

Alameda-Contra Costa Transit District (AC Transit)

Equal Employment Opportunity Compliance Review

Final Report

April 2012

FTA Report No. 0000



Federal Transit Administration

**PRE PA RE D BY**

The DMP Group, LLC

Washington, DC





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1. General Information

Grant Recipient: Alameda-Contra Costa Transit District

(AC Transit)

City/State: Oakland, CA

Grantee Number: 1632

Executive Official: Mr. David Armijo

General Manager

Alameda-Contra Costa Transit District

1600 Franklin Street

Oakland, CA 94612-2800

On Site Liaison: Sherri Stokes

Senior Human Resources Administrator

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Site Visit Dates: December 13 – 15, 2011

Compliance Review Team: Maxine Marshall, Lead Reviewer

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2. JURISDICTION AND AUTHORITIES

The Federal Transit Administration (FTA) Office of Civil Rights is authorized by the Secretary of Transportation to conduct Civil Rights Compliance Reviews. The Equal Employment Opportunity (EEO) Reviews are undertaken to ensure compliance of applicants, recipients, and subrecipients with 49 U.S.C. Section 5332, “Non-Discrimination” and the program guidelines of FTA Circular 4704.1, “Equal Employment Opportunity Guidelines for Grant Recipients.” Further, FTA recipients are required to comply with 49 CFR Part 27, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.”

The Alameda-Contra Costa Transit District (AC Transit) is a recipient of FTA funding assistance and is therefore subject to the EEO compliance conditions associated with the use of these funds pursuant to 49 U.S.C. Section 5332, FTA Circular 4704.1 and 49 CFR Part 27. These regulations define the components that must be addressed and incorporated in AC Transit’s EEO program and were the basis for the selection of compliance elements that were reviewed in this document.

## 

1. PURPOSE AND OBJECTIVES

**PURPOSE**

The FTA Office of Civil Rights periodically conducts EEO Compliance Reviews of grant recipients and subrecipients to determine whether they are honoring their commitment, as represented by certification to FTA, that they are complying with their responsibilities under 49 U.S.C. Section 5332, FTA Circular 4704.1, and 49 CFR Part 27. In keeping with its regulations and guidelines, FTA determined that a Compliance Review of AC Transit’s “Equal Employment Opportunity Program” was necessary.

The Office of Civil Rights authorized The DMP Group, LLC to conduct this EEO Compliance Review of AC Transit. The primary purpose of the EEO Compliance Review was to determine the extent to which AC Transit has met its EEO program goals and objectives, as represented to FTA, in its EEO Program Plan. This Compliance Review was intended to be a fact-finding process to: (1) examine AC Transit’s EEO Program Plan and its implementation, (2) provide technical assistance, and (3) make recommendations regarding corrective actions deemed necessary and appropriate.

This Compliance Review did not directly investigate any individual complaints of discrimination in employment activities by the grant recipient or its subrecipients, nor did it adjudicate these issues on behalf of any party.

**OBJECTIVES**

The objectives of FTA’s EEO regulations, as specified in FTA Circular 4704.1, are:

* To ensure that FTA applicants, recipients, subrecipients, contractors and/or subcontractors will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability;
* To ensure that FTA applicants, recipients, subrecipients, contractors and/or subcontractors will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to race, color, creed, national origin, sex, age or disability. Such action shall include, but not be limited to, hiring, promotion or upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, disciplinary actions, rates of pay or other forms of compensation, and selection for training, including apprenticeship. It shall also include a written affirmative action plan designed to achieve full utilization of minorities and women in all parts of the work force; and
* To ensure that FTA applicants, recipients, subrecipients, contractors and/or subcontractors will post in conspicuous places and make available to employees and applicants for employment, notices setting forth the recipient’s EEO policy. In addition, applicants/employees will be notified of the recipient’s procedures for filing complaints of discrimination internally, as well as externally with the Federal Equal Employment Opportunity Commission, the local human rights commission, and/or the U.S. Department of Transportation (DOT).

The objectives of this EEO Compliance Review were:

* To determine whether AC Transit is honoring its commitment represented by the certification to FTA that it is complying with its responsibilities under 49 U.S.C. Section 5332, “Non-Discrimination.”
* To examine the required components of AC Transit’s EEO Program Plan against the compliance standards set forth in the regulations and to document the compliance status of each component.
* To gather information and data regarding all aspects of AC Transit’s employment practices, including recruitment, hiring, training, promotion, compensation, retention, and discipline from a variety of sources: Human Resources Department staff and other AC Transit management and staff.

2. Background information

Voters created the Alameda-Contra Costa Transit District (AC Transit) in 1956 and subsequently approved a $16,500,000 bond issue in 1959 enabling the District to buy out the privately owned Key System Transit Lines. In October 1960, AC Transit’s service began. AC Transit is constituted as a special district under California law. It is not a part of or under the control of the Counties of Alameda or Contra Costa or any local jurisdictions. The Alameda-Contra Costa Transit District is the third-largest public bus system in California. AC Transit operates all service in-house, with the exception of paratransit. AC Transit contributes to a Bay Area consortium created to provide paratransit services mandated by the Americans with Disabilities Act. The population of its service area is approximately 1,500,000.

AC Transit is an Oakland-based regional public transit agency serving the western half of Alameda County and parts of western Contra Costa County in the San Francisco Bay Area. It is governed by seven elected members (five from geographic wards and two at-large.) AC Transit’s service area is 364 square miles. The service area encompasses the following 13 cities and eight unincorporated areas:

|  |  |
| --- | --- |
| **Cities** | |
| * Alameda | * Albany |
| * Berkeley | * El Cerrito |
| * Emeryville | * Fremont |
| * Hayward | * Newark |
| * Oakland | * Piedmont |
| * Richmond | * San Leandro |
| * San Pablo |  |

|  |  |
| --- | --- |
| **Unincorporated Areas** | |
| * Ashland | * Castro Valley |
| * Cherryland | * El Sobrante |
| * Fairview | * Kensington |
| * North Richmond | * San Lorenzo |

AC Transit's bus lines also serve parts of some other East Bay communities, including Milpitas, Pinole, and Union City.

There are approximately 6,500 bus stops along 111 bus lines. In addition, AC Transit operates "transbay" routes across the San Francisco Bay to San Francisco and selected areas in San Mateo and Santa Clara counties.

Buses operate out of three operating divisions: Emeryville, East Oakland, and Hayward. Central Dispatch is located in Emeryville and Central Maintenance is located in East Oakland. AC Transit’s Administrative Offices are located on Franklin Street in downtown Oakland. AC Transit’s mission is to provide safe, convenient, courteous, and reliable transit service.

According to AC Transit’s most recent workforce statistics, dated June 30, 2011, AC Transit had 1,936 employees and minorities represented 85.2 percent of the total workforce, as follows:

* Blacks – 64.7 percent
* Hispanics – 10.4 percent
* Asians – 10.1 percent
* American Indians – Less than one percent

Females represented 37.6 percent of the workforce. Over 90 percent of AC Transit’s workforce was represented by one of three unions, the Amalgamated Transit Union; the American Federation of State, County, and Municipal Employees Union; and the International Brotherhood of Electrical Workers Union. Approximately 50 management employees are not represented by a union.

The Board of Directors was ultimately responsible for ensuring that Equal Employment Opportunity has the highest priority at AC Transit. The General Manager was responsible for seeing that the Board's policies on Equal Employment Opportunity are implemented. AC Transit had an Executive EEO Officer and an EEO Officer. The Chief Human Resources Officer was the Executive EEO Officer, with a direct reporting relationship to the General Manager. A Senior Human Resources Administrator was the EEO Officer with day-to-day responsibility for the EEO program functions. The EEO Officer directly reported to a Human Resources Manager who reported to the Chief Human Resources Officer. At the time of the Compliance Review and according to AC Transit’s most recent Organization Chart, AC Transit was organized under the following management structure that reported directly to an Interim General Manager:

* Chief Operations Officer
* Chief Financial Officer
* Chief Human Resources Officer
* General Manager of Communications and External Affairs
* Director of Capital Projects
* Director of Information Services
* Director of Service Development and Planning

AC Transit also had a General Counsel and a District Secretary that reported directly to the Board of Directors.

