFWS). The LEEP is designed to support federally-regulated private sector companies and Crown corporations with 100 or more employees in complying with their obligations under the *Employment Equity Act* and to collect these employers' employment equity annual reports. The FCP was created to ensure that firms benefiting from contracts with the federal government take the required steps to support employment equity. The FCP applies to provincially-regulated employers with a national workforce in Canada of 100 employees or more who receive federal government goods or services contracts of \$200,000 or more. The RFWS was created in 2005, with the aim of eliminating discriminatory barriers facing the employment and upward mobility of visible minorities and Aboriginal peoples in Canada and create workplaces that are fair, respectful and inclusive.

The overall objective of the strategic evaluation was to review the effectiveness of the EEP in supporting the achievement of the goals of the *Employment Equity Act*, while identifying strategic opportunities to improve the Government of Canada's efforts in the promotion of employment equity. The evaluation focused primarily on the LEEP and the FCP. The RFWS, which was in its initial stages of implementation at the time of the evaluation, was assessed in a limited way, primarily in relation to the rationale for and the relevance of the Strategy. The evaluation also examined changes made in response to findings of past evaluations of the LEEP and the FCP.

## **Methodologies**

The evaluation of the EEP involved fieldwork conducted between October 2006 and September 2007. Evidence was collected through the following six methodologies:

- Document and Literature Review;
- Administrative Data and File Review;
- Key Informant Interviews;
- Employers Survey;
- Group Consultations; and
- Case Studies

## **Findings and Conclusions of the Evaluation**

The following presents the evaluation questions as well as a summary of the findings and conclusions which were derived from the evidence gathered for the evaluation.

### **Rationale and Relevance**

Overall, there is evidence that members of designated groups including Aboriginal peoples, persons with disabilities, visible minorities and women, continue to experience disadvantages in the Canadian labour market, with persons who belong to more than one designated group facing even greater disadvantage. Evaluation findings indicate that while discrimination in employment still exists, it has evolved. It is subtle and appears to be primarily attitudinal or cultural. At the same time, there is increasing recognition among private and public sector employers of the potential benefits on their business of employing skilled individuals from various backgrounds.

The Employment Equity Programs are still fairly unique in Canada, in that they are targeted at private sector employers. Employment equity legislation within the provinces/territories, with the exception of Quebec, is limited to the public sector. Within other jurisdictions, the evaluation found that employment discrimination is addressed within the context of policies/programs that focus on protection of human rights and/or promotion of diversity rather than just employment equity. While the current coverage of the EEP is viewed as limited considering that the majority of the Canadian workforce is employed in businesses that are not bound by their provisions, there is limited room to expand their scope. The forecasted increase in the rate of growth in Aboriginal youth and visible minority populations over the coming years may considerably increase the numbers of those in need of support and is expected to create additional challenges to public policies designed to promote their integration to the work force.

Although some measures of program activities and performance exist for the LEEP and the FCP, no evidence was found of structured and systematic assessments of the quality of service. Performance measures appear to be underutilized to improve program effectiveness. Measures of EEP results provide an incomplete view of program outcomes as they focus on compliance with reporting and on filling the gap in representation for the designated groups. Also, only limited information is available on FCP employers' results.

### **Program Delivery**

While the reporting requirement is viewed as important in monitoring progress and focusing employers on employment equity, concerns expressed in the previous evaluation of the LEEP remain regarding the extensiveness and complexity of the reporting process for LEEP employers. The Minister's Annual Report, which reports to Parliament the progress made in implementing employment equity, is viewed as useful in promoting employment equity among Canadians. However, it provides a somewhat incomplete and unbalanced view in that it puts emphasis on increased representation of the designated groups and on compliance with the reporting requirements as opposed to the measures and activities undertaken by the covered employers to eliminate systemic barriers for the designated groups.

In the case of the FCP, representation data is limited to employers who have undergone compliance review. FCP employers are not required to report in the same manner as LEEP employers. Hence, no comprehensive assessment of results for FCP employers can be made. This represents a serious gap in assessing EEP results. The lack of mechanisms to track FCP progress in the implementation of the program requirements has been identified as a key weakness throughout this evaluation. Annual reporting was viewed by stakeholders as important in monitoring employers' performance in removing barriers and supporting ongoing improvement.

Consistent with the findings of the 2002 evaluation, the level of resources and the program delivery structure of the EEP continue to be a challenge to deliver key responsibilities related to the Programs, including employer outreach and support, as well as public promotion. Challenges associated with the delivery structure included unclear program governance and deficient priority-setting / resource allocation mechanisms. Also, awareness and perceived usefulness of some EEP tools and supports is low among covered employers, particularly as they relate to helping employers implement positive measures and to remove systemic barriers.

The Canadian Human Rights Commission and the EEP have worked to improve consistency in and communication of program requirements and to clarify their respective roles, as well as to increase co-ordination on the development of tools, research and advice. However, activities undertaken by the EEP to foster and promote the awareness, education and outreach among covered employers and the public are still limited. There continues to be an overall lack of awareness and understanding among employers of the basic requirements of the *Employment Equity Act*. In particular, the evaluation found that there is a perceived lack of clarity around what constitutes disability and employer requirements for "special measures" and "reasonable accommodation" under the *Act* among covered employers and the general public. As the Canadian Human Rights Commission initiated outreach activities to increase awareness of employment equity, EEP representatives reported that these initiatives were being undertaken without co-ordination with them or their involvement.

Evidence collected through this evaluation confirms the importance of a rigorous compliance mechanism to support the effective implementation of employment equity programs. The level and quality of compliance reviews for FCP have increased significantly since the last evaluation, and performance targets and measures for the monitoring of compliance activities have been put in place. However, there seems to be a gap between what most covered employers perceive to be compliance with the program requirements, and actual compliance. The evaluation found that the level of LEEP and FCP employer compliance with the development and implementation of employment equity plans is still low, with stakeholders suggesting that employers may be doing the minimum to comply with the program requirements under both LEEP and FCP, until they are subjected to compliance audits or reviews. It was also found that enforcement mechanisms for LEEP employers reporting obligations and FCP employers overall compliance are rarely applied.

## Success and Impact

The EEP have contributed to identifying and removing systemic barriers to employment for designated groups for employers who have implemented the steps and measures prescribed. However, action is often only being taken as a result of a compliance review or audit and therefore, the impact is still limited to a fraction of the employers covered by the LEEP and the FCP.

The evaluation found evidence that implementation of employment equity measures, including of employment equity plans, results in an increased focus on human resources planning and more strategic approaches to recruitment, employee development and retention. Self-identification of individuals to a designated group continues to be a challenge largely due to the stigma and negative perception of membership to designated groups. This also adversely affects employers' ability to obtain accurate data on workforce representation.

EEP activities have helped to raise awareness of the importance of employment equity among covered employers. Stakeholders were of the view that the EEP have been instrumental in drawing employers' attention to the needs of all four designated groups. There was also the belief that incidences of overt discrimination against members of designated groups have been significantly reduced, with stakeholders attributing this partly to the *Employment Equity Act* and the EEP.

Representation within the LEEP workforce has increased for all the designated groups since 1986; however it continued to be lower than availability during the period reviewed by the evaluation. It should be noted that improvements in the representation of designated groups within the workforce overall might not be solely attributed to the EEP. These changes might also have been influenced by changes in societal attitudes, changing workforce patterns of women and the rapid increase of visible minorities and Aboriginal peoples within the Canadian population.

While based on limited data, a review of the FCP workforce data suggests similar increases in representation, as well as continued under-representation. For both the LEEP and the FCP, all designated groups were under-represented with the biggest gap for Aboriginal peoples and persons with disabilities.

## Alternative Designs

While alternative program designs or features were sought, few could be identified which have a workplace focus. One potential additional program feature suggested is providing support in making the linkages/connections between employers and those organizations serving or representing members of designated groups. To some extent, the RFWS already conducts activities in line with this suggestion, limited to Aboriginal peoples and visible minorities. The impact on program costs has not been assessed.

## Recommendations

1. **The EEP should develop a comprehensive performance measurement framework focused on key activities and results for each EEP component.** This also should include structured and systematic assessments of the quality of service, such as relevance or usefulness of program-related research, tools and products; responsiveness of staff to employers' requests; level of knowledge and expertise of staff; and adequacy of program advice and interpretation.
2. **The EEP should continue to simplify and streamline the current LEEP reporting process and should enhance its assessment, use and dissemination of information on the efforts undertaken by employers and the factors that could explain the results of employers' efforts.**
3. **The EEP should consider requiring FCP employers to report annually on representation and on the activities undertaken to be compliant with program requirements and to accommodate and remove barriers to employment for designated groups.** Reports data would be used both to monitor employer progress individually and to report comprehensively on measures implemented and representation changes in FCP employers' workforce as a whole.
4. **The EEP should review the impact of the current level and allocation of resources as well as the usefulness of tools and support offered on the capacity to achieve program outcomes.** The review should include an analysis of the program governance structure (including delivery) as well as priority-setting / resource allocation mechanisms.
5. **The EEP should continue to work with the Canadian Human Rights Commission to develop greater dialogue and ensure co-ordination in relation to the organizations' respective roles in implementing and enforcing *Employment Equity Act*.** The two organizations should work together toward agreement on key areas that challenge employers, such as bringing clarity to key terms under the *Act*, as well as in the promotion of employment equity and implementation of legislative requirements.
6. **The EEP should consider using its discretionary power under its compliance policy to enhance enforcement of key FCP program requirements.**



# *Management Response*

## **Introduction**

From October 2006 to December 2007, an evaluation of the Labour Program's Employment Equity Programs (EEP) was undertaken to assess the effectiveness of the EEP in supporting the achievement of the goals of the *Employment Equity Act*, while identifying strategic opportunities to improve the Government of Canada's efforts in the promotion and implementation of the *Act*.

The evaluation focused primarily on the Legislated Employment Equity Program (LEEP) and the Federal Contractors Program (FCP). The evaluation examined changes made in response to findings of past evaluations of the LEEP and the FCP. Key assessment criteria included rationale and relevance; delivery success; impact of the program; and alternative program designs.

This management response provides the Labour Program's assessment of the evaluation findings; indicates where policies and procedures have been modified and outlines plans for future change.

## **Key Findings**

Overall, the evaluation supports the continued relevance of EEP as designated groups continue to experience disadvantage in the Canadian labour market. Since the inception of LEEP and FCP, there has been a marked increase in the representation of designated groups and employers have recognized the role of EEP in raising awareness about the importance of employment equity. In addition, the evaluation noted a significant improvement in compliance reviews under the FCP.

Although progress has been made, the evaluation identified a number of areas in need of review:

- lack of structured or systematic assessment of the quality of service provided to clients;
- the complex and extensive reporting process can be a burden for LEEP employers;
- there is limited information in the annual report to Parliament on employer measures;
- limited program-driven promotion, awareness, education and outreach for employers;
- lack of clarity among FCP employers with respect to compliance requirements;
- low number of employers who have developed and implemented an Employment Equity plan;
- employee self-identification issues preventing accurate workforce representation data; and
- lack of innovative approaches to achieve employer compliance.

The evaluation report made six recommendations which are outlined below with the corresponding EEP responses.

## **Recommendations and Summary of Proposed or Completed Actions**

### ***Recommendation 1: The EEP should develop a comprehensive performance measurement framework focused on key activities and results for each EEP component.***

The Labour Program agrees with this recommendation.

- The Labour Program is currently reviewing EEP program delivery and program requirements and the EEP Division, Federal Programs Directorate, is leading the work towards a new Quality Assurance Framework. Changes in organizational structures have occurred since the evaluation was conducted. In June 2012, a new Performance, Training, Analysis and Research Division was created within the Workplace Directorate to enhance data development, performance measurement and the monitoring of progress for each of the designated groups.
- Program officers regularly meet with LEEP employers and with representatives from their umbrella organizations, sharing perspectives and concerns. To get feedback on the quality and impact of program activities, the program also relies on employer responses to evaluation questionnaires following training activities offered by the program. This feedback is systematically used to improve the EEP Division programs and services.

### ***Recommendation 2: The EEP should continue to simplify and streamline the current LEEP reporting process and should enhance its assessment, use and dissemination of information on the efforts undertaken by employers and the factors that could explain the results of employers' efforts.***

The Labour Program agrees with this recommendation.

