**`**

**EQUAL EMPLOYMENT OPPORTUNITY**

**COMPLIANCE REVIEW**

**OF**

**The Brazos Transit District**

**(BTD)**

**Bryan, Texas**

**Final Report**

**February 2010**

**Prepared For**

**U.S. DEPARTMENT OF TRANSPORATION**

**FEDERAL TRANSIT ADMINISTRATION**

**OFFICE OF CIVIL RIGHTS**

**Prepared By**

**THE DMP GROUP, LLC**

**1320 Fenwick Lane, Suite 209**

**Silver Spring, MD 20910**

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i. General Information

Grant Recipient: Brazos Transit District (BTD)

City/State: Bryan, TX

Grantee Number: 5319

Executive Official: Mr. John McBeth

President/Chief Executive Officer

Brazos Transit District

1759 N. Earl Rudder Freeway

Bryan, TX 77803-4025

On Site Liaison: Margie Lucas

Executive Vice President &

Chief Administrative Officer/EEO Officer

Report Prepared by: The DMP Group

1320 Fenwick Lane

Silver Spring, MD 20910

Site Visit Dates: October 19 - 21, 2009

Compliance Review Team: Maxine Marshall, Lead Reviewer

Clinton Smith, Reviewer

Khalique Davis, Reviewer

II. 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 Brazos Transit District (BTD) 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 BTD’s EEO program and were the basis for the selection of compliance elements that were reviewed in this document.

## III. 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 BTD’s “Equal Employment Opportunity Program” was necessary.

The Office of Civil Rights authorized The DMP Group to conduct this EEO Compliance Review of BTD. The primary purpose of the EEO Compliance Review was to determine the extent to which BTD 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 BTD’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 BTD 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 BTD’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 BTD’s employment practices, including recruitment, hiring, training, promotion, compensation, retention and discipline from a variety of sources: Human Resources Department staff, other BTD management and staff, and community representatives.

iv. Background information

The Brazos Transit District (BTD) was founded in 1974 and provided human transportation service and general public demand responsive transit service in the seven counties of the Brazos Valley. BTD is governed by a seven member board, appointed initially by the elected officals of the seven county region of the Brazos Valley. Today, as vacancies on the board arise, the retiring Board member recommends candidates for his/her replacement and the new board member is approved by the sitting Board. Board members serve with no time limits. Board officers are elected from the board membership. The members are appointed from the Brazos service area. BTD receives funding from the Federal Transit Administration (FTA), the Texas Department of Transportation (TxDOT), human service contracts, and contributions from participating localities.

BTD is a political subdivision of the State of Texas, providing public transportation services to rural and small urban areas in 16 counties in central and eastern Texas. Plans are currently underway to add five new counties to the service area. BTD provides fixed-route, demand responsive, paratransit, commuter bus, water taxi and park and ride services and facilities. Destinations include employment, entertainment, medical facilities, social services, shopping areas, etc. All vehicles are wheelchair accessible and in compliance with the Americans with Disabilities Act.

BTD operates all fixed route, paratransit, demand responsive, and water taxi services in-house. BTD contracts with Gulf Coast Transportation to provide commuter bus service to Houston from The Woodlands, a residential community in Montgomery County.

**Fixed Route Service:** BTD’s fixed routes provide general public transportation service with fully accessible vehicles. If it is necessary to transfer to reach their destination, patrons may transfer from one route to another with no additional charge. Seniors citizens 60 years and older and persons with disabilities are eligible to ride for half fare during all operating hours. Service is provided weekdays from 5:00 a.m. to 7:00 p.m. There is no service on weekends. BTD’s complementary paratransit service and, demand responsive service operate during the same days and hours of service as the fixed routes. Current fixed routes are:

* Bryan/College Station: Seven fixed routes operate on one-hour headways
* Lufkin: Five fixed routes operate on one-hour headways
* Nacogdoches: Five fixed routes operate on one-hour headways
* Cleveland: Two fixed routes operate on 30 minute headways
* Lufkin/Nacogdoches Express: Express service from Lufkin to Nacogdoches

**ADA Paratransit Service:** BTD’s ADA paratransit service is a shared ride curb-to-curb service that is designed to serve persons with disabilities and the elderly who are unable to ride the fixed route service. Passengers utilize the service for trips to sheltered workshops, shopping, medical and rehabilitation services, or employment, with no trip type restrictions, and appointments can be made up to seven days in advance. Appointments for next day service will be taken until 5:00 pm. The time requested by an ADA client may be negotiated by one hour on either side of the requested time. One other individual and a personal care attendant (must have application on file) may ride with the ADA eligible client as long as they have the same origin and destination. ADA paratransit service is provided in the cities of Bryan/College Station, Lufkin, Nacogdoches and Cleveland.