On April 6, 2012, AC Transit submitted additional documentation related to a reorganization of the EEO function, following the appointment of a permanent General Manager. Included in AC Transit’s submission was a position description of a newly created position of Assistant General Manager, who would function as the Executive EEO Officer. AC Transit’s submission stated the following regarding the Assistant General Manager:

*This Senior Executive staff member has overall responsibility for AC Transit's AA/EEO Programs and has the full support of the General Manager. Responsibilities include: carrying out the policies and General Manager's Administrative Regulations, as well as accomplishing goals and objectives for the implementation of the Equal Employment Opportunity Compliance Program in compliance with the Federal Transit Administration/Civil Rights Office.*

In its submission to FTA, AC Transit provided a copy of an email to AC Transit Employees from the General Manager dated March 15, 2012. The following excerpts are from this email, entitled *Organizational Changes*:

*The Internal Audit and EEO functional units will be moved under an as yet to be filled Assistant to the General Manager position. These units will also have direct access to the General Manager and, when appropriate, the Board of Directors. …. this revised structure supports the independence of the EEO function. As a best practice, and to ensure transparency, this function should report at the highest level within the organization.*

The following tables (Table 1 – Table 3) represent a demographic profile of the AC Transit service area using data from the 2000 and the 2010 Census. The table shows the 2000 and 2010 population by racial/ethnic group, the increase (or decrease) in population from 2000 to 2010 and the percentage of the racial/ethnic group population to the total population in both 2000 and 2010.

From 2000 to 2010, the total population of the AC Transit service area increased seven percent. The White population decreased 4.7 percent, while the Black population decreased 5.5 percent, the Hispanic population increased 34.8 percent, the Asian population increased 36.8 percent, Hawaiian/Pacific Islander population increased 40 percent, and the American Indian/Alaskan Native increased 6.3 percent. In 2010, 49.4 percent of the total population was White (a decrease of six percent from 2000), 11.2 percent was Black (a decrease of 1.5 percent), 23.3 percent was Hispanic (an increase of 4.8 percent), 21.3 percent was Asian (an increase of 4.6 percent), 0.7 percent was Hawaiian/Pacific Islander (a negligible increase), and 0.6 percent was American Indian/Alaskan Native (a negligible increase).

**Table 1 – Demographics of the Alameda County Area**

**Racial/ Ethnic Breakdown - Source: 2000 and 2010 U.S. Census**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Racial/ Ethnic Group** | **Alameda County**  **2000** | | **Alameda County**  **2010** | | **Change in Alameda County** | | |
| **Number** | **Percent** | **Number** | **Percent** | **Number** | **Percent change ethnic group** | **Percent change total population** |
| White | 704,334 | 48.8% | 649,122 | 43.0% | (55,212) | (7.8%) | (5.8%) |
| Black | 215,598 | 14.9% | 190,451 | 12.6% | (25,147) | (11.7%) | (2.3%) |
| American Indian and Alaska Native | 9,146 | 0.6% | 9799 | 0.6% | 653 | 7.1% | 0.0% |
| Asian | 295,218 | 20.4% | 394,560 | 26.1% | 99,342 | 33.7% | 5.7% |
| Hawaiian/Pacific Islander | 9142 | 0.6% | 12802 | 0.8% | 3,660 | 40.0% | 0.2% |
| Other Race | 129,079 | 8.9% | 162,540 | 10.8% | 33,461 | 25.9% | 1.8% |
| Two or More | 81,224 | 5.6% | 90,997 | 6.0% | 9,773 | 12.0% | 0.4% |
| Hispanic Origin[[1]](#footnote-1) | 273,910 | 19.0% | 339,889 | 22.5% | 65,979 | 24.1% | 3.5% |
| **Total** | **1,443,741** | **100%** | **1,510,271** | **100%** | **66,530** | **4.6%** | **0.0%** |

**Table 2 – Demographics of the Contra Costa County Area**

**Racial/ Ethnic Breakdown - Source: 2000 and 2010 U.S. Census**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Racial/ Ethnic Group** | **Contra Costa County**  **2000** | | **Contra Costa County**  **2010** | | **Change in Contra Costa County** | | |
| **Number** | **Percent** | **Number** | **Percent** | **Number** | **Percent change ethnic group** | **Percent change total population** |
| White | 621,491 | 65.5% | 614,512 | 58.6% | (6,979) | (1.1%) | (6.9%) |
| Black | 88,813 | 9.4% | 97,161 | 9.3% | 8,348 | 9.4% | (0.1%) |
| American Indian and Alaska Native | 5,830 | 0.6% | 6122 | 0.6% | 292 | 5.0% | 0.0% |
| Asian | 103,993 | 11.0% | 151,469 | 14.4% | 47,476 | 45.7% | 3.5% |
| Hawaiian/Pacific Islander | 3466 | 0.4% | 4845 | 0.5% | 1,379 | 39.8% | 0.1% |
| Other Race | 76,510 | 8.1% | 112,691 | 10.7% | 36,181 | 47.3% | 2.7% |
| Two or More | 48,714 | 5.1% | 62,225 | 5.9% | 13,511 | 27.7% | 0.8% |
| Hispanic Origin[[2]](#footnote-2) | 167,776 | 17.7% | 255,560 | 24.4% | 87,784 | 52.3% | 6.7% |
| **Total** | **948,817** | **100%** | **1,049,025** | **100%** | **100,208** | **10.6%** | **0.0%** |

**Table 3 – Demographics of the Entire AC Transit Area Served**

**Comparison for 2000 to 2010**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Racial/ Ethnic Group** | **AC Transit Total Service Area 2000** | | **AC Transit Total Service Area 2010** | | **Change in AC Transit’s Service Area** | | |
| **Number** | **Percent** | **Number** | **Percent** | **Number** | **Percent change ethnic group** | **Percent change total population** |
| White | 1,325,825 | 55.4% | 1,263,634 | 49.4% | -62,191 | -4.7% | -6.0% |
| Black | 304,411 | 12.7% | 287,612 | 11.2% | -16,799 | -5.5% | -1.5% |
| American Indian and Alaska Native | 14,976 | 0.6% | 15,921 | 0.6% | 945 | 6.3% | 0.0% |
| Asian | 399,211 | 16.7% | 546,029 | 21.3% | 146,818 | 36.8% | 4.6% |
| Hawaiian/Pacific Islander | 12,608 | 0.5% | 17,647 | 0.7% | 5,039 | 40.0% | 0.2% |
| Other Race | 205,589 | 8.6% | 275,231 | 10.8% | 69,642 | 33.9% | 2.2% |
| Two or More | 129,938 | 5.4% | 153,222 | 6.0% | 23,284 | 17.9% | 0.6% |
| Hispanic Origin[[3]](#footnote-3) | 441,686 | 18.5% | 595,449 | 23.3% | 153,763 | 34.8% | 4.8% |
| **Total** | **2,392,558** | **100%** | **2,559,296** | **100%** | **166,738** | **7.0%** | **0.0%** |

1. sCOPE AND METHODOLOGY

The following required EEO program components specified by the FTA are reviewed in this report:

* 1. Program Submission – A formal EEO program is required of any recipient that both employs 50 or more transit-related employees (including temporary, full-time or part-time employees either directly employed and/or through contractors) *and* received in excess of $1 million in capital or operating assistance or in excess of $250,000 in planning assistance in the previous federal fiscal year. Program updates are required every three years.
  2. Statement of Policy – An EEO Program must include a statement issued by the Chief Executive Officer (CEO) regarding EEO policy affecting all employment practices, including recruitment, selection, promotions, terminations, transfers, layoffs, compensation, training, benefits, and other terms and conditions of employment.
  3. Dissemination – Formal communication mechanisms should be established to publicize and disseminate the recipient’s EEO policy, as well as appropriate elements of the program, to its employees, applicants and the general public.
  4. Designation of Personnel Responsibility – The importance of an EEO program is indicated by the individual the agency has named to manage the program and the authority this individual possesses. An executive should be appointed as Manager/Director of EEO who reports and is directly responsible to the agency’s CEO.
  5. Utilization Analysis – The purpose of the utilization analysis is to identify those job categories where there is an underutilization and/or concentration of minorities and women in relation to their availability in the relevant labor market.
  6. Goals and Timetables – Goals and timetables are an excellent management tool to assist in the optimum utilization of human resources.
  7. Assessment of Employment Practices – Recipients, subrecipients, contractors and subcontractors must conduct a detailed assessment of present employment practices to identify those practices that operate as employment barriers and unjustifiably contribute to underutilization.
  8. Monitoring and Reporting System – An important part of any successful EEO program is the establishment of an effective and workable internal monitoring and reporting system.