- The Program is simplifying and streamlining the LEEP reporting process in line with the recommendations of the 2011 Red Tape Reduction Commission. The web-based Workplace Equity Information Management System (WEIMS) became available in March 2009, making the reporting process easier for employers and, in turn, reducing the need to contact EEP staff. Approximately 94% of LEEP employers submitted their report through WEIMS in 2011. EEP will continue to encourage and train employers on the use of WEIMS to improve the reporting and the validation process, targeting 98% take-up by 2014. Given the reduction in regional service delivery following Budget 2012, employer training will increasingly depend on online education. This is an EEP priority under the recently announced Inclusive and Productive Workplace Strategy, which will take effect in April 2013.
- In their annual employment equity reports, employers are required to submit a narrative report on the measures taken and results achieved during the reporting period, in trying to remove workplace barriers faced by members of designated groups. These



reports are disseminated through the Labour Program web site; selected practices are also featured in the *Employment Equity Act* Annual Report.

***Recommendation 3: The EEP should consider requiring FCP employers to report annually on representation and on activities undertaken to be compliant with program requirements and to accommodate and remove barriers to employment for designated groups.***

The Labour Program takes note of this recommendation.

- As outlined in response to Recommendation 1, the Labour Program is undertaking a review of its EEP, including contractors' obligations and FCP program delivery. The Labour Program is seeking to balance employment equity objectives with the resources available to medium-sized employers to meet their Employment Equity obligations. As these employers have limited resources, the program is committed to ensuring that their efforts are well targeted and that the administrative burden for them is minimal. Compliance reviews for FCP employers in the past five years demonstrate improving results. New program directions will be developed for the FCP in light of a recent review of the program, including reporting requirements.

***Recommendation 4: The EEP should review the impact of the current level and allocation of resources as well as the usefulness of tools and support offered to enhance the capacity to achieve program outcomes.***

The Labour Program agrees with this recommendation.

- Based on a recent review of the program, the department is moving forward with reallocation of resources towards improving program delivery and the quality of tools in support of better outcomes, including greater use of technology to assist employers. Tools and templates have been developed within the EEP to assist employers in the preparation of their employment equity annual reports. The WEIMS application with its reference documentation such as the *Users' Guide*, *Training Slideshow*, *Employer Handbook*, *Narrative Report Guide*, and other step-by-step technical instructions, have been available online since 2009.
- A Four-Step Guide to assist FCP employers to develop and implement effective employment equity programs was released in April 2010 and has been available online since February 2010. A similar LEEP Five-Step Guide will soon be available online.
- The EEP continues to promote and guide employers to use WEIMS. In 2011, 94% of employers did so and the program is targeting 98% by 2014.

The EEP is reviewing in detail its operational approach and developing a new strategic plan that will include further development of the tools outlined above (WEIMS, *Five-Step Guide* for LEEP employers), as well as a streamlined approach to the FCP requirements. The Racism-Free Workplace Strategy will be restructured through a new Inclusive and Productive Workplace Strategy that will apply to all four designated groups.

***Recommendation 5: The EEP should continue to work with the Canadian Human Rights Commission to develop greater dialogue and ensure coordination in relation to the two organizations' respective roles in implementing and enforcing the Employment Equity Act.***

The Labour Program agrees with this recommendation.

Collaboration with the Canadian Human Rights Commission has improved dramatically: Both the Labour Program and the Canadian Human Rights Commission recognize that they have distinct but complementary mandates for policy and legislation related to Employment Equity under federal jurisdiction, and that in order to manage effectively the responsibilities that emanate from these two mandates, it is important that the Canadian Human Rights Commission and Labour Program continue to share information and collaborate wherever possible in the implementation of their respective programs. A Memorandum of Understanding provides the framework for effective and efficient consultation and cooperation between the organizations with respect to their workplace equity mandate.

- Meetings were held in September 2012 between senior management of both organizations to strengthen the relationship, share best practices and explore opportunities for cooperation moving forward. Agreement was reached on a plan for consultation and collaboration on emerging issues and program directions, including on the education and outreach component of the new Productive Workplace Strategy.
- Prior to Fall 2012, EEP and the Canadian Human Rights Commission consulted regularly on changes to their respective compliance programs. In March 2011, a joint planning session was held to explore how to improve cooperation.
- Canadian Human Rights Commission is being consulted by EEP on the tools for LEEP employers and has also been a key partner in the development of WEIMS.
- In 2009 and 2010, the EEP and the Canadian Human Rights Commission worked together to deliver training to employers across Canada.
- The EEP participated extensively in both the working and steering groups formed by the Canadian Human Rights Commission to develop the Canadian Human Rights Commission Human Rights Maturity Model and to discuss employer data issues.

***Recommendation 6: The EEP should consider using its discretionary power under its compliance policy to enhance enforcement of key FCP program requirements.***

The Labour Program takes note of this recommendation.

- Based on a recent review of the program, the Program is moving towards more proactive risk-based approaches to better focus resources and achieve better outcomes. The Labour Program is revising the delivery of the FCP in line with the decision to amend the *Employment Equity Act* to exempt FCP employers from the obligation to submit an employment equity plan as well as increase the contract threshold from \$200K to \$1M. However, employers would still be accountable for Employment Equity under contractual obligations.

In addition to reviewing the delivery of the FCP, the Labour Program is working to improve communication, education and outreach to FCP and LEEP employers through the development of a new workplace strategy (Productive Workplace Strategy) that will complement compliance measures required by legislation. Better education and awareness need to be supported by compliance measures which in the past, have led to over 90% compliance rate for contractors.

## **Future Application of Employment Equity Programs Evaluation Recommendations**

The conclusions of the evaluation report provide both positive findings as well as areas for improvement. The report recommendations provide to Senior Management guidance and advice that will continue to inform program development in support of positive change.



# ***1. Introduction and Context***

## **1.1 Introduction**

This report presents the findings from the strategic evaluation of Human Resources and Skills Development Canada's (HRSDC) Employment Equity Programs (EEP). The EEP include the Legislated Employment Equity Program (LEEP), the Federal Contractors Program for Employment Equity (FCP), and the Racism-Free Workplace Strategy (RFWS). The data collection, analysis and reporting activities of this evaluation were conducted between October 2006 and December 2007.

## **1.2 Description of Programs**

### ***1.2.1 Employment Equity Act***

Through the Abella Commission, in the early eighties, came the recognition that unintentional barriers that prevented individuals of certain disadvantaged groups in Canadian society from obtaining jobs for which they may be qualified existed. In response, the federal government introduced the *Employment Equity Act* and the Federal Contractors Program for Employment Equity, both of which are aimed at achieving equality in the workplace.

The *Employment Equity Act*, first enacted in 1986 and re-enacted in 1995, is designed to correct conditions of workplace disadvantages historically experienced by four designated groups, including women, Aboriginal peoples, visible minorities and persons with disabilities. The *Act* obligates employers to implement special measures and accommodate for differences for members of these four designated groups with the aim of eliminating discrimination in employment. The *Act* applies to private businesses in the federal labour jurisdiction as well as to federal public sector organizations and certain Crown corporations.

Employers are required by the *Employment Equity Act* to survey their workforce to allow for the self-identification of members of the designated groups; collect and analyze information on the representation, occupational group distribution, and salary distribution of members of the four designated groups; identify gaps in the representation of the four designated groups; establish short- and long-term numerical goals for addressing these gaps; and, prepare an employment equity plan to implement policies, practices and measures aimed at filling the gaps in representation. Employers are also required to report annually on the representation of designated groups in their workforce and on hires, promotions and terminations. In their annual reports, employers are expected to outline key measures taken to improve workplace representation, the results that were obtained from these measures and consultations they have undertaken with employees. As part of the re-enactment of the *Employment Equity Act* 1995, the Canadian Human Rights Commission was made responsible for auditing overall employer compliance to the *Act* and for administering any required remedial measures within the terms of the *Act*.

The Employment Equity (FCP), established by a Cabinet decision in 1986, carries similar obligations to those of the *Employment Equity Act* for businesses contracting with the federal government.

### **1.2.2 The Legislated Employment Equity Program**

The Legislated Employment Equity Program (LEEP) was established in 1987 in direct support of Ministerial powers, duties and functions provided under the *Employment Equity Act*. The LEEP is designed to support federally-regulated private sector companies and Crown corporations with 100 or more employees in complying with their obligations under the *Act* and to collect these employers' employment equity annual reports. Federally-regulated private sector firms are primarily in the Communications, Banking and Transportation industries, with the Communications industry having the largest number of employees, followed by Transportation and Banking. In 2005, 520 employers, with a combined workforce of approximately 673,000 employees (approximately 4.1% of all Canadian workers)<sup>1</sup> were covered by the LEEP.<sup>2</sup> The federal public service and public sector organizations are outside the scope of the LEEP.

The LEEP provides employers with data, information, tools and advice to assist them in complying with the obligations of the *Employment Equity Act*, as well as comprehensive computerized data collection and reporting tools to help them in complying with their reporting obligations. Under the LEEP, employers provide annual reports to HRSDC on the representation of designated groups as well as on the measures, results and consultations conducted during the reporting year. Under the *Act*, the Minister of Labour is required to prepare annually a consolidated report of the individual employers annual reports as part of the consolidated "Annual Report on the *Employment Equity Act*," to be tabled in Parliament. Individual LEEP employer reports are available online as part of the publication of this report.

While the Canadian Human Rights Commission has responsibility for overall *Employment Equity Act* compliance monitoring, HRSDC monitors compliance with the reporting obligations set out in the *Act* and the *Employment Equity Regulations* and is responsible for administering any required remedial measures within the terms of the *Act* and *Regulations* as well as provides overall *Employment Equity Act* compliance advice to the LEEP employers. The *Act* requires that copies of the individual employer annual reports be shared with the Canadian Human Rights Commission.

### **1.2.3 The Federal Contractors Program**

The Federal Contractors Program (FCP) applies to provincially-regulated employers with a national workforce in Canada of 100 employees or more who receive federal government goods or services contracts of \$200,000 or more. The FCP is intended to ensure that firms benefiting from contracts with the federal government take the required steps to support employment equity for the four designated groups and implement appropriate measures

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<sup>1</sup> Statistics Canada, *Labour Force Survey*.

<sup>2</sup> LEEP Employer Reports Information System (ERIS) database.

to eliminate discrimination in the workplace. In 2005, FCP was comprised of 915 employers, employing a total workforce of approximately 1,057,000 (approximately 6.3% of all workers in the Canadian workforce).<sup>3</sup>

Sub-section 42(2) of the *Employment Equity Act* makes it the Minister of Labour's responsibility to ensure that the requirements imposed on the FCP employers, with respect to the implementation of employment equity, are equivalent to the requirements imposed on LEEP and other employers under the *Act*. The responsibility for monitoring compliance of FCP employers to their obligations under the program resides with the Labour Program at HRSDC.

Employers who fall under the FCP must sign a Certificate of Commitment to Employment Equity and submit it as a condition for bidding on or receiving federal government contracts of \$200,000 or more. The Certificate is a legal document, which commits the organization to implementing employment equity after the award of the contract. The signed Certificate is provided to Public Works and Government Services Canada and is forwarded to HRSDC once the certified employer is awarded a contract of \$200,000 or more.

The responsibilities of EEP staff include providing advice and other necessary support to employers to help them meet the program requirements and, conducting compliance reviews to assess employer progress in complying with the program and in making a "reasonable effort" to achieve employment equity. The EEP staff responsibilities also include administering any required remedial measures in collaboration with Public Works and Government Services Canada.

### **1.2.4 The Racism-Free Workplace Strategy**

The Racism-Free Workplace Strategy (RFWS) was initiated by the Labour Program out of the recognition of the need for greater awareness of racism in the workplace, and for education and support to address the issue on a day-to-day basis. In 2005, the RFWS was introduced as a key component of *A Canada for All: Canada's Action Plan Against Racism*<sup>4</sup>, which committed the government to combating racism and racially-based discrimination in the workplace and in the community. Under this Plan, the federal government committed \$56 million over five years to fund initiatives in four government departments (HRSDC, Canadian Heritage, Citizenship and Immigration Canada and Justice Canada). Of that amount, an estimated \$13 million is devoted to the RFWS for the development, promotion and sharing of new measures, practical tools and best practices with the goal of removing discriminatory barriers in the Canadian labour market. The RFWS activities were officially launched in August 2006.

The aim of the RFWS is to eliminate discriminatory barriers facing the employment and upward mobility of visible minorities and Aboriginal peoples in Canada and create workplaces that are fair, respectful and inclusive. The Strategy aims to facilitate the

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<sup>3</sup> Statistics Canada, *Labour Force Survey*.

<sup>4</sup> Canadian Heritage, 2005, *Canada's Action Plan: Against Racism: A Canada for All*.  
<http://publications.gc.ca/collections/Collection/CH34-7-2005-1E.pdf>

integration of skilled individuals of the above groups in Canadian workplaces by developing tools, guidelines and educational materials for employers, practitioners, managers, employees and the general public. The Strategy is also intended as a key outreach mechanism in order to make it easier for people to learn about practices, success stories and business cases, and to bring employers and representatives from the designated groups together to work on innovative approaches to training, recruitment, retention and advancement. While the current focus of the RFWS is on employers covered by the *Employment Equity Act*, the Strategy also includes initiatives designed to reach employers and Canadians more broadly.