**Demand and Responsive Service (D&R):** D&R is a shared ride curb-to-curb service with no trip type restrictions. Appointments may be taken up to seven days in advance and are taken on a space available basis. D&R is offered in Brazos, Burleson, Grimes, Houston, Leon, Liberty, Madison, Montgomery, Polk, Robertson, San Jacinto, Trinity, Walker, and Washington Counties, and in the cities of Lufkin and Nacogdoches.

**Park & Ride:** The Woodlands Express, Research Forest, Sterling Ridge, and the Conroe Park & Rides provide commuter bus service from Montgomery County into Downtown Houston. Destinations include the Texas Medical Center, Greenway Plaza, as well as the Central Business District of Houston. Gates open at 5:00 a.m. and are locked at 9:00 p.m. Park & Ride tickets must be purchased for this service, and buses are filled on a first come, first served basis. These buses only stop at designated locations. Buses are wheelchair accessible and in compliance with the Americans with Disabilities Act.

**Water Cruisers:** Six Waterway Cruisers travel along the Woodlands Waterway corridor. Along both sides of the corridor are businesses, restaurants, office buildings, hotels and urban residential. Cruisers are wheelchair accessible. Passengers can board at the designated stops every 45 to 60 minutes.

BTD also contracts with several social service agencies to provide demand responsive special needs transportation in the Brazos Valley.

BTD’s service area covers 13,333 square miles with a population of 932,441. The counties include Burleson, Grimes, Houston, Leon, Madison, Montgomery, Polk, Robertson, San Jacinto, Trinity, Walker, Washington, Brazos, Angelina, Liberty and Nacgdoches. Operations and maintence facilities are located in Bryan, Livingston, Lufkin, and Spring.

The demographics of BTD’s service area are shown in Table 1. As noted previously, Bryan/College Station is an urbanized area where the majority of the BTD employees reside.

BTD’s service area is comprised of White residents representing 79.1 percent of the total population. Hispanics are the largest minority group at 17.9 percent. Blacks follow at 11.8 percent and Asians represent 1.3 percent of the population. American Indians represent 1.0 percent while Alaska Native and Native Hawaiians/Pacific Islanders represent less than one percent of the total population.

**Table 1**

**Racial/ Ethnic Breakdown of the BTD Service Area**

2000 – U.S. Census

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Racial/ Ethnic Group** | College Station/ **Bryan Urbanized Area** | | BTD Service Area[[1]](#footnote-2) | |
| **Number** | **Percent** | **Number** | **Percent** |
| White | 150,745 | 75.2% | 737,995 | 79.1% |
| Black | 22,498 | 11.2% | 109,654 | 11.8% |
| American Indian and Alaska Native | 398 | 0.2% | 4,275 | 0.4% |
| Asian | 8,267 | 4.1% | 11,897 | 1.3% |
| Native Hawaiian/ Pacific Islander | 503 | 0.3% | 377 | 0.0% |
| Other Race | 13,740 | 6.9% | 53,275 | 8.4% |
| Two or More Races | 4,256 | 2.1% | 14,968 | 1.6% |
| Total Minority Population | 49,662 | 24.8% | 194,880 | 20.9% |
| Total Population | **200,407** | **100.0%** | **932,441** | **100%** |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Hispanic Origin\* | 39,583 | 19.8% | 120,742 | 17.9% |

\* Per the 2000 Census, people of Hispanic origin can be, and in most cases are, counted in two or more race categories.

At the time of the Compliance Review and according to BTD’s June 2009 Organization Chart, the President/Chief Executive Officer (CEO) was responsible for implementing the policies of the Board of Directors. The CEO and Director of External Audit reported to the Board of Directors.

BTD was organized under the following management structure that reported directly to the President/Chief Executive Officer:

* Executive Vice President/Deputy CEO
* General Counsel
* Chief Financial Officer
* Senior Vice President for Maintenance & Operations
* Vice President for Communications

The Equal Employment Opportunity Officer was the Executive Vice President & Chief Administrative Officer (CAO). Many of the EEO duties were the responsibility of the Director of Human Resources. The Director of Human Resources reported to the Executive Vice President who reported to the CEO on EEO matters.

According to BTD’s *June 2008 Workforce Analysis and Goals*, BTD had 150 employees and minorities represented nearly 40 percent of the total workforce, as follows:

* + Blacks – 32.7 percent
  + Hispanics – 6.1 percent

Females represented 46.9 percent of the workforce. No employees were members of a union because “collective bargaining” is statutorily prohibit because BTD is a political subdivision of the State of Texas and all staff of BTD are governmental employees.