**METHODOLOGY**

The initial step of this EEO Compliance Review consisted of consultation with the FTA Region 9 Civil Rights Officer and Civil Rights Headquarters staff regarding the decision to conduct a Compliance Review of AC Transit. Relevant documents from FTA’s files were reviewed as background. Next, an agenda letter was prepared and sent to AC Transit by FTA’s Office of Civil Rights. The agenda letter notified AC Transit of the planned Compliance Review, requested preliminary documents, and informed AC Transit of additional documents needed and areas that would be covered during the on-site portion of the Review. It also informed AC Transit of the staff and other organizations and individuals that would be interviewed. The following documents were requested:

| FTA Circular 4704.1 Requirement/Documentation to Be Provided in Advance of Site Visit |
| --- |
| **0. Background** |
| 1. Description of AC Transit’s Services and Organization |
| 1. Summary Listing of EEO Complaints and Lawsuits against AC Transit during the last three years (October 1, 2008 – September 30, 2011) alleging discrimination towards an employee or job applicant. The summary shall indicate the date of the complaint, if the complaint was filed internally or externally, the basis for discrimination, the date the complaint was resolved or if the complaint is still open. |
| 1. Collective Bargaining Agreements covering the past three years for each bargaining unit, if applicable. |
| **1. Program Submission (FTA C. 4704.1.II, 5.)** |
| No documents requested, based on August 2011 submissions |
| **2. Statement of Policy (FTA C. 4704.1.III, 2.a.)** |
| No documents requested, based on August 2011 submissions |
| 3. Dissemination (FTA C. 4704.1.III, 2.b.) |
| Documentation of Internal Dissemination of EEO Policy |
| Documentation of External Dissemination of EEO Policy |
| **4. Designation of Personnel Responsibility for EEO (FTA C. 4704.1.III, 2.c.)** |
| 1. Copy of Position/Job Description for EEO Officer and EEO Staff |
| 1. Organization Chart showing EEO Officer Reporting Relationship |
| **5. Utilization Analysis (FTA C. 4704.1.III, 2.d.)** |
| 1. Utilization Analysis for the past two years prepared in accordance with FTA Circular 4704.1 Chapter III 2.d. |
| **6. Goals and Timetables (FTA C. 4704.1.III, 2.e.)** |
| 1. Goals and Timetables for the past two years prepared in accordance with FTA Circular 4704.1 Chapter III 2.e. |
| **7. Assessment of Employment Practices (FTA C. 4704.1.III, 2.f.)** |
| 1. A copy of personnel policy guides, handbooks, regulations, or other material that govern employment practices. |
| 1. A list of all recruitment sources used during the last year, including the name and telephone numbers of contact persons. |
| 1. A listing of all job titles for which written examinations are conducted. |
| 1. A listing of all job titles for which medical or physical examinations are conducted. |
| 1. A copy of any analysis of employment practices performed by AC Transit in the past three years. |
| 1. Data on new hires for the past three years for each job title or job group. Provide the total number of applicants and the total number of hires, by job title, as well as the number of minority group and female applicants and hires, for the past three years. |
| 1. Data on competitive promotions for the past three years for each job title or job group. Provide the total number of promotions, as well as the number of minority group and female employee promotions. Indicate the departments from which and to which the employees were promoted. |
| 1. Data on average salaries or wages paid, during the past three years, by job title or job group, to all employees, as well as the average salaries or wages paid to minority and female employees. |
| 1. Data on employer sponsored training offered during the past three years. Provide the total number of employees participating in each training course, as well as the number of minority group and female participants. Indicate if training was mandatory, or if supervisors authorized employee participation on a case-by-case basis. |
| 1. Data on terminations for the past three years for each job title or job group. Provide the total number of employee terminations, as well as the number of minority group and female employee terminations. Indicate if the terminations were voluntary or involuntary. |
| 1. Data on all demotions, suspensions, and disciplinary actions above the level of oral warning for the past three years for each job title or job group. Provide the total number of demotions, suspensions, and disciplinary actions, as well as the number of minority group and female employee demotions, suspensions, and disciplinary actions. Indicate the departments in which these employees worked when they were demoted, suspended or disciplined. |
| **8. Monitoring and Reporting (FTA C. 4704.1.III, 2.g.)** |
| 1. Procedures describing AC Transit’s EEO Monitoring and Reporting System. |
| 1. Copies of the quarterly and annual EEO reports presented to the GM and Board for the past three years, per AC Transit’s 2011 AA Plan Submission. |
| 1. A description of the procedures and criteria used by AC Transit to monitor its subrecipients and contractors to determine compliance with FTA EEO requirements. |
| 1. Copies of EEO Programs from subrecipients and contractors that employ 50 or more transit-related employees. |

AC Transit assembled most of the documents prior to the site visit and provided them to the Compliance Review team for advance review. Other documents were provided during the site visit.

AC Transit’s site visit occurred December 13 – 15, 2011. The Entrance Conference was conducted at the beginning of the Compliance Review with AC Transit’s Human Resources management staff, the FTA Region 9 Regional Civil Rights Officer, and the contractor Review team. During the Entrance Conference, the Review team explained the goals of the Review and the needed cooperation of staff members. The detailed schedule for conducting the on-site visit was discussed.

Following the Entrance Conference, the Review team conducted a detailed examination of documents submitted by AC Transit’s EEO Officer. The Review team also held discussions with AC Transit’s EEO Officer, regarding the implementation of the EEO Policy/Program.

The next day, a group interview was conducted with members of AC Transit’s Human Resources staff to learn about AC Transit’s employment practices, including recruitment, testing, hiring, promotions, transfers, disciplines, and terminations. Files and records of employment actions, such as new hires, promotions, demotions, and terminations, were requested and reviewed.

Throughout the three-day site visit, interviews were also conducted with selected employees and managers.

Following the site visit, AC Transit provided additional documents to the Review team that was used to complete this Compliance Review report.

**Staff Interviews**

Fifteen staff members employed by AC Transit were independently selected by the Review team for interviews.  The staff members selected were an ethnically diverse group and included both men and females from administration and operations.  Staff members’ tenure with AC Transit ranged from between three years to 25 years.  Many staff members said that AC Transit was a diverse organization. Several individuals felt that there were barriers that kept females from being promoted into senior management positions. It was stated by some that the agency was more inclined to hire and bring in new persons rather than promote qualified individuals within the agency.  A few others expressed a concern that AC Transit, in an effort to increase diversity, would on occasion hire or promote less qualified candidates because they were minorities.

The general consensus was that there was little awareness of who the EEO Officer was, but there was familiarity with one or two members of the Human Resources staff who had performed EEO investigations. Most had not seen AC Transit’s EEO Statement of Policy.  Most of the staff reported that they had not attended AC Transit sponsored EEO training (e.g., sexual harassment training) in the past three years.

Only a few staff members, including some at the supervisory level, were aware of any internal complaints filed with the EEO Officer.  It was expressed that concerns raised by the EEO Officer could and would be dismissed at the discretion of higher level management. A few of the staff thought that a little more could be done to enhance AC Transit’s EEO program, including increasing exposure to and awareness of the EEO Officer, having biannual EEO presentations, and giving the EEO Officer greater influence to help better resolve issues and complaints filed.