### 1.3 Program Delivery Structure

At the time the evaluation was conducted, the Labour Operations Directorate had overall responsibility for the delivery of all three components of the EEP.<sup>5</sup> At National Headquarters, the Labour Standards and Workplace Equity, Division of Labour Operations Directorate, was responsible for policy and overall functional direction aspects as well as key program delivery aspects.

Three Units in Labour Standards and Workplace Equity Division shared program delivery activities as follows:

- The Workplace Equity Programs Unit was responsible for functional direction and monitoring of compliance review activities for FCP employers as well as employer support activities for both FCP and LEEP employers (other than annual reporting). Actual compliance review for FCP employers and employer support activities were carried out in the HRSDC Regions.
- The Racism-Free Workplace Strategy Unit was responsible for overall delivery of national activities of the RFWS and for the policy development and overall delivery of activities of Racism Prevention Officers located in HRSDC Regions. Racism Prevention Officers were responsible for local delivery aspects such as promotion, awareness and outreach.
- Policy, Reporting, and Data Development, which was supported by three sub-units (Data Development and Research, Policy, and Reporting and Analysis) was involved in overall policy development for employment equity, the collection of employers' annual reports under the LEEP as well as the consolidated report to Parliament, and the development and maintenance of the tools, information, databases and systems to support program delivery and management.

Regional staff reported to the Labour Operations Directorate through Labour Program regional managers through varying reporting structures and arrangements. The Director General of Labour Operations at National Headquarters had line authority over the Labour Program regional staff. Regional delivery staff for the LEEP and the FCP consisted of workplace equity officers and workplace equity program advisors who were responsible for providing support to employers in implementing their obligations under

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<sup>5</sup> This description reflects the situation with respect to EEP program delivery and reporting relationships at the time this evaluation was conducted. The Labour Program has since implemented changes to its structure.



both the LEEP and the FCP, and conducting compliance reviews of FCP employers and required follow-up activities. Regions were responsible for contacting employers to help them understand their responsibilities and comply with the program requirements. Regions were also the first contact point for employers' requests for information and assistance with the preparation of their reports in relation to the LEEP and in regards to enquiries for assistance with program compliance.

Racism-Free Workplace Strategy (RFWS) activities were delivered through Racism Prevention Officers in the regions. Racism Prevention Officers also reported to Labour Operations Directorate through Labour Program regional managers.

## **1.4 Evaluation Context, Issues and Questions**

The overall objective of the strategic evaluation was to review the effectiveness of the EEP in supporting the achievement of the goals of the *Employment Equity Act*, while identifying strategic opportunities to improve the Government of Canada's efforts in the promotion of employment equity.

The evaluation focused primarily on the LEEP and the FCP. The RFWS, which was in its initial stages of implementation at the time of the evaluation, was assessed in a limited way, primarily in relation to the rationale for and the relevance of the Strategy. The evaluation also examined changes made in response to findings of past evaluations of the LEEP and the FCP.

The key evaluation issues examined in this report were rationale and relevance, effectiveness, and success of the EEP. Rationale and relevance were examined for the three EEP components whereas effectiveness, success and impact focused on the FCP and the LEEP. The RFWS is included in this strategic evaluation in relation to key stakeholders' understanding and support of the RFWS, and in relation to the extent to which it is relevant given the complex and evolving nature of racism and employment equity in Canada. Program delivery was primarily assessed through a follow-up of key concerns and findings of preceding evaluations of the FCP and the LEEP. Annex A lists the key evaluation questions and issues that were assessed as part of the strategic evaluation of the EEP.



## ***2. Methodology***

This section describes the lines of evidence used for the evaluation of the EEP, and the methodological limitations to the study. The design of the evaluation was primarily a mixed-method inquiry with multiple lines of evidence.

The evidence was gathered between October 2006 and September 2007 through six different data collection methods. While limited follow-up or additional data collection was conducted in preparing this report, in most cases, it does not cover relevant developments/changes that took place between the time data collection was completed and the time this report was finalized.<sup>6</sup>

### **2.1 Overview of Evaluation Methods**

#### ***2.1.1 Document and Literature Reviews***

The purpose of the literature and document reviews was to understand how the EEP work; examine EEP processes; gather information on how other jurisdictions approach employment equity; and document how the programs' approach has evolved over time. This review, completed in September 2006, focused on the period 2001-2006. The review built on, rather than duplicated, the findings of the literature reviews conducted as part of the previous evaluations of LEEP (conducted in 2002 and published in 2005) and FCP (conducted in 2001 and published in 2002).

The review began with a thorough assessment of relevant information found on the websites of HRSDC and the Canadian Human Rights Commission. This was followed by an extensive search of Internet sites and library databases of Canadian and international literature on issues related to multiculturalism, racism, human rights, and employment equity more generally. Additional relevant program-related documents were identified and/or provided by EEP staff.

#### ***2.1.2 Key Informant Interviews***

The objective of the interviews was to gather the views of program representatives and other government (federal and provincial) representatives, experts in the area of employment equity, and representatives of national employer and/or employee associations, on the rationale and relevance, and effectiveness of the EEP, and on issues related to employment equity. This consultation was completed in December 2006. Interviewees were selected based on recommendations of program representatives and peer reviewers.<sup>7</sup>

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<sup>6</sup> Certain aspects of the EEP have changed significantly over the period the evaluation was conducted.

<sup>7</sup> Peer reviewers were asked to review the evaluation Methodology Report and Work Plan and provide comments. Specific comments were provided in terms of experts in employment/workplace equity to be included in the consultation process.

A total of 42 individuals were consulted: nine program representatives and other federal government representatives; eighteen subject matter experts who are widely recognized as employment equity experts; seven workplace equity officers and workplace equity program advisors; two Canadian Human Rights Commission employment equity auditors; and, six individuals from national associations whose memberships include employers or employees covered under LEEP or FCP.

### **2.1.3 Administrative Data Review**

The administrative data review, completed in December 2006, was designed to assess rationale and relevance of the EEP, as well as delivery and impacts of LEEP and FCP. The review involved the following tasks:

- A documentation review that included an examination of trends in working conditions of members of designated groups and the general population reported in the following Statistics Canada surveys/studies: the 2001 Census; the 2001 Participation and Activity Limitation Survey and its predecessor the Health and Activity Limitation Survey; the Survey of Labour and Income Dynamics; the Labour Force Survey; and, the Workplace and Employee Survey.
- Administrative data analysis which included an examination of administrative databases containing information on program activities and statistical analysis of data reported by employers, as well as data related to employer performance, compliance monitoring and reporting. The assessment of administrative databases was supported by key informant interviews with EEP database representatives.

The statistical analysis conducted as part of the administrative data analysis included a descriptive analysis and a regression analysis of data submitted by LEEP employers in their annual report to HRSDC on representation, occupational group distribution, and salary distribution of members of the four designated groups to examine changes over time and across industries. The descriptive analysis focused on data captured between 2000 and 2005 inclusively and made comparisons to the previous evaluation results where applicable.<sup>8</sup> The regression analysis was performed on LEEP's establishment data, covering 300 to 500 firms annually, with two time series – from 1987 to 2005 and the other from 2000 to 2005. The regression analysis aimed at determining the contribution of the program to changes in representation of the four designated groups among the covered employers since 1987. The second time series analysis was introduced to more closely examine impacts arising from changes made in 2000 to the LEEP reporting and rating scale.

A descriptive analysis was also conducted of the data captured through FCP compliance reviews. This analysis used data stored in the Workplace Equity Programs 2000 database on HRSDC compliance monitoring activities of FCP employers as well as data collected

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<sup>8</sup> The labour market availability rates for the designated groups that were used in the administrative database review undertaken as part of this evaluation are the average of the firm specific labour market availability rates, which factor in the geographic location of each employer. These rates, therefore, differ from the labour force availability rates published in the Minister of Labour's Annual Report, which are the availability of each designated group in the total labour force of Canada.

from employers on the activities they conduct in complying with FCP requirements. The descriptive analysis focused on data captured between 2000 and 2006 inclusively, for employers who were subject to a compliance review during that period. In addition, a total of 25 compliance review paper files of FCP employers who had undergone two or more reviews were analyzed as part of the review in order to examine data captured from compliance reviews that were carried out prior to 2005, and examine changes in representation rates for the four designated groups between reviews.

## **2.1.4 Employers surveys**

### **Impact Assessment**

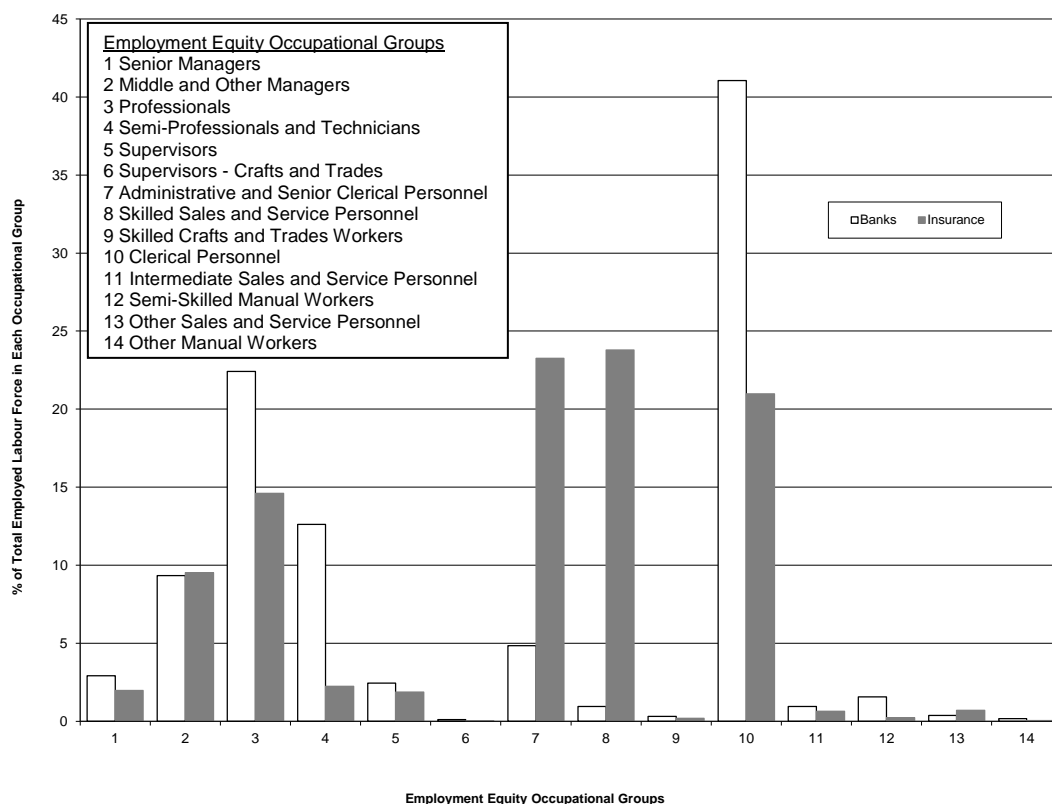
Surveys of employers, completed in March 2007, were designed to assess the delivery, success and impact of the EEP in supporting employers in the identification and elimination of discriminatory barriers to employment and achievement of equity in the workplace. Three surveys were conducted: one of LEEP employers, one of FCP employers and one of employers not covered by either program. The latter survey was conducted to obtain comparative data on employers not participating in the LEEP or the FCP to assess the impact of Employment Equity Programs.

### **Legislated Employment Equity Program**

Criteria to draw a comparable sample of employers were the size of the employer workforce and the industry to which the employer belonged. A significant challenge was encountered in obtaining an appropriate comparison group to the Legislated Employment Equity Program (LEEP) employers. LEEP applies to private businesses subject to federal labour regulations. Federal jurisdiction applies to specific industries as per constitutional law such as air transportation, banking or telecommunications. All employers in these industries with a workforce of 100 employees or more are subject to LEEP. Drawing a sample of employers not subject to LEEP in these industries would therefore select employers with a workforce that is significantly smaller (less than 100 employees) than those employers that fall within the program, hence not comparable in size. The Federal Public sector was excluded from this analysis as it could not be used as comparator since it is also subject to employment equity requirements.