At the time of the Compliance Review, BTD advertised its job openings on the Internet, on its in-house bulletin board and with local newspapers. BTD stated that it did not have a working relationship with community organizations.

v. scope and methodology

**SCOPE**

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 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.

9. Title I – ADA – All recipients of federal financial assistance are required to prohibit employment discrimination on the basis of disability, and whenever a complaint is made, to have a process to make a prompt investigation whenever a Compliance Review, report, complaint, or any other information indicates a possible failure to comply with the ADA.

**METHODOLOGY**

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

1. A copy of all personnel policy guides, handbooks, regulations, or other material, that governs employment practices.

2. A summary list of complaint or lawsuit filed against BTD, internally or externally, during the last three years (September 1, 2006 – August 31, 2009) 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 it is still open.

3. BTD’s most recent Affirmative Action Plan to include the following:

* Statement of Policy issued by the CEO
* Description of Policy dissemination mechanisms
* Designation of EEO Officer and responsibilities
* Utilization analysis (to include a workforce and availability analyses)
* Goals and timetables
* Assessment of employment practices
* Description of EEO monitoring and reporting system

4. A copy of notices utilized by BTD to inform employees of their right to obtain reasonable accommodation and any formal procedures to make such accommodation. Also, please provide a listing of requests for reasonable accommodations from applicants and employees for the past three years; please note if BTD granted the requests.

5. A list of all recruitment sources used during the last year, including the name and telephone numbers of contact persons.

6. A list of all organizations in the community representing minorities, women and persons with disabilities, including the name and telephone of the contact person.

7. A copy of the information given to employees regarding employer-sponsored on-the-job training or educational programs.

8. A copy of BTD’s current organization chart.

9. A copy of current job descriptions for BTD’s EEO Officer and other EEO staff.

10. Collective Bargaining Agreements covering the past three years for each bargaining unit, if applicable.

11. A listing of all job titles for which written examinations are conducted.

12. A listing of all job titles for which medical or physical examinations are conducted.

13. Procedures describing BTD’s EEO Monitoring and Reporting Systems.

14. A report on the results of BTD’s goals for the 2008 affirmative action plan (AAP) year. For goals not attained, a description of the specific good faith efforts made to achieve them.

15. Data on applicants/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, as well as the number of minority group and female applicants and hires.

16. 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.

17. 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.

18. 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.

19. Data on applicants/hires, promotions, terminations, demotions, suspensions and disciplinary actions for the past three years for persons with disabilities.

20. Utilization Analysis for the past two years prepared in accordance with FTA Circular 4704.1 Chapter III 2 d.

21. Goals and Timetables for the past two years prepared in accordance with FTA Circular 4704.1 Chapter III 2 e.

22. A description of the procedures and criteria used by BTD to monitor its subrecipients and contractors to determine compliance with FTA EEO requirements.

23. Copies of EEO Programs from subrecipients and contractors that employ 50 or more transit related employees.

BTD assembled some of the documents prior to the site visit and provided them to the Compliance Review team for advance review.

BTD’s site visit occurred October 19-21, 2009. The Entrance Conference was conducted at the beginning of the Compliance Review with BTD’s senior management staff 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 BTD’s Executive Vice President & CAO on behalf of the agency. The Review team also held discussions with BTD’s Executive Vice President & CAO regarding BTD’s EEO Program and its implementation.

Prior to the Review, BTD reported that there were no incidents of EEO complaints or lawsuits during the past three years. The Review Team queried BTD during the site visit and BTD confirmed there have been no formal or informal discrimination complaints filed internally or externally against BTD during the past five or six years.

The next day, interviews continued with the Directors of Administration and Human Resources and the Executive Vice President to learn about BTD’s employment practices, including recruitment, testing, hiring, promotions, transfers, discipline and terminations. On the third day, 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 and with interested parties who were not BTD employees but who may have been familiar with employment practices and complaints of discrimination. Interviews were also carried out with representatives of social service agencies and community-based organizations.

**Community Interviews**

The Review team had difficulty identifying appropriate community groups to interview because BTD had not established relationships with groups in the area representing persons with disabilities, minorities, or women. During the site visit, BTD did identify and met with a representative of a community group representing Hispanics. The Review team interviewed several individuals representing Hispanic and low income communities in the BTD service area. These individuals stated that they were aware of BTD’s job posting in their local newspapers; however, none recalled having received notifications from BTD regarding available job opportunities. None of those interviewed expressed a concern about BTD’s practice when it came to hiring, promoting, and disciplining persons without regard to race, color, age, sex, disability or national origin. No one had any knowledge of accusations of discrimination at BTD.