1. Findings and recommendations

The EEO Compliance Review focused on AC Transit’s compliance with eight specific requirements of FTA Circular 4704.1. This section describes the requirements and findings at the time of the Compliance Review site visit. Deficiencies were identified in the following eight areas: *Program Submission, Statement of Policy, Dissemination, Designation of Personnel Responsibility, Utilization Analysis, Goals and Timetables, Assessment of Employment Practices,* and *Monitoring and Reporting System*.

Following the site visit, on February 27, 2012, AC Transit submitted a revised EEO Program Plan submission, entitled *Affirmative Action, Equal Employment Opportunity and Diversity* (EEOP) to address some of the deficiencies noted during the visit. On April 6, 2012, AC Transit provided further additional information to address deficiencies. These submittals provided adequate documentation to close the deficiencies in the following three areas: *Dissemination, Utilization Analysis, and Goals and Timetables*.

1. Program Submission

**Requirement**: A formal EEO program is required of any recipient that both employs 50 or more transit-related employees (including temporary, full-time or part-time employees either directly employed and/or through contractors) *and* received in excess of $1 million in capital or operating assistance or in excess of $250,000 in planning assistance in the previous federal fiscal year. Program updates are required every three years.

**Finding**: During this Compliance Review of AC Transit, deficiencies were found with FTA requirements for Program Submission. Prior to the site visit, AC Transit provided its most recent EEO Program Plan submission, entitled *Affirmative Action, Equal Employment Opportunity Program* (EEOP). In a letter dated April 19, 2011, FTA determined that “… the EEO Program was missing or did not adequately address critical elements as identified in FTA’s EEO Circular. If we do not receive an updated program that adequately addresses these items, AC Transit’s conditional approval status [would] expire and this could result in delays in processing grants or draw-down restrictions for AC Transit.” AC Transit was asked to address the items by June 19, 2011. The table below summarizes the missing elements of the EEO Program required per FTA C. 4704.1 found in AC Transit’s EEOP:

|  |  |
| --- | --- |
| **FTA EEO Program Required Elements:** | **Adequately addressed in AC Transit’s EEO Program?** |
| Policy Statement | No |
| Dissemination | No |
| Designation of Personnel | No |
| Utilization Analysis | Yes |
| Goals and Timetables | No |
| Assessment of Employment Practices | No |
| Monitoring and Reporting | No |

AC Transit submitted another version of the EEOP on June 17, 2011, but it was still insufficient and did not adequately address any of the elements that were identified in FTA’s April 19, 2011 letter. AC Transit also used employee data from 2008 that was inaccurate and did not reflect the actual number of employees.

During the site visit, the Review team also found that many of the procedures described in the EEOP did not reflect current practices.The Review team provided technical assistance to AC Transit staff so that it could address all critical elements that were not included in its EEOP. During the site visit, AC Transit provided another revised EEOP update in December 2011. The revision was incomplete and had not been distributed outside of AC Transit.

Following the site visit, on February 27, 2012, AC Transit submitted another revised EEO Program Plan submission, dated February 2, 2012, entitled *Affirmative Action, Equal Employment Opportunity and Diversity* (EEOP) to address some of the deficiencies noted during the site visit. In addition, on April 6, 2012, AC Transit provided further additional information to address deficiencies within its EEO Program, and noted that it was in the process of revising its February 2, 2012 EEOP to incorporate the changes.

**Corrective Action and Schedule**: Within 60 days of the issuance of the Final Report, AC Transit must submit to the FTA Office of Civil Rights an EEOP that includes revised sections to address all of the deficiencies identified in this Compliance Review.

1. Statement of Policy

**Requirement**: An EEO Program must include a statement issued by the CEO regarding EEO policy affecting all employment practices, including recruitment, selection, promotions, terminations, transfers, layoffs, compensation, training, benefits, and other terms and conditions of employment.

**Finding**: During this Compliance Review of AC Transit, deficiencies were found with FTA requirements for Statement of Policy. Prior to the site visit, AC Transit provided the Review team with a copy of its EEO Policy Statement issued by the Interim General Manager. The EEO Policy statement was not posted on AC Transit’s website or on bulletin boards throughout its facilities. The EEO Policy Statement contained only five of the required elements of a Statement of Policy as described in FTA Circular 4704.1, as indicated in the table below.

|  |  |  |
| --- | --- | --- |
| **FTA C. 4704.1**  **Policy Statement Requirements** | **AC Transit**  **August 2011**  **EEO Policy Statement** | **AC Transit**  **April 2012**  **EEO Policy Statement** |
| Issued by CEO | Yes | No |
| Commitment to EEO | Yes | Yes |
| Undertake an Affirmative Action Program | No | Yes |
| EEO Program Assignment to Agency Executive | Yes | No |
| Management Personnel Share Responsibility | Yes | Yes |
| Applicants/Employees Right to File Complaints | No | Yes |
| Performance by Managers/Supervisors Evaluated | No | Yes |
| Successful Achievement Provides Benefits | Yes | Yes |

AC Transit’s EEO Policy Statement did not include a commitment to undertake affirmative action to achieve goals, it did not indicate that applicants and employees have the right to file complaints if they feel they have experienced some form of discrimination, and it did not describe that management and supervisors would be evaluated on their accomplishment of EEO goals.

Following the site visit, on February 27, 2012, AC Transit submitted its revised EEO Policy Statement. The revised statement did include the following:

* A commitment to undertake affirmative action to achieve goals;
* A comment that applicants and employees have the right to file complaints if they feel they have experienced some form of discrimination; and
* A comment that management and supervisors would be evaluated on their accomplishment of EEO goals.

However, the revised EEO Policy Statement was not signed or initialed to indicate that it was the final Policy Statement. In addition, it revised the individual *responsible for overseeing and carrying out the development and implementation of the FTA – EEO/Workplace Mediation and Diversity Program* as the Senior Human Resources Administrator, which is a conflict of interest. Furthermore, while the EEO Policy Statement did include a comment that applicants and employees have the right to file complaints if they feel they have experienced some form of discrimination, there was no address, email address, website, or telephone number provided to indicate where a complaint could be filed.

On April 6, 2012, AC Transit submitted another revised EEO Policy Statement. The revised Policy Statement did include an email address and a telephone number to indicate where a complaint could be filed. However, it still identified the Senior Human Resources Administrator, not an Agency Executive, as the individual *responsible for overseeing and carrying out the development and implementation of the FTA – EEO Compliance Program*. Also, as previously stated, EEO must be separate from the Human Resources function.

**Corrective Action and Schedule**: Within 60 days of the issuance of the Final report, AC Transit must submit to the FTA Office of Civil Rights an EEO Policy Statement that is signed and dated by the CEO and that identifies an agency executive as the individual responsible for EEO. Upon approval from FTA, AC Transit must post the new EEO Policy Statement on its public website, on its intranet, and on AC Transit’s bulletin boards throughout its facilities.

1. Dissemination

**Requirement**: Formal communication mechanisms should be established to publicize and disseminate the agency’s EEO policy as well as appropriate elements of the program, to its employees, applicants and the general public.

**Finding**: During this Compliance Review of AC Transit, deficiencies were found with FTA requirements for Dissemination. According to AC Transit’s EEOP, AC Transit used the following methods to disseminate its EEO Policy Statement internally and externally:

*Internal Communications*

* *EEO Policy Statement is distributed to all employees as part of the new employee’s orientation.*
* *EEO/Workforce Mediation and Diversity Program staff has regular meetings with District employees to disseminate information.*
* *Management /supervisory personnel are provided additional guidance concerning AA/EEO policies and procedures in one-on-one and /or small group meetings.*

*External Communications*

* *All District employment opportunity bulletins, recruitment advertisements, and notices cite the District’s commitment to equal employment opportunities, affirmative action and diversity.*
* *Employment applicants, as requested, are provided copies of the AA/EEO District’s policy.*

During the site visit, the Review team observed that the EEO Policy Statement was not posted throughout the AC Transit facilities. AC Transit stated that the EEO Policy Statement had been recently distributed to all employees by including it in their pay check envelopes. AC Transit could not provide documentation that it had disseminated its EEO Policy Statement to regular recruitment sources or any external agencies. The EEO Policy Statement was not posted on AC Transit’s intranet for internal dissemination or on the Internet for external dissemination.