As an alternative, an attempt was made to draw a comparison against employers in industries of a similar nature and occupational group profile. First, comparing LEEP employers in the banking industry to employers in the insurance industry was attempted. In this case, as shown in Figure 1 below, the distribution of occupational groups was determined to be significantly different. For banking companies, more than 40% of occupations are clerical (group 10) while these occupations represent around 20% of the workforce for insurance companies. The skills sale (group 7) and administrative clerk (group 8) groups combined represent almost 45% of occupations for insurance companies while the same occupations account for slightly more than 5% for banks.

**Figure 1**  
**Comparison of Occupational Groups Distribution for Banks and Insurance Companies**



Source: 2001 Census, HRDC Custom tables, table arb\_405.ivt

Other sectors were examined for comparability such as provincially-regulated truck transportation versus federally-regulated. However, occupational group distribution data by jurisdiction is not available. Therefore, the analysis concluded that using proxy industries for comparison would not yield valid results as the characteristics of the respective workforces would not be equivalent or information is lacking to scope the comparable industry sub-groups.

### Federal Contractors Program for Employment Equity

A comparison group for Federal Contractors Program (FCP) employers was established based on the size of the employer workforce (under 250 or 250 or more employees) and industry to which it belonged based on Statistic Canada's North American Industry Classification System. To build the comparison group, an electronic directory developed by a public opinion research firm, supplemented with a sample from the InfoCanada database, was used. The distribution of employers according to industry in the comparator group sample mirrored that of the FCP employer sample, with the exception of employers in the Professional, Scientific, and Technical Services, Educational Services and Wholesale Trade industries which were significantly more represented in the FCP sample. Overall, comparator firms surveyed were spread out over a few more industries, compared to FCP sample firms surveyed, although the diversity seen in the comparator group was reflective of

the variety seen in the FCP population and sample as can be seen in the Table 1. The FCP sample was considered comparable overall to the comparator group sample.

<b>Table 1</b> <b>Percentage Distribution of Employers in FCP Population and sample and in Employer Comparison Group Sample by Industry Sector</b>			
Industry Sector	FCP		Comparator
	Population	Sample	Sample
Manufacturing	33%	26%	28%
Professional, Scientific, and Technical Services	15%	17%	10%
Educational Services	6%	14%	5%
Wholesale Trade	15%	9%	2%
Accommodation and Food Services	7%	6%	5%
Other Services (except Public Administration)	3%	4%	1%
Finance and Insurance	2%	3%	4%
Utilities	< 1%	2%	2%
Construction	2%	2%	5%
Retail Trade	2%	2%	7%
Health Care and Social Assistance	2%	2%	3%
Telecommunications/broadcasting	1%	2%	1%
Agriculture, Forestry, Fishing and Hunting	< 1%	-	5%
Transportation and Warehousing	1%	-	4%
Real Estate and Rental and Leasing	2%	-	2%
Information	1%	-	1%
Administrative and Support and Waste Management and Remediation Services	6%	-	1%
Arts, Entertainment, and Recreation	0%	-	2%
Other	2%	14%	12%

## Survey Administration

The surveys of LEEP and FCP employers were conducted on-line via a web-based application, following initial e-mail invitation to all employers using contact information in EEP administrative databases. A subsequent telephone follow-up was made for invalid e-mail addresses. Out of a total of 520 LEEP employers, the survey reached 512. However, out of a possible 915 FCP employers, the survey only reached 659 employers due mostly to outdated contact information.

For the comparison group survey, an invitation to an online survey was also sent by e-mail to all organizations in the public opinion research firm directory in the selected industry and size groupings and that were not covered by either the LEEP or the FCP (2,371 in total). An additional 715 employers from the InfoCanada database that met the selection criteria were recruited via telephone to participate in a paper-based survey by mail. Across all three employer groups, a number of reminder e-mail messages were sent as well as a number of telephone calls made to organizations that had not submitted a completed survey. Table 2 summarizes the number of organizations that accessed and completed each survey and their response rates.

<b>Table 2</b> <b>Survey Response Rates</b>				
	<b>FCP</b>	<b>LEEP</b>	<b>FCP Comparator Online</b>	<b>FCP Comparator Mail</b>
Number of organizations sent an invitation	659	512	2,371	715
Number who completed the survey (response rate)	67 (10%)	128 (25%)	365 (15%)	59 (8%)

While response rates were low, comparison was established between comparator and FCP employers groups as a whole. Survey results provided an indication of the thoughts, issues and challenges employers encounter in complying with program requirements and/or in addressing employment equity and diversity in today's labour market.

### **2.1.5 Group Consultations**

Group consultations were held with 37 representatives from various organizations that serve members of designated groups and/or advocate employment equity issues on behalf of them, as well as with experts on employment equity. These consultations, completed in June 2007, offered an opportunity for participants to engage in an in-depth discussion of the challenges and issues that are unique to specific designated groups and obtain their perspectives on: the continued existence and form of workplace discrimination and inequity experienced by members of designated groups; relevance of and feedback on the EEP; and recommendations for possible modifications or alternative approaches to supporting workplace equity. Group consultations were held in Toronto (Women and Visible minorities); Montreal (Visible minorities); and Ottawa (Persons with disabilities and Aboriginal peoples). This last session included representatives from national organizations based in Ottawa, Winnipeg and Toronto.

### **2.1.6 Case Studies**

The case study review completed in September 2007 was seen as critical to allow for a more in-depth understanding of the actual application of the EEP by employers and of their experience. Out of 24 originally expected (eight from each of LEEP, FCP and the comparison group), a total of 15 organizations participated in the case study review (six LEEP, five FCP and four comparator organizations).

LEEP and FCP organizations were randomly selected from databases if they entered the program prior to 2005, in order to allow for sufficient experience under the program to inform the evaluation. For FCP employers, an additional condition was imposed on selection in that the organization had to have gone through the compliance review process in recent years so that they could provide insights into a revised process implemented in 2004. The comparator group was randomly selected from electronic directories.



The case study review included an employer's documentation review, employee consultations, and interviews with key representatives of the organization (e.g. Chief Executive Officer, human resources and/or employment equity executive, union representatives).

## **2.2 Methodological Limitations**

### **Attribution of Program Outcomes**

One of the key expected outcomes of employment equity programs is to have equivalent representation of members of designated groups in the workforce of the targeted employers as are available to work in the labour market. For the purpose of measuring progress of LEEP employers, EEP calculate a representativity index - the ratio of the percentage representation in the employer's workforce of each designated group to the equivalent percentage in the Canadian labour market. For any five-year period following Census data publication, labour market availability (LMA) rates remain constant while representation rates fluctuate. Any increase in representativity index may be falsely attributed to program participation since LMA rates may also be increasing at an equivalent pace. This is an intrinsic potential bias which is duly noted in the Minister of Labour's Annual Report on Employment Equity. However, upon Census data publication, calculations are adjusted for the preceding inter-censal period and the situation is rectified.

In this evaluation, a regression analysis was conducted in order to measure the impact of the number of years of participation in the program on closing the representation gap using the representativity index as the dependent variable. For the reasons noted above, results of the regressions may have been affected by the intrinsic bias introduced by fixed values of LMA over a five-year period as LMAs of designated groups have been estimated to be on the rise over the period reviewed and notably for the regression covering the period 2000 to 2005 since it relied solely on 2001 Census values.

It is noted in this evaluation report that representation rates of members of designated groups have been on the rise and that the gap in representation rates versus their labour market availability rates has been reduced. However, in the absence of comparable representation data for employers who are not subject to either the LEEP or the FCP (or any other such regulatory program) and who carry out similar activities as these employers, it is difficult to assess whether changes in representation rates can be attributed to program participation or if they are purely coincidental.

### **Low Response Rates – Employers Surveys**

Across the three groups of employers surveyed, the response rates were low and a relatively small number of respondents completed the survey. The low response rates limited the extent to which sub-group analysis (within each employer group) and cross comparisons between FCP and comparison group employers could be conducted. Additionally, it constrained the potential for measuring statistically significant differences between sub-groups since the margins of errors associated with the sub-groups were often high. Only statistically significant differences are reported in this report.

## **Stakeholders Interests**

One potential limitation with this evaluation is that most of the respondent groups consulted for the evaluation have some vested interest in the employment equity programs at various levels. Some respondents represent ultimate beneficiaries of employment equity programs, while others are actively engaged in implementing employment equity either as regulators or as executives in their organizations. This may introduce some level of bias into the information and perspectives provided to the evaluation team towards more positive attitudes or impacts.

## 3. Key Findings

The findings presented in this section are structured according to the evaluation questions listed in Annex A of this Report.

### 3.1 Rationale and Relevance

#### 3.1.1 Need

***Are the mandate, scope and objectives of the employment equity programs still valid? Should the programs be modified to better achieve the objectives of the Employment Equity Act?***

**Members of designated groups including Aboriginal peoples, persons with disabilities, visible minorities and women, continue to experience disadvantages in the Canadian labour market.**

Members of all four designated groups in Canada continue to experience disadvantages in employment.

#### ***Women***

This evaluation found that despite reductions in the wage gap between men and women over the period 2001 to 2005, women still have lower remuneration compared to their male counterparts, in all occupational categories. In 2005, female employees earned an average of 84 cents for every dollar earned by men—\$17.38 versus \$20.74 per hour. This wage gap has been narrowing since 2001, when women made 81 cents for every dollar earned by men.

#### ***Aboriginal peoples***

In 2001, Aboriginal peoples made up roughly 2.7% of Canada's working-age population and 2.5% of its labour force.<sup>9</sup> Despite a 4% increase since 2001, as of 2005, the employment rate amongst Aboriginal peoples was 58%, significantly lower than the 66% among non-Aboriginal peoples. In addition, Aboriginal peoples continue to experience a wage gap when compared to their non-Aboriginal counterparts. As of 2005, Aboriginal employees earned \$14.20 per hour, compared to \$15.50 per hour earned by non-Aboriginal peoples. Only 29% of Aboriginal employees earned \$20.00 or more per hour, compared with 40% of non-Aboriginal employees<sup>10</sup>.

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<sup>9</sup> Statistics Canada, Census of Population 2001.

<sup>10</sup> J. Luffman and D. Sussman (January 2007), *The Aboriginal Labour Force in Western Canada*, Perspectives on Labour and Income, vol. 8, no. 1, Statistics Canada, catalogue 75-001-XIE.

### *Persons with disabilities*

According to the 2001 Participation and Activity Limitation Survey, the median employment income of workers with disabilities was about 17% lower than other workers. In addition, the 2001 Workplace and Employee Survey found that a larger number of persons with disabilities are located in the lowest wage quartile, when compared to those without disabilities (31% and 24.6% respectively). Results from Workplace and Employee Survey show that workers with disabilities are 11% more likely not to have received training and 6.4% more likely not to have received a promotion in the previous year, when compared to those without disabilities.<sup>11</sup>

### *Visible minorities*

Members of visible minorities have relatively lower incomes. Census 2001 data shows that the average annual income from all sources of the visible minority population aged 15 and over was around \$24,400, more than \$6,000 less than the figure for the rest of the population, who had an average income of about \$30,500 that year. Further, 26% of visible-minority families were below the low-income threshold compared to 10.6 percent of non-visible-minority families.

Members of visible minorities experience greater levels of unemployment than other Canadians. In 2001, 9.5 of those aged 15 and over in a visible minority were unemployed, compared with only 7.1% of non-visible minorities.

### **Persons who belong to more than one designated group appear to experience even greater disadvantage in employment.**

Evidence suggests that persons who belong to two or more designated groups (e.g., visible minority women, Aboriginal women, and Aboriginal persons with disabilities) face even greater disadvantage in employment. For example, according to the 2001 Participation and Activity Limitation Survey, while 53.1% of men with disabilities were employed full-time for the full year, only 23.2% of women with disabilities were. The literature and documentation reviews and the group consultations found evidence that the level of labour market disadvantage or challenge experienced differs among sub-groups of each particular designated group (e.g., between Black persons and Asian persons, between persons with visible disabilities and those with hidden disabilities). Also, visible minorities who are immigrants, particularly recent immigrants, generally face additional challenges in finding employment due to the lack of experience in, or knowledge and understanding of, the Canadian workplace; foreign accents; and/or a lack of contacts/networks.

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<sup>11</sup> Canadian Council on Social Development (2004), *Workers with Disabilities and the Impact of Workplace Structures* Disability Information Sheet No. 16.

## **Discrimination in employment still exists in Canadian workplaces but has evolved: it is subtle and appears to be primarily attitudinal or cultural.**

Members of all four designated groups, to a varying degree and in a varying manner, continue to face stereotypes, biases and perceptions in all aspects of employment, which are primarily based on their characteristics and not on skills or talent. Evidence collected through the document and literature reviews, and the consultations with employment equity experts, employers and representatives of organizations serving members of designated groups indicates that discrimination in today's workplaces often comprises cultural and attitudinal barriers and is embedded in various formal and informal employment policies and practices. Participants in group discussions provided examples of systemic barriers faced by members of the designated groups in recruitment practices, which include conscious or unconscious biases/prejudices of hiring officers, policies, job descriptions and recruitments, as well as job requirements that may not be necessary to perform the responsibilities associated with the position.