**Staff Interviews**

Twelve staff members were independently selected by the Review team for interviews. The staff members interviewed were an ethnically diverse group and included both men and women. Most of the staff members had been with BTD for several years. Most of the employee said that BTD was a very diverse organization that provided opportunity for promotion with no significant barriers. A few of them had received promotions during their employment at BTD.

Most of the staff interviewed could not identify who was the EEO Officer. All of the individuals had received information about Brazos’ EEO program either during employee orientation or as an insert in their pay check envelope.

A few individuals expressed a concern about Brazos lack of training and felt that the current process for evaluating employee complaints was not fair and objective. Some of these individuals expressed concerns about retaliation. Several of the staff had no knowledge of how to file a complaint or were to go to get information on how to file a complaint if they had one.

When asked for recommendations for improvement in the area of EEO, the staff suggested that additional training be offered to managers for the purpose of creating a more amiable work environment. It was also suggested that additional instructions be provided on what to do if one had a work-related issue and wanted to file a complaint.

At the end of the site visit, an Exit Conference was held with BTD’s senior managementstaff and the contractor Review team. At the Exit Conference, initial findings and corrective actions were discussed with BTD. A complete list of attendees at the EEO Compliance Review is included at the end of this report.

Following the site visit, BTD provided additional data and documents to the Review team that was used to complete this Compliance Review report.

1. Findings and recommendations

The EEO Compliance Review focused on BTD's compliance with nine specific requirements of FTA Circular 4704.1 and Title I of the ADA. This section describes the requirements and findings at the time of the Compliance Review site visit.

Deficiencies were identified in the following six areas: *Policy Statement,* *Dissemination, Designation of Personnel Responsibility, Goals and Timetables, Assessment of Employment Practices, and Monitoring and Reporting System*. Prior to the issuance of the Draft Report, BTD took corrective action to close the deficiencies in all of the areas.

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 BTD, no deficiencies were found with FTA requirements for Program Submission. BTD submitted its most recent EEO Program Update, entitled *BTD (The District) Equal Opportunity & Affirmative Action Plan, July, 2008,* to FTA on July 15, 2008. The Plan was comprised of the following areas:

* Equal Employment Opportunity Policy Statement
* Definitions
* Purpose
* Communication of the Plan
* BTD Management Responsibility
* Review and Revisions of Personnel Practices
* Workforce and Labor Market Analysis
* Goals and Timelines
* EEO Complaint Process

The FTA Region VI Regional Civil Rights Officer approved the BTD EEO Program Update through July 18, 2011.

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 BTD, deficiencies were found with FTA requirements for Statement of Policy. Prior to the site visit, BTD provided the Review team with its most recent its Equal Employment Opportunity Policy Statement, dated January 31, 2009 and issued by the CEO to all employees. The Policy Statement contained only two of the required elements of a Statement of Policy as described in FTA Circular C 4704.1 and shown in the table below.

During the site visit, the Review team received a revised copy of BTD’s *Equal Employment Opportunity Policy Statement* that included all of the FTA required elements. This Policy was to be included in the upcoming payroll documents to be distributed to hourly employees on October 22, 2009. Salaried employees would receive their notice with their early November payroll. BTD also posted the revised Policy Statement throughout the agency on October 20, 2009.

The following table lists the elements required to be in a Statement of Policy and whether each element can be found in BTD’s original and revised policy documents:

|  |  |  |
| --- | --- | --- |
| FTA C. 4704.1 Policy Statement Requirements | **BTD EEO Policy**  **Statement**  **January 31. 2009** | **BTD EEO Revised Policy**  **Statement**  **October 20, 2009** |
| Issued by CEO | Yes | Yes |
| Commitment to EEO | Yes | Yes |
| Undertake an Affirmative Action Program | No | Yes |
| EEO Program Assignment to Agency Executive | No | Yes |
| Management Personnel Share Responsibility | No | Yes |
| Applicants/Employees Right to File Complaints | No | Yes |
| Performance by Managers/Supervisors Evaluated | No | Yes |
| Successful Achievement Provides Benefits | Yes | Yes |

The corrective actions taken by BTD are sufficient to close all deficiencies in this area.