Following the site visit, on February 27, 2012, AC Transit submitted revised methods to disseminate its EEO Policy Statement internally and externally. The revised methods include the following:

*Internal Dissemination:*

*Intranet under the Human Resources tab includes the GM Statement of Policy, information on how to file a discrimination complaint and form plus contact information; including related the District's Board policies addressing all forms of unlawful employment discrimination, including sexual or other forms of harassment prohibiting. Employees can view and print copies of these documents; New employee orientation reviews the Board Policy, GM Statement of Policy and provides contact information;*

*Annual mailing to all employees of the GM Statement of Policy; Posted at the San Francisco Terminal, each Transportation/Maintenance Division, Training and Education Center, Central Dispatch, Central Maintenance in the lunch/gulley rooms, General Office lobby by the job announcements and Human Resources department.*

*External Dissemination:*

* *AC Transit website can be obtained through* [*www.actransit@careers.org*](http://www.actransit@careers.org)*. Under this link employees and prospective candidates for employment can view and print a copy of:*

1. *Statement of Policy*
2. *Procedures for filing an employment discrimination complaint and*
3. *Discrimination complaint form.*

* *AC Transit's utilizes the following temporary agencies to assist in hiring/selection process and have a copy of our Statement of Policy, which are as follows:*
  + *Office Team*
  + *Accountemps*
  + *Office Team Healthcare*
  + *Management Resources*
  + *Robert Half Technology*
  + *Volt Employment Services*
  + *Modis*
  + *Semper*

*Note: Documentation for dissemination of our Statement of Policy can be obtained through AC Transit's AA/EEO and Diversity Office.*

The revised methods to disseminate the EEO Policy Statement internally described various methods that would adequately meet the FTA requirement for Dissemination-Internally; however, documentation supporting the internal dissemination was not included. In addition, the revised methods to disseminate the EEO Policy Statement externally included a link to a website that did not work; however, a Google search on the link produced AC Transit’s web page [*www.actransit.org/careers.org/*](http://www.actransit.org/careers.org/)*,* which did have its EEO Policy Statement. A review of AC Transit’s EEO Policy Statement found at the web link, dated January 2012, revealed that is was different from both the one provided prior to the site visit as well as the one provided in the February 27, 2012 submission, which was represented as the agency’s current EEO Policy Statement, and is dated February 2012. In addition, this EEO Policy Statement indicated that the Executive EEO Officer was the Chief of Human Resources Officer within the Human Resources Division, which is a conflict of interest (as noted in the Finding below).

After further conversations, on April 6, 2012, AC Transit submitted the following documentation:

* An email indicating that its EEO Policy Statement will be sent “*to all recruitment/outreach sources that we currently use.”*
* Several emails indicating where the policy was disseminated internally.
* A revision to the External Dissemination policy that included a link to a website [*www.actransit.org/careers/*](http://www.actransit.org/careers/) that included AC Transit’s current EEO Policy Statement.

While the EEO Policy Statement is not fully in compliance with FTA Circular 4704.1, AC Transit’s efforts to disseminate its EEO Policy Statement internally and externally are adequate.

The deficiency in this area is now closed.

1. Designation of Personnel Responsibility

**Requirement**: The importance of an EEO program is indicated by the individual the agency has named to manage the program and the authority this individual possesses. An executive should be appointed as Manager/Director of EEO who reports and is directly responsible to the agency’s CEO.

**Finding**: During this Compliance Review of AC Transit, deficiencies were found with FTA requirements for Designation of Personnel Responsibilities. The Program Guidelines of FTA Circular 4704.1 Chapter III, 2c state:

*An executive should be appointed as Manager/Director of EEO who reports and is directly responsible to the agency’s CEO*. *Since managing the EEO program requires a major commitment of time and resources, the Manager/Director of EEO should be given top management support and assigned a staff commensurate with the importance of this program*.

Prior to the site visit, an agency Organization Chart and the EEOP was provided. According to the Organization Chart and the *Responsibility for Implementation* section of the EEOP, AC Transit had an Executive EEO Officer and an EEO Officer. The Chief Human Resources Officer was the Executive EEO Officer, with a direct reporting relationship to the General Manager. A Senior Human Resources Administrator was the EEO Officer with day to day responsibility for the EEO program functions. The EEO Officer directly reported to a Human Resources Manager who reported to the Chief Human Resources Officer. During the site visit, AC Transit provided a job description of a Senior Human Resources Administrator and the Chief Human Resources Officer.

The Program Guidelines of FTA Circular 4704.1 Chapter III, 2c provide for nine program responsibilities, summarized in the Table below, which the EEO Officer was expected to carry out as part of the EEO Officer job. The table also identifies the responsibilities included in the position descriptions for AC Transit’s EEO Officers.

|  |  |
| --- | --- |
| **EEO Officer Program Responsibilities**  (FTA Circular 4704.1 III.2.c) | **AC Transit Executive EEO Officer/EEO Officer Duties** |
| Develop EEO Policy/Program | Yes |
| Assist Management in Data Needs, Setting Goals and Timetables, etc. | No |
| Internal Monitoring and Reporting System | No |
| Reporting Periodically to CEO on EEO Progress | No |
| Liaison to Outside Organizations/Groups | No |
| Current Information Dissemination | Yes |
| Recruitment Assistance/Establish Outreach Sources | No |
| Concur in All Hires/Promotions | No |
| Process Employment Discrimination Complaints | Yes |

According to the information provided, neither the Executive EEO Officer nor the EEO Officer had assisted management in data needs and set goals and timetables; developed an internal monitoring and reporting system; reported periodically to the General Manager on EEO progress; served as a liaison to outside groups; provided recruitment assistance; or concurred in all hires/promotions.

In addition, the Executive EEO Officer had a direct reporting relationship to the General Manager, and also served as the Chief Human Resources Officer, which was a direct conflict of interest to serving as Executive EEO Officer. Also, the EEO Officer was a Senior Human Resources Administrator within the Human Resources Division, which was another conflict of interest.

Following the site visit, on February 27, 2012, AC Transit submitted its revised EEO Policy Statement. The revised statement indicated that the individual *responsible for overseeing and carrying out the development and implementation of the FTA – EEO/Workplace Mediation and Diversity Program* is the Senior Human Resources Administrator, which is a conflict of interest. Also included in the February 27 submission was a revised Organization Chart, which showed that AC Transit’s EEO Officer reports to the Interim General Manager as appropriate, however, this Organization chart does not match the revised EEO Policy Statement. In addition, a revised *Designation of Responsibility* section was submitted, which outlined the responsibilities of the Equal Employment Opportunity Officer as follows:

|  |  |
| --- | --- |
| **EEO Officer Program Responsibilities**  (FTA Circular 4704.1 III.2.c) | **AC Transit’s Revised EEO Officer Duties as of February 2012** |
| Develop EEO Policy/Program | Yes |
| Assist Management in Data Needs, Setting Goals and Timetables, etc. | Yes |
| Internal Monitoring and Reporting System | Yes |
| Reporting Periodically to CEO on EEO Progress | Yes |
| Liaison to Outside Organizations/Groups | Yes |
| Current Information Dissemination | Yes |
| Recruitment Assistance/Establish Outreach Sources | Yes |
| Concur in All Hires/Promotions | Yes |
| Process Employment Discrimination Complaints | Yes |

However, as noted above, the EEO Policy Statement dated January 2012 (and included on the agency’s website) indicated that the Executive EEO Officer is the Chief of Human Resources Officer within the Human Resources Division, while the EEO Policy Statement dated February 2012 (and included in the revised EEOP) indicated that the individual *responsible for overseeing and carrying out the development and implementation of the FTA – EEO/Workplace Mediation and Diversity Program* is the Senior Human Resources Administrator. In addition, AC Transit did not provide a job description of the EEO Officer indicated in the revised Organization Chart.