### ***Aboriginal peoples***

A review of the literature found that persistent negative stereotypes of Aboriginal peoples continue to be a barrier to their employment.<sup>12</sup> Representatives of Aboriginal organizations consulted in this evaluation noted that Aboriginal peoples continue to face a systemic form of discrimination that is viewed as attitudinal and/or cultural. These participants noted that while they continue to be made aware of instances of discrimination experienced by Aboriginal peoples, it is difficult to prove given the lack of formal studies and statistics.

### ***Persons with Disabilities***

Representatives of organizations serving persons with disabilities and experts on disability issues reported that discrimination based on disabilities continues to exist. However, as with the discrimination faced by Aboriginal peoples, it is hidden and difficult to prove. Representatives cited instances where persons with disabilities are invited to interviews or job exams, but often cannot proceed as the employer does not provide the necessary accommodation for them to do so. The need to accommodate extends beyond the hiring process and into the job itself. The willingness and ability of employers to accommodate disabilities within the workforce was found to be key to the employment of persons with disabilities. An analysis of Statistics Canada's 2001 Workplace and Employee Survey and the 2001 Participation and Activity Limitation Survey found that over half (56%) of persons with disabilities who were unemployed at the time of the study required some type of work aid or job modification, compared to 30% of employed persons with disabilities.

In addition, representatives of organizations serving persons with disabilities and experts on disability issues contended that employers are generally unaware of the entire spectrum of disabilities. In particular, employers largely focus on apparent physical disabilities and have little understanding of other disabilities such as hearing, learning and mental disabilities and the associated accommodation requirements. The limited understanding

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<sup>12</sup> J.G. Reitz and N. Weiner (2005), *Employment Equity: Policies, Programs and Practices for Aboriginal Peoples and Visible Minorities*, HRSDC.

of the scope of disabilities and accommodations requirements is viewed by experts and organizations that represent persons with disabilities as one of the biggest barriers for members of this designated group. It was noted that employers are generally concerned that accommodating the needs of employees with disabilities will lead to significant costs. However, a recent study suggests that for approximately half of persons with disabilities who require some type of accommodation in the workplace, the estimated cost of providing necessary accommodations would be less than \$500 per person annually.<sup>13</sup>

### ***Women***

Representatives of women's organizations and experts pointed to a number of recent studies, research evidence and anecdotal stories indicating that discrimination against women in the workplace still exists. Participants in the group consultations indicated that, in general, women are likely to face the greatest barriers in advancing their careers and that they continue to face systemic discrimination even after getting into a senior manager/executive's position.

The literature also points to cultural barriers faced by members of this designated group. For example, some argue that advancing gender equality in the workplace requires addressing a number of gendered assumptions (such as women are not aggressive enough to assume leadership roles or have weaker labour force attachments than their male counterparts) that are deeply embedded in work cultures, structures and practices. This would also require implementing family-friendly policies designed to help employees cope with the competing demands for work and personal life.<sup>14</sup>

### ***Visible Minorities***

According to a Statistics Canada 2002 study, about 20% of visible minorities indicated having experienced some form of discrimination or unfair treatment in the previous five years – in contrast to 5% among non-visible minority individuals. Among those who reported having experienced discrimination or unfair treatment, 56% said that they had experienced such treatment at work or when applying for work.<sup>15</sup> It was found through the literature review that racial discrimination does play a major role in creating and sustaining substantial differences in the quality of jobs and in the economic security between visible minority workers and their non-visible minority counterparts. Further, through the literature review and the group consultations with representatives of organizations serving members of visible minorities, members of this group were found to experience multiple barriers in the workplace, many of which are cultural or attitudinal. Some examples cited were: a lack of personality fit with a position/organization due to different cultural backgrounds and/or ethnicity; language barriers, including a prejudice against those speaking with an accent; unfamiliarity with Canadian norms and values; and a lack of recognition of foreign credentials and work experience.

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<sup>13</sup> Canadian Abilities Foundation, (May 2004), *Neglected or Hidden: Connecting Employers and People with Disabilities in Canada*, research report, p.9.

<sup>14</sup> R. Rapoport, L. Bailyn, J.K. Fletcher, and B. H. Pruitt (December 2001), *Beyond Work-Family Balance: Advancing Gender Equality and Workplace Performance*, John Wiley & Sons Canada and P. Brady and D. McLean (August 2002), *In the Pipeline or on the Sidelines: Is Your Leadership Development Working for Women?*, The Conference Board of Canada.

<sup>15</sup> Statistics Canada (January 2003), *Canada's ethnocultural portrait: The changing mosaic*, p.21-37.

**The forecasted increase in the rate of growth in Aboriginal youth and visible minority populations over the coming years may considerably increase the numbers of those in need of support and is expected to create additional challenges to public policies designed to promote their integration to the work force.**

The literature and document reviews found that the socio-demographic composition of Canadian society, and the labour force, is rapidly changing and that this trend is expected to continue in the future. In particular, it is anticipated that as a result of continuous and evolving immigration patterns, the number of visible minority individuals in Canada will double by 2017 and that these individuals are expected to form more than 50% of the population in Canada's largest cities. If current trends hold, one in every five faces in Canada will be non-white by 2017.<sup>16</sup> As well, the Aboriginal population is growing at more than twice the rate than the general population, a trend which is expected to continue through to 2017. The proportion of young Aboriginal adults aged 20 to 29 is projected to increase by over 40% to 242,000, more than four times the projected rate of growth of 9% among the same age group in the general population.

In the view of participants at the group consultations with representatives of Aboriginal organizations, there is a need for government policy and programs to reposition employment equity for Aboriginal peoples and reconsider how to “sell” the idea and supporting programs/initiatives to employers and the general public. They were of the view that unlike immigrants, Aboriginal peoples are currently not considered by policy makers as a potential source of skilled workforce. They also maintained that the message should be communicated that Aboriginal peoples are unutilized or that their talents and skills are underutilized, and therefore should be proactively tapped into, particularly in times of critical skills shortages.

**There is increasing recognition among private and public sector employers of the potential benefits on their business of employing skilled individuals from various backgrounds.**

The literature and document reviews found evidence that, in light of increased competition for talent, diversity in the workplace has been increasingly accepted and embraced by organizations in the public and private sectors. While employment equity targets the elimination of barriers and the introduction of positive measures for the members of the designated groups, more and more emphasis is put by governments on simultaneously promoting the benefits of developing a positive workplace in which every person can contribute to her or his full potential and which is representative of the diversity in the general population. Employers increasingly recognize that denying a worker opportunity for gainful employment for reasons unrelated to skills or abilities, will result in economic costs for the organization, industry and society in terms of reduced/lost productivity, competitiveness and profitability.

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<sup>16</sup> Statistics Canada (March 2005), *Population Projections and Visible Minority Groups, Canada, Provinces and Regions 2001-2017*. Catalogue no. 91-541-XIE.

### **3.1.2 Overlap and Duplication**

***To what extent do the employment equity programs overlap or complement provincial or other federal employment equity programs or similar programs aimed at the designated groups?***

**The Employment Equity Programs are still fairly unique in Canada, in that they are targeted at private sector employers.**

Employment Equity Programs address issues of discrimination in employment in a unique way. Federally, employment equity programs are legislated and designed to avoid overlap in their scope, except when businesses that are subject to Legislated Employment Equity Program (LEEP) are also contractors to the federal government and, therefore, covered by the FCP as well. The literature and document reviews and interviews with program representatives indicated that employers covered by both LEEP and FCP are only required to comply with one of the two programs. The issue of overlap is therefore resolved internally among the administrators of these programs.

While the federal government and a number of provincial and territorial governments have employment equity-like legislation that apply to their public sectors, and in one case is targeted at the private sector, evidence from the literature and document reviews, interviews and group consultations does not indicate any overlap or duplication between the EEP and provincial/territorial policies/programs aimed at promoting employment equity. In fact, provincial and territorial governments are currently approaching the issue of discrimination in employment and conditions of labour market disadvantage of these groups in various ways, with some addressing it through human rights legislation and others through targeted policies/programs which focus on diversity. Only Quebec has an employment equity program similar to FCP that applies to employers beyond the public sector. While integration was found between this provincial program and the EEP (e.g., the use of integrated reporting requirements), some stakeholders also pointed to the lack of understanding of which requirements fall under federal or under provincial jurisdiction.

Overall, stakeholders consulted suggested that there would be a benefit from greater federal leadership in bringing together federal-provincial representatives to address challenges related to employment equity. While recognizing that no two governments in Canada have the same approach, experts suggested that such an inter-governmental forum would help to create a network for collaborating on and sharing data/research, including best practices and lessons learned. Such work could ultimately lead to more common and integrated approaches across Canada and greater reach and impact on employers.

**The current coverage of the EEP is viewed as limited, considering that the majority of the Canadian workforce is employed in businesses that are not bound by their provisions.**

LEEP and FCP cover approximately 4% and 6%, respectively, of the total Canadian workforce. Employment equity experts and representatives of organizations serving members of designated groups maintained that the limited coverage of the EEP makes it irrelevant to many members of designated groups who work for employers outside of these two programs, namely those who fall in private industries outside the federal labour



jurisdiction, those with less than 100 employees, or those who do not provide services to the federal government.

These stakeholders suggested that the EEP's coverage be expanded so that it represents a greater proportion of the Canadian labour market. However, since Parliament does not have jurisdiction to legislate employment equity in businesses subject to provincial labour laws, the scope of any expansion would be limited to: lowering the minimum threshold of 100 employees for both LEEP and FCP and of \$200,000 for the value of federal contracts for FCP, as well as removing the exemptions granted to construction services and legal services under FCP.

### **3.1.3 Performance Measurement**

#### ***Are there adequate measures of program performance and program results in place for LEEP, FCP and the RFWS?***

##### **Measures of activities and performance exist for the LEEP and the FCP.**

Evidence from the document review and consultations with program representatives indicates that outputs of activities carried out by the program are well monitored, with activity data captured for all the main components of the EEP. For example, information is collected and reported on the number of workshops and training events organized, on the number of FCP compliance reviews undertaken and the number of days they took, and on when each step was completed. As well, the LEEP reporting process is closely monitored to ensure that reports are received on time and are acceptable in terms of quality and completeness.

##### **Performance measures appear to be underutilized to improve program effectiveness.**

Although there are internal mechanisms to gather feedback on service delivery for both LEEP and FCP, no evidence was found of structured and systematic assessments of the quality of service, such as relevance or usefulness of program-related research, tools, products; responsiveness of staff to employers' requests; level of knowledge and expertise of staff; and adequacy of program advice and interpretation.

There is ample evidence that some activities, such as FCP compliance reviews, are successful at achieving the immediate outcome of getting employers to undertake prescribed processes. Also, the compliance reviews provide a key opportunity to collect information on what works and what does not work, both in terms of the actual results of the employers' activities and of the support provided to the employer prior to and during the compliance review. However, there was no evidence that formal processes exist to assess the extent to which the program activities carried out lead to the intended results and identify program actions to improve their effectiveness.

As the RFWS was in its early stages of implementation at the time of the evaluation, performance measures had not yet been put in place for the Strategy. However, plans to develop a set of performance indicators intended to measure the activities and results did

exist. The Strategy will also be monitored and evaluated as part of Canada's Action Plan Against Racism.

### **Current measures of EEP results provide an incomplete view.**

Evidence from the document review and consultations with program representatives indicates that achievement in employment equity is reported primarily through the Minister of Labour's consolidated Annual Report using LEEP individual employer reports as a source of information. In order to demonstrate the progress in advancing employment equity for designated groups, the Report compares the percentage of representation of each designated group within the LEEP workforce, to the group's availability in the total labour force population. This is calculated using the latest Census data.<sup>17</sup>

Each LEEP employer is also rated on its individual performance in filling the representation gaps: in reporting its workforce data; and on measures implemented to eliminate barriers. In the case of the latter indicator, it is not the measures themselves that get rated, but rather whether they were included in the report.

These ratings are combined and an overall rating is attributed to each LEEP employer. However, this assessment does not include an analysis of the extent to which employers have implemented positive measures to eliminate barriers facing designated groups, or of the impact of those positive measures in achieving employment equity or reducing systemic discrimination for designated groups.

In the case of the FCP, available representation data is limited to employers who have undergone compliance review. FCP employers are not required to report in the same manner as LEEP employers. Hence, no comprehensive assessment of results for FCP employers can be made. This represents a serious gap in assessing EEP results.