3. 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 BTD, deficiencies were found with FTA requirements for Dissemination. In its most recent EEO Program Update, entitled *BTD (The District) Equal Opportunity & Affirmative Action Plan, July, 2008* BTD described the internal and external dissemination of its EEO policy/program. The Plan stated the policy would be disseminated as follows:

*Internal Communications*

* *Memo from General Manager containing the Policy Statement sent annually to all employees*
* *EEO Postings will be made throughout BTD’s facilities and bulletin boards*
* *EEO Policy included in personnel policy (The District Handbook) manual*
* *Listed on all job applications*
* *Memo sent to supervisors informing them of their responsibilities*
* *Special meetings held annually with supervisory personnel*
* *The Director of Human Resources reviews the “District” handbook (containing the EEO requirements) during the new employees’ orientation*

*External Communications*

* *All employment advertisements will contain the words “An Equal Opportunity/Affirmative Action Employer”*
* *All employment applications will contain the EEO clause*
* *Notification letter sent to all vendors, suppliers and supply contractors with whom The District does business.*

During the site visit, BTD provided documentation to show that it did disseminate its

Policy internally as described in its EEO Program. BTD provided the Review team with copies of:

* Memo to all employees, dated January 31, 2009 with the EEO Policy
* *The District Handbook* containing an EEO Policy
* *Attendance Roster For Supervisory Training* that documented discussions of the EEO & AA Plan during the meeting
* EEO Policy Statement posted on employee bulletin boards
* Its employment application containing the EEO clause.

Prior to the conclusion of the site visit, BTD developed and distributed a memo to all supervisory employees advising them of their EEO responsibilities, in accordance with BTD’s *Equal Employment Opportunity and Affirmative Action Plan, July 2008*.

With respect to external dissemination, BTD was able to document that it had posted its EEO Policy on its website and included the EEO Policy on its *Application for Employment*. BTD did not send notification letters to vendors and others with whom it was doing business, as indicated in the Plan. BTD was also unable to document that it disseminated its Policy to the local minority, women or community organizations, as suggested in FTA C. 4704.1, III, b. (2):

*The agency should disseminate its EEO policy and programs to regular recruitment sources, such as:*

*(a) Employment agencies; hiring halls; unions; educational institutions; minority, disability, and women’s organizations; civil rights organizations; community action groups; training organizations; and others who refer applicants.*

Prior to the issuance of the Draft Report, BTD submitted documentation that it had externally disseminated the revised Policy to the following recruitment sources:

|  |  |
| --- | --- |
| **Automotive Trade School**  Universal Technical Institute  721 Lockhaven Drive  Houston, Texas 77073-5515 | **WorkForce Solutions Angelina County**   210 N. John Redditt   Lufkin, TX 75904   Phone 936-639-1351 |
| T**emporary Agency**  WillStaff Worldwide   1101 University Drive East  College Station, Texas 77840  Phone: 979-268-4242 / Fax: 979-268-8821 | **BV-MHMR**   www.mhmrabv.org   Bill Kelly, Executive Director   1504 Texas Avenue   Bryan, Texas 77802   Phone: 979-361-9840 / Fax: 979-361-9806 |
| **WorkForce Solutions Brazos Valley**  P.O. Drawer 4128  3991 East 29th Street  Bryan, Texas 77802  Phone: 979.595.2801 / Fax: 979.595.2810 | **Newspapers :**  **The Eagle**   Bryan-College Station Communications   1729 Briarcrest Drive   P.O. Box 3000   Bryan, TX 77802   979-776-4444 |
| **Twin City Mission**   www.twincitymission.org   Wynne Clark, Executive Director   PO Box 3490   Bryan, Texas 77805-3490   Phone: 979-822-7511 / Fax: 979-822-2674 | **The Lufkin Daily News**   Elizabeth Adams, Business Manager   300 Ellis at Herndon   Lufkin, Texas 75901   Nacogdoches Daily Sentinel |
| **WorkForce Solutions Nacogdoches County**  2103 South Street  Nacogdoches, TX 75964  Phone 936-560-1441 | **Conroe Courier**  Andy Dubois, Managing Editor  100 Avenue A  Conroe, TX 77301  Phone: 936.521.3300 |
| **WorkForce Solutions Polk County**  205 E. Polk   Livingston, TX 77351   Phone 936-327-5421 | **Polk County Enterprise**  P.O. Box 1276  Livingston, Texas 77351  Phone: 936-327-4357 |
| **Brazos Valley Community Action Agency, Inc**   www.bvcaa.org   Karen M. Garber, Executive Director   [kgarber@bvcaa.org](http://thedmpgroup.com/openwebmail/cgi-bin/openwebmail-send.pl?sessionid=maxine.marshall*thedmpgroup.com-session-0.97394435021943&folder=INBOX&page=1&sort=date_rev&msgdatetype=sentdate&keyword=&searchtype=subject&action=composemessage&message_id=%3C4AE091BE.000037.02820%40KB-LAPTOP%3E&compose_caller=read&to=kgarber@bvcaa.org)   1500 University Drive East   College Station, Texas 77840   Phone: 979-846-1100 | **League of United Latin American Citizens (LULAC)**  Bryan LULAC Council #4689  Bryan, TX 77806  Phone: 979-739-9707 |

The corrective actions taken by BTD are sufficient to close all deficiencies in this area.