After further conversations, on April 6, 2012, AC Transit submitted additional documentation to address the *Designation of Personnel Responsibility* deficiencies. Included was a revised *Designation of Personnel Responsibility* section from the revised EEOP which indicates that an Equal Employment Opportunity Officer has been designated and that this position has all the responisbilites outlined in FTA Circular 4704.1. Also included in the revised *Designation of Personnel Responsibility* section was the position description of a newly created and yet to be filled position of Assistant General Manager, who will function as the Executive EEO Officer. The *Designation of Personnel Responsibility* section goes on to state the following regarding the Assistant General Manager:

*This Senior Executive staff member has overall responsibility for AC Transit's AA/EEO Programs and has the full support of the General Manager. Responsibilities include: carrying out the policies and General Manager's Administrative Regulations, as well as accomplishing goals and objectives for the implementation of the Equal Employment Opportunity Compliance Program in compliance with the Federal Transit Administration/Civil Rights Office.*

A Classification Specification (i.e., job description) for the Assistant General Manager was also provided. The Classification Specification did not include any indication of the EEO responsibilities that were noted in the *Designation of Personnel Responsibility* section. Further, a revised Classification Specification for the EEO Officer, with responsibilities aligned with that which is noted in the revised *Designation of Personnel Responsibility* section, was not provided.

Also submitted on April 6, 2012, to address the *Designation of Personnel Responsibility* deficiencies, was an email to AC Transit Employees from the General Manager dated March 15, 2012. The following excerpts are from this email, entitled *Organizational Changes*:

* *The Internal Audit and EEO functional units will be moved under an as yet to be filled Assistant to the General Manager position. These units will also have direct access to the General Manager and, when appropriate, the Board of Directors.*
* *…. this revised structure supports the independence of the EEO function. As a best practice, and to ensure transparency, this function should report at the highest level within the organization.*

While the organizational placement for the EEO function appears to be appropriate, the actual placement has yet to be implemented. Until that time, the EEO function is within the Human Resources Division, which is a conflict of interest.

**Corrective Action and Schedule**: Within 60 days of the issuance of the Final report, AC Transit must submit to the FTA Office of Civil Rights:

* A revised organizational placement of an EEO Officer outside of the Human Resources functional area, with a direct reporting relationship to the General Manager for EEO matters.
* Revised job descriptions for the Assistant General Manager and the EEO Officer that include the responsibilities noted in the *Designation of Personnel Responsibility* section of the EEOP and that conform to all of the duties outlined in FTA Circular 4704.1.

1. Utilization Analysis

**Requirement**: The purpose of the utilization analysis is to identify those job categories where there is an underutilization and/or concentration of minorities and women in relation to their availability in the relevant labor market.

**Finding**: During this Compliance Review of AC Transit, deficiencies were found with FTA requirements for Utilization Analysis. Prior to the site visit, AC Transit provided its EEOP that included the section entitled *Workforce and Utilization Analysis Goals and Timetables*. It also provided an *AA/EEO Workforce Diversity Profile Report – Number Of Employees – Changes In Workforce Utilization* (over a three-year period), and an *AA/EEO Workforce Diversity Profile Report – Percentage Of Employees – Changes In Workforce Utilization* (over a three-year period). The AC Transit EEOP showed the workforce by the following job categories:

* Officials/Administrators (Group 1)
* Professionals (Group 2)
* Technician (Group 3)
* Paraprofessional (Group 5)
* Administrative Support (Group 6)
* Skilled Craft Workers (Group 7)
* Service/Maintenance (Group 8)
* Service/Transportation (Group 9)

Note: It was explained that Group 4 no longer existed.

The AA/EEO Workforce Diversity Profile Reports showed the workforce by the following different job categories:

* Job Category 1 – Office/Clerical
* Job Category 2 – Official and Administrators
* Job Category 3 – Professionals
* Job Category 4 – Service Maintenance
* Job Category 5 – Service Transportation
* Job Category 6 – Skilled Craft
* Job Category 7 – Technician

For each of the job groups, AC Transit’s AA/EEO Workforce Diversity Profile Reports showed the following:

* Number of Employees in each group for 2009 – 2011
* Gender
* Ethnicity
* Change from 2009 – 2011
* Available Workforce number/percentage
* Above/Below Goal number/percentage

The *Availability / Statistical Analysis* section in AC Transit’s EEOP section entitled *Workforce and Utilization Analysis Goals and Timetables* noted the following:

*Since October 1, 1978, the federal government has defined the Eight Factor Analysis for determining the availability of minorities and females. The Eight*

*Factor Computation Method is used to identify those job categories were there is an underutilization or concentration of minorities and women in comparison to their availability for employment. The difference between the actual workforce and availability determines whether a particular group of employees is under or over represented. The utilization analysis is a strategy to identify goals and take corrective action.*

*The data used in the District’s utilization analysis is drawn from the 1990*

*Census/Equal Employment Opportunity files. The detail of the availability analysis for each of the eight job categories is contained in Appendix C of this document.* Note: The information in Appendix C is the same as provided in the AA/EEO Workforce Diversity Profile Reports noted above

During the site visit, the Review team discussed some of the inconsistencies in the Utilization Analysis information provided, as follows:

* The EEOP section *Availability / Statistical Analysis* noted that there were eight job categories, while Appendix C in the same EEOP noted that there were seven job categories.
* The *Availability / Statistical Analysis* section stated that the utilization analysis data was drawn from the 1990 Census (other areas of the EEOP also indicated that the 1990 Census data was used), not the more recent 2000 or 2010 census. The Review team was informed during the site visit that this was a typographical error.
* When asked to provide information about how the Eight Factor Analysis was developed and used, AC Transit could not provide additional insight.
* A review of the actual data provided in the AA/EEO Workforce Diversity Profile Reports with the AC Transit team that provided the data revealed that there were errors in the collection and calculation of the data. Therefore, the utilization results were incorrect.

During the site visit, the Review team provided technical assistance on the type of analyses to be performed and provided the EEO Officer with a tool to assist with the analysis.

Following the site visit, on February 27, 2012, AC Transit submitted its revised EEOP, which included a revised Utilization Analysis with new Workforce Analysis charts for 2010 and 2011. The Workforce Analysis included a statistical breakdown of the workforce by department job group, and job title. The workforce was cross-referenced by race, national origin, and gender. AC Transit’s workforce was compared to the available workforce for the relevant labor market to identified areas of underutilization. The workforce analysis was categorized into the following job groups:

* Executive Senior Level Officials and Managers
* First/Mid-Level Officials and Mangers
* Professionals
* Technicians
* Sales Workers
* Administrative Support Workers
* Craft Workers
* Operatives
* Laborers
* Service Workers

The Utilization included a detailed description for each of the job categories that listed all the job titles included in the category.

The deficiency in this area is closed.

1. **Goals and Timetables**

**Requirement**: Goals and timetables are an excellent management tool to assist in the optimum utilization of human resources.

**Finding**: During this Compliance Review of AC Transit, deficiencies were found with FTA requirements for Goals and Timetables. The Program Guidelines of FTA Circular 4704.1 Chapter III, 2e state:

*Goals and timetables are an excellent management tool to assist in the optimum utilization of human resources. Specific and detailed percentage and numerical goals with timetables must be set to correct any underutilization of specific affected classes of persons identified in the utilization analysis.*

*If goals and timetables are not met, there is an obligation to justify this failure following the recipient’s annual evaluation of the EEO program. The justification for failing to meet a goal(s) should address such factors as: whether the anticipated job openings materialized, the availability of persons whose employment could have resulted in the goal(s) being achieved, and the adequacy of recruitment and other affirmative actions to change existing employment practices so that the goal(s) could be achieved.*

*Long-range goals are usually stated as percentages, although numerical projections are recommended where feasible.*

*Short-term or intermediate numerical goals should be set and pursued in order to assure accomplishment of long-range goals.*

Prior to the site visit, AC Transit provided its EEOP which included the section entitled *Workforce and Utilization Analysis Goals and Timetables*. The *Goals and Timetables* section included narratives on the following components:

* Underutilization and Availability
* Placement Goals
* Setting Timetables
* Achieving District Goals

However, the EEOP did not contain short-term numerical or long-range percentage goals and applicable timetables for underutilized job categories.