## **3.2 Program Delivery**

This section looks at the extent to which concerns raised in previous evaluations of LEEP (conducted in 2002) and of FCP (conducted in 2001) are still present and have been addressed.

### **3.2.1 *Legislated Employment Equity Program Reporting Process***

#### ***Effectiveness and efficiency of the LEEP employer reporting process and Minister's Annual Reports.***

#### **The reporting requirement is viewed as important in monitoring progress and focusing employers on employment equity.**

Stakeholders (and employers) consulted recognize the importance of program monitoring, including ongoing employer reporting on program-related activities and progress achieved to support the effective implementation of employment equity programs, a finding that is

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<sup>17</sup> Data used to estimate the labour force availability for persons with disabilities is derived from Participation and Activity Limitation Survey.

reflected in international jurisdictions. The findings from the literature and document reviews and interview consultations suggest that ongoing reporting under LEEP helps keep employers focused on employment equity. However, the consultations with employers, experts and representatives of organizations serving designated groups further indicated that the LEEP reporting process is viewed as being primarily focused on the “numbers”,<sup>18</sup> rather than a process to support employers in creating a more equitable workplace. Nevertheless, EEP representatives consulted indicated that both the quantitative and narrative reports submitted by employers are used by program staff to conduct follow up with those requiring special attention, and that the employers’ annual reports are also shared with the Canadian Human Rights Commission to support its compliance activities.

### **Concerns remain regarding the complexity of the reporting process for LEEP employers.**

Similar to the findings of the 2002 evaluation, the complexity of the reporting process, including the required details on workforce data and the forms used to submit data, was considered by employers as a significant burden in meeting program requirements. For example, a number of employers classify employee status or occupations/positions or define some HR practices differently than EEP, which leads to significant challenges in meeting the reporting requirements. In some instances, employers are reticent to change their classification system to bring it in line with EEP expectations as such practices may be unique to the nature of their business/work environment and/or follow the requirements within their industry.

### **The Minister’s Annual Report provides a somewhat incomplete and unbalanced view of the progress made in implementing employment equity.**

The Minister’s Annual Report, which reports to Parliament the progress made in implementing employment equity, is considered by the stakeholders consulted as an important tool for raising awareness of employment equity and publicizing the progress made by covered employers in implementing measures to support employment equity.

However, concerns were raised by experts and representatives of organizations serving members of designated groups over the emphasis placed in the Report on progress of employers in increasing the representation of designated groups, compared to information about the measures and activities undertaken by the covered employers, particularly in relation to the elimination of systemic barriers for the designated groups through the implementation of special measures and accommodation of differences for members of these groups. This provides an unbalanced view of the progress made in implementing employment equity.

Further, employer progress and performance ratings published in the Minister’s Annual Report is based on the extent of compliance to the annual reporting requirement and of success in filling the representation gaps. The Canadian Human Rights Commission also publishes ratings of performance of employers based on their compliance with the provisions of the *Employment Equity Act* as evidenced by audits conducted. The findings

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<sup>18</sup> It should be noted that reporting requirements are prescribed by the *Employment Equity Act* itself.

from the case study review suggest that confusion remains over the differences between the employer's report ratings by HRSDC and the Canadian Human Rights Commission audit ratings.

As of the 2005 Report, a section in the Report on business climate which provided an overview of the economic and business factors that may impact on the achievement of the program objectives was eliminated. This section was viewed by experts consulted as useful to provide the contextual information on various external factors that can influence implementation of employment equity and to put progress in context.

### **3.2.2 Program Budget/Structure**

#### ***Adequacy of program delivery structure and resource levels.***

**While efforts have been made to increase program funding and to allocate them to areas in need, the level of resources and the program delivery structure of the EEP continue to be a challenge to deliver key responsibilities related to the Programs, including employer outreach and support, as well as public promotion.**

The literature and document reviews, as well as the administrative database review and the interview consultations with program representatives and experts suggests that securing adequate program resources continues to be a challenge. The EEP's program activities have been refocused primarily on supporting the development and maintenance of the tools assisting employers' compliance with the reporting requirements under LEEP as well as on increasing the effort on employer compliance reviews under FCP. While additional resources were acquired, they have served primarily to support policy development for, as well as implementation and on-going operations of the RFWS. This has resulted in less investment in activities under the EEP in other areas that are also critical to the achievement of the *Employment Equity Act's* goals. This included employer outreach and ongoing support, public promotion and education regarding the importance of employment equity and diversity in the workplace, and, research and other policy development work.

Workplace Equity Officers and Workplace Equity Program Advisors consulted indicated that their job has been transformed so that their performance is now reviewed based on the number of FCP employer compliance reviews conducted and on standardizing the review process, with a performance target set at 10 audits per year for each compliance review officer. As a result, the time of Workplace Equity Officers and Workplace Equity Program Advisors is focused almost exclusively on compliance reviews, with little or no time to provide ongoing support to employers.

Experts consulted were thus of the view that the EEP are not adequately resourced to undertake all of its responsibilities, including enforcement of FCP and employer outreach and support. EEP representatives noted that the low level of outreach and support may reflect the need for more effective use of resources rather than inadequate funding.

EEP representatives indicated that the EEP continue to be challenged by its variable-geometry delivery structure, with headquarters oversight being limited to functional authority and

some regional staff cumulating responsibilities for the delivery of other programs in addition to employment equity programs. While coordination mechanisms are in place, the complex nature of the delivery structure creates process challenges in the optimal allocation of resources across and among the programs.

### **3.2.3 Legislated Employment Equity Program Communication/Coordination**

#### ***Adequacy of communications and coordination with LEEP delivery partners, in particular the Canadian Human Rights Commission.***

The Canadian Human Rights Commission and HRSDC each have an important role to play in providing education and support to employers concerning the *Employment Equity Act*, and as such operate under a memorandum of understanding (MOU) related to how they will cooperate and work together to implement the Act. In addition to outlining each organization's roles and responsibilities, the MOU provides a forum for the two organizations to deal with different perspectives on common issues, supports a partnership approach to developing common tools and materials, and provides a mechanism for joint research and communications.

#### **Recent efforts have been undertaken by both the Canadian Human Rights Commission and the EEP to improve communication of and consistency in program requirements with increased coordination between the two organizations in some areas.**

Employers and government representatives indicated that there still is a gap and a lack of clarity regarding education and outreach related to the *Employment Equity Act* and the role of the Canadian Human Rights Commission. Canadian Human Rights Commission officials consulted indicated that in order to address this gap, the Commission had recently set up a Division, external to the audit function, which was mandated to undertake proactive employer outreach to increase awareness and understanding of issues related to employment equity among LEEP employers. The Canadian Human Rights Commission had also established an Employers Advisory Council comprised of major LEEP employers, such as CBC and Air Canada, in order to facilitate the development of industry/sector-wide capacity to meet the requirements under the *Act*. At the same time, the Canadian Human Rights Commission was moving forward in a number of key areas in order to improve compliance with employment equity for LEEP employers. However, EEP representatives reported that these initiatives were being undertaken without coordination with them or their involvement.

As noted in a previous evaluation of LEEP, activities of the Canadian Human Rights Commission and HRSDC have led to confusion among employers on the respective roles of the two organizations and to some inconsistency in the interpretation of employers' obligations under the *Employment Equity Act*. It appears that up until recently, little had been done to ensure the development and use of common tools and materials between the two organizations, undertake joint research or work together to get agreement on areas that continue to challenge employers and compliance auditors/reviewers – such as the

continuing need to bring clarity to key terms under the *Act* (e.g., accommodation and special measures). However, EEP representatives reported that ongoing and considerable co-ordination efforts of Canadian Human Rights Commission and EEP staff had been undertaken recently on these matters.

### **3.2.4 Equivalence between Programs**

***Equivalence of Federal Contractors Program for Employment Equity (FCP) to the Legislated Employment Equity Program (LEEP) and other employers' requirements as specified in sub-section 42(2) of the Employment Equity Act.***

**Interpretation of what constitutes the equivalency of FCP requirements vis-à-vis LEEP has not been clarified and FCP employers are still not required to report annually.**

The Employment Equity Programs (EEP) representatives noted that despite efforts made to ensure employer requirements under FCP more closely mirror those under LEEP, as noted in the 2001 evaluation of FCP, there continues to be a lack of a clear understanding of the requirement for the “equivalency” between the requirements under LEEP and FCP that was stipulated in the 1995 amendment to the *Act*. Since FCP employers are not required to report annually, comprehensive and complete data on the implementation of employment equity in FCP employers' workplaces is not available to the EEP, making it impossible to monitor the current state and progress overall among the covered employers in implementing the requirements of the program and the outcomes from implementation. The lack of mechanisms to track FCP progress in the implementation of the program requirements has been identified as a key weakness throughout this evaluation.

### **3.2.5 Program Support**

***Clarity and consistency of Legislated Employment Equity Program (LEEP) definition, interpretations, measurements, tools, guidelines and requirements, and the level of employer support, education and promotion under both LEEP and Program for Employment Equity (FCP).***

**There is a perceived lack of clarity around what constitutes disability and employer requirements for “special measures” and “reasonable accommodation” among covered employers and the general public.**

Experts participating in the interviews and representatives of organizations serving designated groups maintained that there is an overall lack of awareness and understanding of the basic requirements of the EEP and of the concepts and issues related to employment equity among covered employers and the general public.

Notably, there is a perceived lack of clarity around the definitions of terms such as “special measures” and “reasonable accommodation”, particularly in relation to employment equity for persons with disabilities. Representatives of organizations serving persons with disabilities and experts specializing in this area maintained that accommodation means more than providing access to wheelchairs and should include the provision of interpreters,

teletypewriters, and other tools/supports to a range of disabilities. With emerging awareness of mental health issues, there is growing recognition that the definition of disability encompasses the conditions beyond physical disability. This makes it difficult for some employers to meet program requirements under LEEP and FCP.

**Activities undertaken by the EEP to foster and promote the awareness, education and outreach among covered employers and the public are still limited.**

While communication activities around the Annual Report are conducted on an ongoing basis, according to EEP representatives, the EEP are currently undertaking very limited educational and promotional activities beyond employer education in relation to the requirements under LEEP and FCP. Little has been done except for the publication of the Annual Reports and the more recent public education programs identified in late 2006 under the RFWS with the latter activity limited to Aboriginal peoples and visible minorities.

LEEP and FCP employers participating in the case study review further identified the need for employer outreach that is targeted at those within organizations who have sufficient influence to effect change. Representatives of these organizations strongly recommended that program representatives reach senior management when an organization becomes subject to the LEEP or the FCP, and promote among them the importance of workplace equity and overall program compliance.

**Awareness and perceived usefulness of some EEP tools and supports is low among covered employers.**

Findings indicate a low level of familiarity with the tools and information that have been developed by the EEP. The level of familiarity was particularly low for the tools and support that are designed to help employers implement positive measures and to remove systemic barriers. While employers have been seeking support in areas other than reporting requirements, they have reportedly received limited guidance.

### ***3.2.6 Use of Employment Equity Plans***

***Level of Legislated Employment Equity Program (LEEP) and Program for Employment Equity (FCP) employer compliance with the development and implementation of employment equity plans.***

**The level of LEEP and FCP employer compliance with the development and implementation of employment equity plans is still low.**

Despite the fact that LEEP and FCP covered employers are required to prepare an employment equity plan documenting how they will respond to the gaps in their workforce, the results of the employers surveys suggest that the level of employer compliance with this requirement is much lower than compliance with the requirements for workforce data collection and analysis. For example, while 81% of the FCP employers responding to the survey collect workforce data and 70% analyze the data, only 54% have actually developed an employment equity plan. Similarly, while 80% of the LEEP employer respondents have conducted a workforce analysis, less than half indicated having developed specific

measures to eliminate barriers (46%) or having set numerical goals for workforce representation (34%).

### **3.2.7 Overall Compliance**

#### ***Level of compliance review and enforcement activities for FCP and LEEP<sup>19</sup>.***

**The level and quality of compliance reviews for FCP have increased significantly since the last evaluation, and performance targets and measures for the monitoring of compliance activities have been put in place.**

Overall, the number of compliance reviews of FCP employers completed annually has increased from 12 in 2000 to approximately 100 in 2006. The Labour Program followed through on the management commitment to set performance measures for the number of reviews conducted annually, with the current expectation set at approximately 10 completed compliance reviews per workplace equity officer/workplace equity program advisor annually.