4. 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 BTD, deficiencies were found with FTA requirements for Designation of Personnel Responsibilities. The Program Guidelines of FTA Circular 4704.1 Chapter III, 2c states:

*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*.

At the time of the site visit, the Executive Vice President/ Deputy CEO was designated in the *BTD (The District) Equal Opportunity & Affirmative Action Plan, July, 2008* as the EEO Officer. This position reported to the CEO. The Plan also indicated that the Director of Human Resource was responsible for EEO duties and responsibilities. In its initial submittal of responses to the Compliance Review agenda letter information request, BTD provided a “*Position Description for Executive Vice President/Deputy CEO*” and “*Position Description For Director of Human Resources”.* Neither the position description for the Director of Human Resources, nor the Executive Vice President/Deputy CEO, included a designation of EEO Officer nor a list of all of the responsibilities as outlined in FTA Circular 4704.1.

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 is expected to carry out as part of his/her job. During the site visit, BTD revised the Position Descriptions for both the Executive Vice President/Deputy CEO and the Director of Human Resources to include all of the program responsibilities for the EEO Officer as outlined in FTA guidelines. The following table identifies the responsibilities contained in the original and revised BTD Position Descriptions:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **EEO Officer Program Responsibilities**  (FTA Circular 4704.1 III.2.c) | **BTD Position Descriptions** | | | |
| **Executive Vice President/ Deputy CEO** | **Revised Executive Vice President/ Deputy CEO** | **Director of Human Resources** | **Revised Director of Human Resources** |
| Develop EEO Policy/Program | Yes | Yes | Yes | Yes |
| Assist Management in Data Needs, Setting Goals and Timetables, etc. | Yes | Yes | **No** | Yes |
| Internal Monitoring and Reporting System | Yes | Yes | Yes | Yes |
| Reporting Periodically to CEO on EEO Progress | **No** | Yes | Not Specified | Not required |
| Liaison to Outside Organizations/Groups | Yes | Yes | Yes | Yes |
| Current Information Dissemination | Yes | Yes | Yes | Yes |
| Recruitment Assistance/Establish Outreach Sources | **No** | Yes | No | Yes |
| Concur in All Hires/Promotions | **No** | Yes | Not Specified | Not required |
| Process Employment Discrimination Complaints | Yes | Yes | Yes | Yes |

In the *BTD (The District) Equal Opportunity & Affirmative Action Plan, July, 2008,* the Executive Vice President was designated as BTD’s EEO Officer and reported directly to the President and CEO on all EEO matters. However, other than inclusion in this document, the Executive Vice President/Deputy CEO was not identified as the EEO Officer in any documents. As was determined in the staff interviews conducted during the site visit, most of the staff did not know who the EEO Officer was. Prior to the conclusion of the site visit, BTD issued a revised EEO Policy Statement to all employees and that was posted internally that identified the Executive Vice President/Deputy CEO as being the EEO Officer. The identity of the EEO Officer was also included in a posting to be distributed to recruitment sources and community groups.

The corrective actions taken by BTD are sufficient to close all deficiencies in this area.

5. 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 BTD, no deficiencies were found with FTA requirements for Utilization Analysis.

Prior to the Compliance Review, BTD provided the Review team with a copy of its most recent workforce utilization analysis for 2008. The document was titled *Brazos Transit District Workforce Analysis and Goal, June 2008*. The BTD Utilization Analysis showed the workforce by:

* Categories/Job Groups
* Gender
* Ethnicity
* Availability
* Number of Employees in each Category/Job Group

Key findings of the 2008 utilization analysis showed:

* Hispanics were the most underrepresented group. Hispanics represented 6.12 percent of the workforce but ten percent of the available workforce population.
* No Hispanics were represented in 20 managerial or five professional positions in the agency.
* Women represented 47 percent of BTD’s workforce with white female representing 27 percent of that group. Women represented 49 percent of the available workforce.