The EEOP also included a section entitled *Action-Oriented Strategies to Achieve Program Goals*. Included in this section were the following steps that would be taken by AC Transit to achieve its EEO Program goals:

* *Analyze External Recruitment Practices*
* *Identify Individual Recruitment Outreach*
* *Coordinate Employment Development and Training*
* *Employee Career Development*
* *Development of Career Paths within Classification System*
* *Employee Training*
* *Outreach*
  + *Recruitment at colleges and universities*
  + *Recruitment through professional organizations*
  + *Recruitment through community organizations*

During the site visit, the Review team discussed the information provided in the EEOP with AC Transit and it was discovered that these strategies had not been implemented.

Following the site visit, on February 27, 2012, AC Transit submitted a revised EEOP, which included a revised *Goals and Timetables* section. AC Transit provided its numerical hiring goals established for 2011 included in the 2011 Utilization Analysis, a narrative discussion of short-term goals for fiscal year 2008 to 2009 and fiscal year 2009 to 2010, and long-term and short-term goals and timetables as of June 30, 2011. The long-term four-year goals and timetables contained AC Transit’s 2011 12 month short-term goals. The following information was provided for the goals for each job category:

* Current Workforce
* Available Workforce by percentage
* Anticipated Job Opening
* Job Openings to be filled
* Numeric Goals for Program Year
* Anticipated Workforce
* Hiring Goals Percentage – 12 months
* Hiring Goals Percentage – Year 2
* Hiring Goals Percentage – Year 3
* Hiring Goals Percentage – Year 4

For 2011, numerical goals were established to correct the underutilization for the following areas as follows:

* Technicians: 7 – Female
* Craft Workers: 5 – Females
* Laborers: 1 – Females
* Service Workers: 35 – Females

The long-range goals were designed to eliminate underutilization in job categories where it was identified.

The deficiency in this area is closed.

1. Assessment of Employment Practices

**Requirement**: Recipients, subrecipients, contractors and subcontractors must conduct a detailed assessment of present employment practices to identify those practices that operate as employment barriers and unjustifiably contribute to underutilization.

**Finding**: During this Compliance Review of AC Transit, deficiencies were found with FTA requirements for Assessment of Employment Practices. AC Transit did not provide documentation that it had regularly conducted qualitative or quantitative assessments of employment practices.

FTA Circular 4704.1 requires grantees to undertake a qualitative and quantitative analysis of employment practices to identify those practices that operate as employment barriers and unjustifiably contribute to underutilization:

*Qualitative analyses should include narrative descriptions of the following:*

* *Recruitment and employment selection procedures from the agency’s last EEO submission.*
* *Seniority practices and provisions, upgrading and promotion procedures, transfer procedures, and formal and informal training programs from the* last *EEO submission.*
* *Procedures and practices regarding wages, salary levels, and other forms of compensation and benefits.*
* *Disciplinary procedures and discharge and termination practices.*
* *Assessment of the impact of external factors (not knowing where to apply for jobs, the availability of bilingual materials and information)*

*Quantitative analyses should include the following statistical data by race, national origin, and sex in the past year:*

* *Number of job applicants and the number of individuals offered employment.*
* *Number of employees in each job category that applied for a promotion or transfer, and the number of employees who were promoted or transferred in the past year.*
* *Number of disciplinary actions and terminations (by type) in the past year.*

Prior to the site visit, AC Transit provided some quantitative and summary information for the past three years for new hires, competitive promotions, terminations, and disciplinary actions. AC Transit provided its EEOP which included the section entitled *Assessment of Past Employment Activities* that included a discussion of females and minorities in the AC Transit workforce, the areas of underutilization, and various methods to address the underutilization. However, this information did not include an actual Assessment of Employment Practices. The table below summarizes the qualitative and quantitative analyses of employment practices required per FTA Circular 4704.1 found in the reports provided by AC Transit.

|  |  |
| --- | --- |
| **Quantitative and Qualitative Analysis**  (FTA Circular 4704.1 III.2.f) | |
| **Narrative Description and Analyses** | **AC Transit’s Assessment of Employment Practices** |
| Recruitment and employment selection procedures from the agency’s last EEO submission. | No |
| Seniority practices and provisions, upgrading and promotion procedures, transfer procedures, and formal and informal training programs from the last EEO submission. | No |
| Procedures and practices regarding wages, salary levels, and other forms of compensation and benefits. | No |
| Disciplinary procedures and discharge and termination practices. | No |
| Assessment of the impact of external factors (not knowing where to apply for jobs, the availability of bilingual materials and information) | No |
| Proposed program of remedial, affirmative actions to address problem areas | No |
| **Statistical Data** | |
| Number of job applicants and the number of individuals offered employment. | No |
| Number of employees in each job category that applied for a promotion or transfer, and the number of employees who were promoted or transferred in the past year. | No |
| Number of disciplinary actions and terminations (by type) in the past year. | Yes |

AC Transit did not provide summary reports on its 2008 to 2011 new hires, competitive promotions, terminations, and disciplinary actions that contained a breakdown of the information by each year or into the various job groups. AC Transit also did not provide applicant data.

AC Transit did not provide documentation that it had done any qualitative or quantitative assessments of the summary data included in its reports. There was no discussion of trends or explanations for discrepancies in the information. AC Transit did not perform any analysis to identify those practices that operated as employment barriers and unjustifiably contributed to underutilization.

During the site visit, the Review team provided technical assistance on the type of analyses to be performed. Using the data provided, the Review team attempted to give examples of how an analysis could be completed; however, as the data was reviewed, inaccuracies were identified that prevented completion of a sample analysis. For example, job groupings, as presented in the EEOP, contained too small a sample size to be able to conduct a meaningful analysis. Also, the job categories contained positions that should not have been included, such as non-supervisory positions grouped in the Officials/Administrators category. Further, AC Transit had switched to a new Human Resources Information System and was unable to extract necessary data for analysis.

Following the site visit, on February 27, 2012, AC Transit submitted a revised EEOP, which included a revised *Assessment of Employee Practices* section. Also included in this section were *EEO: Graphs and Trends For Analysis 2008 – 2011.* This assessment, done by Human Resources instead of the EEO Officer as appropriate, did not adequately meet the requirements outlined in FTA Circular 4704.1. The documents provided did not easily explain the narrative provided. The narrative should describe data results as noted in the documentation of the assessment. In addition, trends between 2008 and 2011 should be described using charts and graphs. Also, significant compensation information was provided without context. Quantitative wage and salary data was provided, but an analysis of the data was not provided.

The Review team provided a sample spreadsheet for collecting and presenting the data and sample narrative on the quantitative and qualitative assessment format. AC Transit can use these samples with the data on employment practices that is currently available.

**Corrective Action and Schedule**: Within 60 days of the issuance of the Final Report, AC Transit must submit to the FTA Office of Civil Rights qualitative and quantitative assessments of its employment practices (i.e., recruitment, testing, promotions, discipline, terminations, and compensation) for the past three years in accordance with FTA Circular 4704.1.

1. Monitoring and Reporting System

**Requirement**: An important part of any successful EEO program is the establishment of an effective and workable internal monitoring and reporting system.

**Finding**: During this Compliance Review of AC Transit, deficiencies were found with FTA requirements for a Monitoring and Reporting System. FTA Circular 4704.1, Chapter III, 2.g, states:

*An important part of any successful EEO program is the establishment of an effective and workable internal monitoring and reporting system. This system should serve the following basic purposes:*

* *Assessing EEO accomplishments*
* *Enabling the agency to evaluate the EEO program during the year and to take necessary corrective actions, as necessary*
* *Identifying those units which have failed to achieve a goal or implement affirmative action*
* *Providing precise and factual database for future projections.*

Prior to the site visit, AC Transit provided its EEOP which included the section entitled *Auditing and Reporting Systems.* This section detailed an automated *Internal Audit and Reporting System* for quarterly and annual progress reports. However, the EEOP did not provide any information about AC Transit’s actual monitoring and reporting system. During the site visit, AC Transit explained that it had not been monitoring and reporting on its EEO program as outlined in its EEOP.