The review of program data indicates that there have been significant delays in the FCP compliance review process and extended periods during the process where there is limited review activity. In addition to the lack of timeliness in conducting the reviews, evidence suggests that there are a number of weaknesses with the FCP compliance reviews, including protracted timelines between the initiation and completion of reviews/audits, a high level of turnover among Workplace Equity Officers and Workplace Equity Program Advisors, and the failure to recognize the progress made by employers in implementing employment equity measures that may not meet the strict definition of the program requirements, but are the organization's attempt to tailor program requirements to their unique business requirements.

**There seems to be a gap between what most covered employers perceive to be compliance with the program requirements, and actual compliance.**

The results of the surveys further revealed that the majority of employers under both LEEP and FCP are implementing their requirements under the program only partially. Only 46 % of LEEP indicated having developed measures to eliminate barriers, 34% had set goals for workforce representation and 24% for promotions for the designated groups. In the case of FCP employers, only 46% had established goals for the designated groups and 37% had adopted special measures or reasonable accommodation and had implemented employment equity monitoring procedures. In spite of the fact that the above key program requirements were not implemented, 74% of the LEEP respondents rated the status of their compliance with the program requirements as fully (5 out of a scale of 5) or almost (4 out of a scale of 5) compliant; 60% of the FCP respondents rated their compliance status as fully or almost compliant.

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<sup>19</sup> It should be noted that while the original issue concerned FCP only, the evaluation also examined compliance and enforcement for LEEP.



**The EEP lack proper monitoring and sanctions, and what enforcement mechanisms are available are rarely applied to those employers who do not meet program requirements.**

Evidence from the interview consultations and case study review indicate that there has been limited enforcement activity undertaken under both programs (LEEP and FCP). Experts and representatives of an employers' association and organizations serving designated groups were of the view that the enforcement of LEEP and FCP needs to be strengthened, and that an ongoing enforcement mechanism is required to ensure employer compliance with all aspects of the program requirements, rather than those minimum requirements that most employers are currently complying with (e.g., reporting for LEEP).<sup>20</sup>

### **3.3 Program Success and Impact**

This section presents the evaluation findings from all lines of evidence as they pertain to the success and impact of the EEP, including the impact of the Programs on the identification and removal of systemic barriers, changes in employment opportunities of designated groups, and representation of the designated groups in the covered workforce, the impact of key program activities on the achievement of the objectives of the *Employment Equity Act*, and the positive and negative unintended impacts of the Programs.

#### **3.3.1 Impact/Results**

***To what extent do the employment equity programs contribute to identifying and reducing or removing barriers to employment for members of the designated groups?***

**The EEP have contributed to identifying and removing systemic barriers to employment for designated groups for employers who have implemented the steps and measures prescribed.**

Evidence was found through the literature and document reviews, interviews with experts, the employers surveys and the case study review that employers who have been reviewed or audited for compliance, and who have implemented the steps and measures prescribed by the EEP, have made significant progress in reducing or removing barriers to employment for members of the designated groups. Evaluation findings reveal that compliance audits and reviews do provide employers with the incentive required to implement employment equity in the workplace, and that implementation does lead to the desired outcome.

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<sup>20</sup> It should be noted that for LEEP employers, compliance audit and enforcement is the responsibility of the Canadian Human Rights Commission.

### **3.3.2 Impact of Key Program Activities on Outcomes**

***To what extent do the research, promotion, stakeholders' engagement, employer and public education, and employer support activities undertaken by the employment equity programs contribute to the achievement of program objectives?***

**Employment Equity Programs (EEP) activities have helped raise awareness of the importance of employment equity.**

Evidence was found through the literature and document reviews, consultations with employment equity experts and representatives of organizations serving designated groups, and the case study review that the EEP have likely contributed to raising awareness of the issues of employment equity among covered employers. As for employers themselves, close to half of the LEEP and FCP employers responding to the survey (45% and 42% respectively) felt that program participation has increased their company's awareness about the importance of employment equity in the workplace. Stakeholders were of the view that the EEP have been instrumental in drawing employers' attention to all four designated groups and that awareness of employment equity is increasing, with fewer incidents of overt discrimination reported in the workplace.

### **3.3.3 Impact of the Program on the Employment Opportunities for Designated Group Members**

***To what extent can changes in employment opportunities (hiring, promotion, training, retention and salaries) for the designated groups be attributed to the employers developing and implementing employment equity plans? Does self-identification have an impact on the calculation of representation of designated groups?***

**There is some evidence that the development and implementation of employment equity plans increases employers' awareness and focus on barriers to employment for members of designated groups.**

The employer requirements to collect workforce data and develop an employment equity plan to address the gaps in workforce representation are viewed by employment equity experts and some of the LEEP and FCP employers participating in the case study review as being instrumental in educating employers about representation in their workforces and maintaining employers focus on employment equity.

#### **Legislated Employment Equity Program**

There is some evidence from the consultations with employers that implementation of employment equity measures and plans results in an increased focus on human resources planning and more strategic approaches to recruitment, employee development and retention.

Some LEEP employers responding to the survey (31%) indicated that implementation of employment equity measures has positively impacted their human resources planning.

## Federal Contractors Program for Employment Equity

Similar to LEEP employers, some FCP employers responding to the survey (43%) indicated that implementation of employment equity measures has positively impacted their human resources planning. However, no comprehensive data is available for an assessment of the impact of employers developing and implementing employment equity plans.

### **Self-identification continues to adversely affect employers' ability to obtain accurate data on workforce representation.**

Evidence suggests that there continues to be obstacles associated with self-identification surveys as part of workplace data collection under both LEEP and FCP, which adversely affects employers' ability to obtain accurate data on workforce representation. Evidence from the literature and document reviews, and consultations with stakeholders indicates that some employees (particularly Aboriginal peoples and persons with disabilities, and to a lesser extent, members of visible minorities) continue to choose not to self-identify. The reasons for this include fear of exclusion from a job competition because of possible differential treatment by employers or of perceptions that the person was appointed to the job because of their designated group membership and not as a result of merit.

### **3.3.4 Workforce Impact**

Has representation of the designated groups in covered employers changed since 1986?

Legislated Employment Equity Program (LEEP)

#### **Representation within the LEEP workforce has increased for all the designated groups since 1986 and the gap in relation to labour force availability has been partially filled.**

The review of the program administrative databases and literature found that, while the overall representation rates in the LEEP workforce for all designated groups have increased since the program's inception, they continue to remain below their respective labour market availability.

As displayed in the Table 3, in 2005, the gap in representation of visible minorities and women within the LEEP workforce had been reduced significantly with representativity indices (defined as the ratio of the percentage of representation to the percentage of availability) of 0.965 and 0.915 respectively. However, this gap remained significant for Aboriginal peoples and persons with disabilities with representativity indices of 0.692 and 0.509, respectively.

**Table 3**  
**Representation and Availability Indices for Designated Groups -**  
**LEEP Employers (2000 and 2005)**

Designated Group	2000			2005			Labour Force Availability <sup>21</sup>
	#	%	Rep. Index	#	%	Rep. Index	
Aboriginal Peoples	8,789	1.5%	0.577	11,717	1.8%	0.692	2.6%
Persons with Disabilities	13,880	2.3%	0.434	18,037	2.7%	0.509	5.3%
Visible Minorities	63,869	10.7%	0.738	93,303	14.0%	0.965	14.5%
Women	260,214	43.7%	0.924	288,320	43.3%	0.915	47.3%

Representation of the designated group members varied widely according to industry sector in particular for visible minorities and women whose representation in the banking industry was roughly double and triple respectively that in the transportation industry (See Table 4). As regards representation of Aboriginal peoples, the situation is reversed with representation in the transportation industry significantly higher than in banking. Representation for Aboriginal peoples and persons with disabilities remained below availability for all the LEEP employers' industries groupings. Overall, only the banking industry exceeded labour force availability for visible minorities and women. Representation in the federal public service (not part of EEP) exceeded availability for all designated groups but visible minorities.

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<sup>21</sup> The labour market availability rates for the designated groups that were used in the administrative database review undertaken as part of this evaluation are the average of the firm specific labour market availability rates, which factor in the geographic location of each employer. These rates, therefore, differ from the labour force availability rates used in the Minister of Labour's Annual Report, which are the availability of each designated group in the total labour force of Canada. For example, the overall availability of visible minorities in 2001 was 12.6 %. In comparison, this percentage was 14.5 in locations from which LEEP employers who reported in 2005 draw their workforce.

**Table 4**  
**Representation Rates for Designated Groups by Industry Group (LEEP employers)**  
**and for the Federal Public Service Employers (2000 and 2005)**

Designated Group	Aboriginal Peoples		Persons with Disabilities		Visible Minorities		Women	
Year	2000	2005	2000	2005	2000	2005	2000	2005
LEEP*								
Transportation	1.8%	2.4%	2.2%	2.4%	6.9%	9.1%	22.9%	25.3%
Communications	1.3%	1.5%	2.4%	2.6%	9.8%	12.6%	41.7%	40.7%
Banking	1.2%	1.3%	2.2%	3.3%	16.6%	22.6%	71.4%	69.0%
Other	2.4%	2.3%	2.8%	2.4%	6.9%	8.3%	26.1%	30.4%
All	1.5%	1.8%	2.3%	2.7%	10.7%	14.0%	43.7%	43.3%
Labour Force Availability (2001)**	2.6%		5.3%		14.5%		47.3%	
Public Service								
Federal Public Service Employers*	3.3%	4.2%	4.7%	5.8%	5.5%	8.1%	51.4%	53.5%
Labour Force Availability**	2.5%		3.6%		10.4%		52.2%	
<p>* The "Representation Rate" refers to the percentage representation of the respective designated group of all employees in the employer's workforce. The data on the federally regulated private sector are collected on a calendar year basis by the Labour Program of the Department of Human Resources and Skills Development Canada (HRSDC), while those on the federal public sector are collected on a fiscal year basis (i.e., April 1, 1999 to March 31 2000 and April 1, 2004 to March 31, 2005) by the Public Service Human Resources Management Agency of Canada or PSHRMAC (Now the Canada Public Service Agency or CPSA).</p> <p>** "Labour Force Availability" refers to the percentage workforce availability from the 2001 Census of Canada and the 2001 Participation and Activity Limitation Survey conducted by Statistics Canada. The workforce availability for the federal Public Service are estimates produced by PSHRMAC (now CPSA) based on occupations in the Canadian workforce that correspond to occupations in this workforce of Canadian citizens only (excludes landed immigrants). The LEEP Employers' availability are based on the Canadian citizens data.</p>								

The representation of designated groups is even lower at higher levels of the organization, suggesting that barriers persist to upward mobility of members of these groups. For example, in 2004, Aboriginal peoples represented less than 1% of middle and senior management positions within LEEP compared to their labour market availability of 2.6% for these positions

#### Federal Contractors Program for Employment Equity

While available data on Federal Contractors Program for Employment Equity (FCP) is limited in terms of representativeness and reliability, a review of the FCP workforce data suggests similar increases in representation as well as continued under-representation. All designated groups were under-represented with the biggest gap for Aboriginal peoples and persons with disabilities.

### **3.3.5 Unintended Results**

***Is there any evidence of unintended program impacts (positive or negative)?***

**Both positive and negative unintended impacts were identified.**

The document and literature reviews as well as consultations with stakeholders (experts, employers and representatives of organizations serving designated groups) also identified some unintended impacts of the Employment Equity Programs (EEP). Among the positive impacts, some Legislated Employment Equity Program (LEEP) employers as well as some Federal Contractors Program for Employment Equity (FCP) employers participating in the surveys felt that employment equity is having a positive impact on many aspects of their organizations/operations, such as the corporate bottom line, competitiveness, productivity and overall understanding of clients' needs. Among the negative impacts mentioned were the reporting burden faced by employers; and the short term focus on increasing workforce representation rather than long-term employment equity outcomes such as changing attitudes on members of the designated groups.

## **3.4 Alternative designs**

This section presents the evaluation findings from all lines of evidence as they pertain to alternative designs.

**Are there alternative designs or delivery approaches that could be more effective in achieving expected outcomes?**

Evaluation evidence collected related mainly to suggested improvements to existing program features, many of which have been identified throughout this report. The following suggestions were made by stakeholders consulted through this evaluation as a way to better support the achievement of the employment equity goals:

- Legislated Employment Equity Program (LEEP) employers would like the Employment Equity Programs (EEP) to find ways to reduce the reporting burden.
- Program representatives noted that the current organizational structure (more specifically, regional distribution of resources and the reporting relationship between the regions and Labour Standards and Workplace Equity Division is inefficient for achieving the EEP's objectives and in most effectively responding to employers needs under the Programs. There is also a need to bring greater consistency to EEP program delivery to ensure that regardless of the location, employers receive the same direction and level of support.
- The EEP need to focus on finding ways to support employers in changing the organizational culture, in removing systemic barriers and in addressing the unique needs of various members of designated groups. This would require a better understanding of each employer's unique circumstances, some tailoring of the program approach to each organization's unique business realities, as well as an assessment and recognition of processes and initiatives already in place to support employment equity in the workplace. Stakeholders suggested that the EEP introduce a more outcomes-based approach to program implementation as opposed to process-based, as well as place greater emphasis

on education and outreach activities designed to help provide tailored solutions and tools (such as best practices and templates for helping to remove systemic barriers to workplace discrimination).