BTD did a Job Group Analysis by 23 different job categories. While the utilization analysis met the Circular requirements, its workforce grouping resulted in only one or two individuals in a designated job category. In these categories there was always over or under utilization that would be impossible to remedy. It was recommended that BTD utilize the EEO-1 job categories, e.g., Officials & Managers, Professionals, Technicians, Operators, Office and Clerical, Mechanics, Dispatchers, Laborers (unskilled) and Service Workers, and reclassify BTD’s current workforce to determine areas of underutilization. The Review Team did a preliminary reclassification and created the following workforce analysis:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Job Category** | **# of Positions** | **White Male** | **White Female** | **Black Male** | **Black Female** | **Hispanic Male** | **Hispanic Female** |
| Officials & Managers | 20 | 11 (55%) | 6 (30%) | 1 (5%) | 2 (10%) | 0 | 0 |
| Professionals | 5 | 2 (40%) | 1 (20%) |  | 2 (40%) | 0 | 0 |
| Operators | 92 | 26 (28%) | 25 (27%) | 18 (19%) | 18 (19%) | 1 (1%) | 4 (4%) |
| Office & Clerical | 3 | 0 | 2 (67%) | 0 | 0 | 0 | 1 (33%) |
| Mechanics | 16 | 11 (69%) | 0 | 3 (18%) | 0 | 2 (13%) | 0 |
| Dispatchers | 8 | 0 | 6 (75%) | 0 | 2 (25%) | 0 | 0 |
| Laborers | 3 | 0 | 0 | 2 (67%) | 0 | 1 (33%) | 0 |
| Total BTD | 147 | 50 (34%) | 40 (27%) | 24 (16%) | 24 (16%) | 4 (3%) | 5 (3%) |
| Area Workforce |  | 39% | 40% | 6% | 4% | 6% | 4% |

BTD based its employment availability percentages on the populations of the counties near where the positions were located. This can include a very large area, of up to 16 counties.

6. 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 BTD, deficiencies were found with FTA requirements for Goals and Timetables. The Program Guidelines of FTA Circular 4704.1 Chapter III, 2e states:

*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.*

*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, BTD provided information regarding its 2008 goals. The information stated that:

*BTD employs 150 staff members. Of those employees 27.21% are white women, 6.12 percent are Hispanic (male & female combined) and 32.65 are Black (male and female combined). Positions across the board are held by minority and women employees. To maintain a diversified workforce, as positions become vacant we will continue to implement current employment practices that encourage women and minorities to apply for available positions.*

BTD had not identified goals and timetables in accordance with the requirements of the Circular. During the site visit, the Review team discussed underutilization of Hispanics in the Officials & Managers and Professional categories.

Prior to the issuance of the Draft Report, BTD submitted short term numerical and long-term percentage goals, as described in FTA Circular 4704.1. III.2.e. The goals included the hiring of four Hipanic males as bus or boat operators and one Hispanic

male in the officials/manager category.

The corrective actions taken by BTD are sufficient to close all deficiencies in this area.

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 BTD, deficiencies were found with FTA requirements for Assessment of Employment Practices. BTD did not document that it had periodically 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.*

In its EEO and AA Plan, BTD included a limited qualitative analysis of employment practices, but did not identify any barriers, such as addressing why BTD received a very limited number of job applications from Hispanics. Another employment practice that should be assessed is the high turnover rate. During the past three years, BTD reported that it had hired 150 persons. This could contribute to limited promotional opportunities for minorities. The entire BTD workforce was less than 150 persons. Most of the turnover was in the bus operator category.

During the Compliance Review, BTD compiled the data needed to conduct the quantitative analyses described above. It did not analyze the results and determine if there was any disparate treatment. The examination of the data by the Review team did not identify disparate treatment in the areas of applications/hires; promotions; salary or terminations. Data was not made available on the administration of discipline, by race/ethnicity and gender.

Prior to the issuance of the Draft Report, BTD submitted a qualitative and quantitative analyses of employment practices as described in FTA Circular 4704.1. III.2.f. The assessement addressed compensation, terminations, new hires and promotions and discipline. No disparities were identified in these personnel actions.

The corrective actions taken by BTD are sufficient to close all deficiencies in this area.

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 BTD, 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.*

BTD reported that informal meetings were held between periodically between the EEO Officer and the Director of Human Resources to discuss EEO issues. As EEO issues came up, such as the lack of diversity in a specific department, these were brought to the attention of the CEO. BTD also noted that an identification of a lack of diversity in hiring from supervisors led to beginning the 2008 supervisory meeting that included addressing the EEO requirements. This action evidenced that there were some ongoing efforts to monitor and remedy EEO concerns. However, no documentation was presented to show that BTD was periodically monitoring and reporting on EEO program accomplishments. BTD does have one contractor, Gulf Coast Transportation that operated BTD’s commuter express service from park & ride lots in The Woodlands into downtown Houston. This contractor has 35 “transit-related” employees and BTD had on file a detailed and current EEO Program for the private contractor.