Prior to the site visit, AC Transit also provided a reported entitled *AC Transit Human Resources EEO/Mediation Activity Report*. The report was a quarterly report to the Board of Directors that provided the current status of internal and external complaints. No EEO goals or progress information was presented.

Also, during the site visit, it was determined that AC Transit had one or more contractors providing paratransit service to the Bay Area consortium. AC Transit was under the impression that its partner in the consortium, BART, was monitoring the contractor for EEO, but this was not the case. AC Transit did not know if or whether any of these contractors met the thresholds of having 50 or more transit related employees and received $1 million or more in FTA funding in a given year.

Following the site visit, on February 27, 2012, AC Transit submitted a revised EEOP, which included a revised *Monitoring and Reporting* section. This section did not adequately meet the requirements outlined in FTA Circular 4704.1. The content of the report and the frequency of monitoring were not described. In addition, the revised section described monitoring complaints, but not progress toward goals. Furthermore, the *Monitoring and Reporting* section states:

*EEO Officer will schedule annual meeting with senior management to report on the status of the EEO Program. This will include addressing the underutilization of minorities and women on an on-going basis with respect to recruitment, selection and placement efforts.*

However, an annual meeting will not allow AC Transit to make adjustments throughout the year in order to meet its EEO goals.

Further, AC Transit did not describe its status on obtaining EEO program(s) or its procedures for monitoring compliance with EEO requirements by its paratransit contractor(s).

**Corrective Action and Schedule**: Within 60 days of the issuance of the Final report, AC Transit must submit to the FTA Office of Civil Rights:

* Documentation of its monitoring and reporting system for evaluating its EEO accomplishments described in FTA Circular 4704.1.
* EEO Program(s) from its paratransit contractor(s) that meet the threshold requirements and documentation of its procedures for monitoring the paratransit contractor(s).

1. SUMMARY of Findings

| **Requirements of**  **FTA Circular 4704.1** | **Site Review Finding** | **Description of Deficiencies** | **Corrective Actions** | **Response Days/ Closed Date** |
| --- | --- | --- | --- | --- |
| 1. Program Submission   (Chapter II.5) | D | EEO Program Submission did not include all required elements and did not reflect actual practices. | AC Transit must submit to the FTA Office of Civil Rights a revised EEO Program that contains all of the elements as described in FTA C. 4704.1. | Closed 5/16/12 |
| 1. Statement of Policy   (Chapter III.2.a) | D | Policy Statement missing required elements | AC Transit must submit to the FTA Office of Civil Rights a Policy Statement that contains all of the required elements as described in FTA C. 4704.1. Upon approval from FTA, AC Transit must post new Policy Statement on its public website, its intranet, and on AC Transit bulletin boards throughout its facilities. | Closed 5/16/12 |
| 1. Dissemination   (Chapter III.2.b) | D | Policy Statement not disseminated internally and externally. | AC Transit must submit to the FTA Office of Civil Rights :   * Documentation that it has internally and externally disseminated its revised EEO Policy Statement as described in FTA C. 4704.1. * A revised EEOP documenting actual methods and intervals for disseminating its policy statement internally and externally in accordance with FTA C. 4704.1. | Closed  4/6/12 |
| 1. Designation of Personnel Responsibility   (Chapter III.2.c) | D | Conflict of duties (i.e., EEO Officer was Chief HR Officer)  No concurrence on hires, other missing responsibilities | AC Transit must submit to the FTA Office of Civil Rights:   * A revised organizational placement of an EEO Officer outside of the Human Resources functional area, with a direct reporting relationship to the General Manager for EEO matters. * Revised job description to assure that the EEO Officer performs all of the responsibilities described in FTA C. 4704.1. | Closed 5/16/12 |
| 1. Utilization Analysis   (Chapter III.2.d) | D | Inadequate utilization analysis | AC Transit must submit to the FTA Office of Civil Rights a complete 2011 Utilization Analysis in accordance with FTA C. 4704.1. | Closed  2/27/12 |
| 1. Goals and Timetables   (Chapter III.2.e) | D | Did not follow FTA requirements for quantifiable short term and long term goals | AC Transit must submit to the FTA Headquarters Office of Civil Rights Goals and Timetables for 2011 presented in terms of long-range percentage goals and short-term numerical goals in accordance with FTA C. 4704.1. | Closed  2/27/12 |
| 1. Assessment of Employment Practices   (Chapter III.2.f) | D | No documentation of qualitative or quantitative assessment of employment practices | AC Transit must submit to the FTA Office of Civil Rights qualitative and quantitative assessments of employment practices (i.e., recruitment, testing, promotions, discipline, terminations, and compensation) for the past three years in accordance with FTA C. 4704.1. | Closed 5/16/12 |
| 1. Monitoring and Reporting System   (Chapter III.2g) | D | Program not implemented adequately  Inadequate documentation of monitoring of paratransit contractors | AC Transit must submit to the FTA Office of Civil Rights:   * Documentation of its monitoring and reporting systems for evaluating its EEO accomplishments as described in FTA C. 4704.1. * EEO Program(s) from its contractor(s) that meet the threshold requirements and documentation of its procedure for monitoring the paratransit contractor. | Closed 5/16/12 |

ND = No Deficiency; D = Deficiency; NA = Not Applicable; NR = Not Reviewed; AC=Advisory Comments

1. Attendees

| **NAME** | **TITLE/**  **ORGANIZATION** | **PHONE** | **E-MAIL** |
| --- | --- | --- | --- |
| **GRANTEE – Alameda-Contra Costa Transit District (AC Transit)** | | | |
| Mary King | Interim General Manager | 510-891-4875 | [mking@actransit.org](mailto:mking@actransit.org) |
| Lewis Clinton | CFO/CPO | 510-891-4752 | [lclinton@actransit.org](mailto:lclinton@actransit.org) |
| Kurt De Stigter | Chief Human Resources (HR) Officer | 510-851-0928 | [kdestigt@actransit.org](mailto:kdestigt@actransit.org) |
| Carol Babington | General Counsel | 510-891-4831 | [cbabingto@actransit.org](mailto:cbabingto@actransit.org) |
| Cathleen Wadhams | Litigation Attorney | 510-891-4827 | [cwadhams@actransit.org](mailto:cwadhams@actransit.org) |
| Janet Jackson | HR Manager | 510-891-7204 | [jjackson@actransit.org](mailto:jjackson@actransit.org) |
| Sherri Stokes | Sr. HR Administrator | 510-891-4898 | [sstokes@actransit.org](mailto:sstokes@actransit.org) |
| Shelley Fogel | HR Manager | 510-891-4805 | [sfogel@actransit.org](mailto:sfogel@actransit.org) |
| Elisabeth West | HR Administrator | 510-891-4785 | [ewest@actransit.org](mailto:ewest@actransit.org) |
| Cheryl Koch | Sr. HRIS Analyst | 510-891-4284 | [ckoch@actransit.org](mailto:ckoch@actransit.org) |
| **AGENCY – Federal Transit Administration (FTA)** | | | |
| Anita Heard | Program Analyst, FTA Headquarters | 202-493-0318 | [anita.heard@dot.gov](mailto:anita.heard@dot.gov) |
| Derrin Jourdan | Regional Civil Rights Officer, FTA | 415-744-2729 | [derrin.jourdan@dot.gov](mailto:derrin.jourdan@dot.gov) |
| **REVIEW TEAM – The DMP Group, LLC** | | | |
| Maxine Marshall | Lead Reviewer, DMP | 202-726-2630 | maxine.marshall@thedmpgroup.com |
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| Khalique Davis | Reviewer, DMP | 412-952-9007 | [khalique.davis@thedmpgroup.com](mailto:khalique.davis@thedmpgroup.com) |

1. Per the 2000 and the 2010 Census, people of Hispanic origin can be, and in most cases are, counted in two or more race categories. [↑](#footnote-ref-1)
2. Per the 2000 and the 2010 Census, people of Hispanic origin can be, and in most cases are, counted in two or more race categories. [↑](#footnote-ref-2)
3. Per the 2000 and the 2010 Census, people of Hispanic origin can be, and in most cases are, counted in two or more race categories. [↑](#footnote-ref-3)