- Experts, representatives of federal and provincial governments and representatives of organizations serving designated groups identified a need for the EEP to work with other levels of governments to share approaches to workplace equity, as well as best practices and tools. While collaboration under the Racism-Free Workplace Strategy (RFWS) and in some other areas was acknowledged, stakeholders were of the view that more extensive collaboration and cooperation is needed to effectively address barriers experienced by members of all the designated groups.
- Representatives of organizations serving designated groups, experts and employers participating in the case study identified a need for program support in making the linkages/connections between employers and those organizations serving or representing members of designated groups.
- Representatives of organizations serving designated groups also suggested that the EEP involve organizations that represent or serve members of designated groups and national union/employer associations on a regular basis and in a more meaningful way in designing/planning and implementing employment equity programs.





## ***4. Summary of Findings and Conclusions***

The findings and conclusions presented in this section are structured according to the evaluation issues listed in Annex A of this Report.

### **Rationale and Relevance**

This evaluation found that women, Aboriginal peoples, persons with disabilities and visible minorities continue to experience disadvantages in the Canadian labour market and that discrimination in employment still exists in Canadian workplaces. While participation in the labour force has increased for all four of the designated groups, systemic barriers to employment continue to exist. Persons belonging to more than one of these designated groups appear to experience even greater disadvantage in employment.

The forecasted increase in the rate of growth in Aboriginal youth and visible minority populations over the coming years may considerably increase the numbers of those in need of support and is expected to create additional challenges to public policies designed to promote their integration to the work force. In that regard, the focus of the Racism-Free Workplace Strategy (RFWS) placed on combating discrimination against visible minorities and Aboriginal people appears to be particularly relevant in view of the forecasted increase of members of these two groups both in their population and in their availability for work over the coming years.

The Employment Equity Programs efforts to address discrimination by promoting employment equity are still unique in Canada. However, their scope is limited as they cover employers with approximately 10% of the working population. Collaborating with provincial and territorial jurisdictions in promoting equity appears to provide greater opportunity for increasing the reach of the program.

Although some measures of activities and performance exist, no evidence was found of structured and systematic assessments of the quality of service. While there was ample evidence that some activities, such as Federal Contractors Program for Employment Equity (FCP) compliance reviews, successfully lead employers to undertake prescribed processes, there was no evidence that formal processes exist to assess the extent to which the activities carried out lead to the intended results and to the identification of actions to improve effectiveness.

Measures of program results provide an incomplete view of Employment Equity Programs (EEP) outcomes by focusing on Legislated Employment Equity Program (LEEP) employers' compliance with reporting requirements and their progress in filling the gaps between labour market availability and representation of designated groups. As FCP employer representation data is not reported, the results reported only cover approximately half of the workforce covered by the EEP.

## Program Delivery

While the evaluation found that ongoing reporting such as that prescribed for LEEP employers is important for program monitoring and management, concerns remain regarding the extensiveness and complexity of the reporting process, including the required details on workforce data and the forms used to submit data.

The Minister's Annual Report on Employment Equity which consolidates LEEP employer reports data and reports to Parliament the progress made in implementing employment equity, is viewed by stakeholders as an important tool in promoting employment equity. However, the Report provides a somewhat incomplete and unbalanced view of the progress made in that it puts emphasis on increased representation of the designated groups and on compliance with the reporting requirements as opposed to the measures and activities undertaken by the covered employers to eliminate systemic barriers for the designated groups.

Despite efforts made to ensure employer requirements under FCP more closely mirror those under LEEP as stipulated in the *Employment Equity Act* (1995), FCP employers are still not required to report annually in the same manner as LEEP employers. The lack of mechanisms to track FCP progress in the implementation of the program requirements has been identified as a key weakness throughout this evaluation. Annual reporting was viewed by stakeholders as important in monitoring employers' performance in removing barriers and supporting ongoing improvement. This was also viewed as a means to act upon the *Act* provision requiring "equivalence" among the two programs and to bring in line requirements for FCP employers with those of LEEP and other employers.

The findings of this evaluation revealed that, while efforts have been made to increase program funding and to allocate them to areas in need, the level of resources and the program delivery structure of the EEP continue to be a challenge to deliver key responsibilities related to the Programs, including employer outreach and support, as well as public promotion. Challenges associated with the delivery structure included unclear program governance and deficient priority-setting / resource allocation mechanisms. Also, awareness and perceived usefulness of some EEP tools and supports is low among covered employers, particularly as they relate to helping employers implement positive measures and to remove systemic barriers.

The Canadian Human Rights Commission and the EEP have worked to improve consistency in and communication of program requirements and to clarify their respective roles, as well as to increase co-ordination on the development of tools, research and advice. However, activities undertaken by the EEP to foster and promote the awareness, education and outreach among covered employers and the public are still limited. There continues to be an overall lack of awareness and understanding among employers of the basic requirements of the *Employment Equity Act*. In particular, there is a perceived lack of clarity around what constitutes disability and employer requirements for "special measures" and "reasonable accommodation" among covered employers and the general public. As the Canadian Human Rights Commission initiated outreach activities to increase awareness of employment equity, EEP representatives reported that these initiatives were being undertaken without co-ordination with them or their involvement.

Evidence collected through this evaluation confirms the importance of a rigorous compliance mechanism to support the effective implementation of employment equity programs. The level and quality of compliance reviews for FCP have increased significantly since the last evaluation, and performance targets and measures for the monitoring of compliance activities have been put in place. However, there seems to be a gap between what most covered employers perceive to be compliance with the program requirements, and actual compliance as illustrated by employer survey results. While a majority of employers believed they are complying with program requirements, a majority of them have reported not having undertaken a number of key steps or activities which are essential in demonstrating compliance with those requirements. Essential employer steps or activities towards compliance are not the object of regular monitoring by the EEP other than through the scheduled compliance reviews/audits.

Despite this wide-spread non-compliance (except for LEEP employers reporting), it was also found that enforcement mechanisms available for FCP employers are rarely applied. While, at the time the evaluation was conducted, improvements were being introduced to address these issues, employers stressed that current compliance reviews fail to recognize all of the employer efforts at supporting employment equity and their unique environments.

## **Program Success and Impact**

The EEP have contributed to identifying and removing systemic barriers to employment for designated groups for employers who have implemented the steps and measures prescribed. However, action is often only being taken as a result of a compliance review or audit and therefore, the impact is still limited to a fraction of the employers covered by the LEEP and the FCP.

EEP activities have helped to raise awareness of the importance of employment equity among covered employers. Stakeholders were of the view that the EEP have been instrumental in drawing employers' attention to the needs of all four designated groups. There was also the belief that incidences of overt discrimination against members of designated groups have been significantly reduced, with stakeholders attributing this partly to the *Employment Equity Act* and the EEP.

The evaluation found evidence that the development and implementation of employment equity plans increases employers' awareness and focus on barriers to employment for members of designated groups. There is also evidence from the consultations with employers that implementation of employment equity measures, including plans, results in an increased focus on human resources planning and more strategic approaches to recruitment, employee development and retention. Self-identification continues to be a challenge largely due to a stigma and negative perception of membership to designated groups. This also adversely affects employers' ability to obtain accurate data on workforce representation.

Representation within the LEEP workforce has increased for all the designated groups since 1986; however it continued to be lower than availability during the period reviewed by the evaluation. It should be noted that improvements in the representation of designated groups within the workforce overall might not be solely attributed to the EEP.

These changes might also have been influenced by changes in societal attitudes, changing workforce patterns of women and the rapid increase of visible minorities and Aboriginal peoples within the Canadian population.

While based on limited data, a review of the FCP workforce data suggests similar increases in representation as well as continued under-representation. For both the LEEP and the FCP, all designated groups were under-represented with the biggest gap for Aboriginal peoples and persons with disabilities.

## **Alternative Designs**

While alternative program designs or features were sought, few could be identified which have a workplace focus. One potential additional program feature suggested is providing support in making the linkages/connections between employers and those organizations serving or representing members of designated groups. To some extent, the RFWS already conducts activities in line with this suggestion, limited to Aboriginal peoples and visible minorities. The impact on program costs has not been assessed.

## 5. Recommendations

1. **The EEP should develop a comprehensive performance measurement framework focused on key activities and results for each EEP component.** This also should include structured and systematic assessments of the quality of service, such as relevance or usefulness of program-related research, tools and products; responsiveness of staff to employers' requests; level of knowledge and expertise of staff; and adequacy of program advice and interpretation.
2. **The EEP should continue to simplify and streamline the current LEEP reporting process and should enhance its assessment, use and dissemination of information on the efforts undertaken by employers and the factors that could explain the results of employers' efforts.**
3. **The EEP should consider requiring FCP employers to report annually on representation and on the activities undertaken to be compliant with program requirements and to accommodate and remove barriers to employment for designated groups.** Reports data would be used both to monitor employer progress individually and to report comprehensively on measures implemented and representation changes in FCP employers' workforce as a whole.
4. **The EEP should review the impact of the current level and allocation of resources as well as the usefulness of tools and support offered on the capacity to achieve program outcomes.** The review should include an analysis of the program governance structure (including delivery) as well as priority-setting / resource allocation mechanisms.
5. **The EEP should continue to work with the Canadian Human Rights Commission to develop greater dialogue and ensure co-ordination in relation to the organizations' respective roles in implementing and enforcing *Employment Equity Act*.** The two organizations should work together toward agreement on key areas that challenge employers, such as bringing clarity to key terms under the *Act*, as well as in the promotion of employment equity and implementation of legislative requirements.
6. **The EEP should consider using its discretionary power under its compliance policy to enhance enforcement of key FCP program requirements.**



# *Annex A: Key Evaluation Issues and Questions*

<b>Rationale and Relevance</b>	
<b>Need</b>	Are the mandate, scope and objectives of the employment equity programs still valid? Should the programs be modified to better achieve the objectives of the <i>Employment Equity Act</i> ?
<b>Overlap and Duplication</b>	To what extent do the employment equity programs overlap or complement provincial or other federal employment equity programs or similar programs aimed at the designated groups?
<b>Performance Measurement</b>	Are there adequate measures of program performance and program results in place for LEEP, FCP and the RFWS?
<b>Program Delivery</b>	
(Extent to which the concerns raised in the previous evaluation of LEEP and FCP have been addressed)	
<b>LEEP Reporting Process</b>	Effectiveness and efficiency of the LEEP employer reporting process and the Minister's Annual Reports.
<b>Clarity and Consistency of LEEP</b>	Clarity and consistency of LEEP program definitions, interpretations, measurements, tools, guidelines and requirements.
<b>Program Budget/Structure</b>	Adequacy of program delivery structure and resource levels.
<b>LEEP Communication/Coordination</b>	Adequacy of communications and coordination with LEEP delivery partners, in particular Canadian Human Rights Commission.
<b>Program Support</b>	Level of employer support, education and promotion under both LEEP and FCP.
<b>Use of Employment Equity Plan</b>	Level of LEEP and FCP employer compliance with the development and implementation of employment equity plans.
<b>Overall Compliance</b>	Level of compliance review and enforcement activities for FCP.
<b>Equivalence between Programs</b>	Equivalence of the FCP to the LEEP requirements as specified in sub-section 42. (2) of the <i>Employment Equity Act</i> .

<b>Success and Impact</b>	
<b>Impact/Results</b>	To what extent do the employment equity programs contribute to identifying and reducing or removing barriers to employment for members of the designated groups?
<b>Impact of key program activities on outcomes</b>	To what extent do the research, promotion, stakeholders' engagement, employer and public education, and employer support activities undertaken by the employment equity programs contribute to the achievement of program objectives?
<b>Impact of Program on the employment opportunities of designated groups</b>	To what extent can changes in employment opportunities (hiring, promotion, training, retention and salaries) for the designated groups be attributed to the employers developing and implementing employment equity plans? Does self-identification have an impact on the calculation of representation of designated groups?
<b>Workforce Impact</b>	Has representation of the designated groups in covered employers changed since 1986?
<b>Unintended Results</b>	Is there any evidence of unintended program impacts (positive or negative)?
<b>Alternative Designs</b>	
<b>Alternative Design/Approaches</b>	Are there alternative designs or delivery approaches that could be more cost-effective in achieving program expected outcomes?