Prior to the issuance of the Draft Report, BTD submitted a procedure for monitoring and reporting on EEO program accomplishments and identifying units that are not meeting EEO goals in accordance with FTA Circular 4704.1, Chapter III, 2.g. The procedure is:

*The EEO Officer and the Director of Human Resources will formally meet semiannually (June and December) to monitor the progress of EEO/AA program. Items to be reviewed will include EEO goal achievement, hiring, promotions, involuntary terminations, complaints, written warnings, and disciplinary actions, and areas that need improvement. A memo of the results of the meetings will be distributed to senior management detailing the goals attained and the areas than need improvement.*

The corrective actions taken by BTD are sufficient to close all deficiencies in this area.

1. Title I of the Americans with Disabilities Act

**Requirement**: Title I of the Americans with Disabilities Act (ADA) requires all recipients of federal financial assistance to prohibit discrimination on the basis of disability, and whenever a complaint is made, to have a process to make a “prompt investigation whenever a Compliance Review, report, complaint, or any other information indicates a possible failure to comply” with the ADA.

**Finding**: During this Compliance Review of BTD, no deficiencies were found with FTA requirements for Title I of the ADA. BTD included persons with disabilities as a protected group in its Equal Opportunity Policy as well as in information given to potential applicants on the BTD website regarding BTD making reasonable accommodation to applicants with disabilities. The website stated that information and assistance could be obtained from the BTD’s Director of Human Resources. BTD did not have a written policy on reasonable accommodation but it did describe that it had accommodated employee requests for accommodations in the past.

VII. SUMMARY OF FINDINGS

| **Requirements of**  **FTA Circular 4704.1** | **Site Review Finding** | **Description of Deficiencies** | **Corrective Actions** | **Response Days/ Closed Date** |
| --- | --- | --- | --- | --- |
| 1. Program Submission | ND |  |  |  |
| 2. Statement of Policy | D | Policy lacks required elements | Revise and re-issue policy statement to include all required elements contained in FTA C. 4704.1 | Closed  10/21/09 |
| 3. Dissemination | D | Inadequate external dissemination of policy | Provide documentation of external dissemination of policy | Closed 10/23/09 |
| 4. Designation of Personnel Responsibility | D | Inadequate designation of personnel responsibility | Identify EEO Officer in Policy Statement; add responsibilities to Exec. VP position description | Closed  10/21/09 |
| 5. Utilization Analysis | ND |  |  |  |
| 6. Goals and Timetables | D | Inadequate short term goals | BTD must submit to the FTA Office of Civil Rights, short term numerical, and long-term percentage goals as described in FTA Circular 4704.1. III.2.e. | Closed 11/18/09 |
| 7. Assessment of Employment Practices | D | No documentation of qualitative or quantitative assessment of employment practices | BTD must submit to the FTA Office of Civil Rights, qualitative and quantitative analyses of employment practices as described in FTA Circular 4704.1. III.2.f. | Closed 11/18/09 |
| 8. Monitoring and Reporting System | D | Inadequate documentation of monitoring and reporting system | BTD must submit to the FTA Office of Civil Rights, a procedure for monitoring and reporting on EEO program accomplishments and identifying units that are not meeting EEO goals in accordance with FTA Circular 4704.1, Chapter III, 2.g. | Closed 11/18/09 |
| 9. Title I of the ADA | ND |  |  |  |

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

VIII. attendees

| **NAME** | **TITLE/**  **ORGANIZATION** | **PHONE** | **E-MAIL** |
| --- | --- | --- | --- |
| John McBeth | President and CEO, Brazos Transit District (BTD) | (979) 778-0607 | [john@btd.org](mailto:john@btd.org) |
| Margie Lucas | Executive VP and Deputy CEO, BTD | (979) 778-4494 | [mlucus@btd.org](mailto:mlucus@btd.org) |
| Kristine Box | Director of Administration,  BTD | (979) 778-0607 | [Kristine@btd.org](mailto:Kristine@btd.org) |
| Linda Shirley | Director of Human Resources, BTD | (979) 778-4486 | [Linda@btd.org](mailto:Linda@btd.org) |
| Wendy Dickey | Director of Marketing & Quality Assurance, BTD | (979) 778-0607 | wendy@btd.org |
| Maxine Marshall | Lead Reviewer, DMP | 504 282-7949 | maxine.marshall@thedmpgroup.com |
| Clinton Smith | Reviewer, DMP | 504 382-3760 | clinton.smith@thedmpgroup.com |
| Khalique Davis | Reviewer, DMP | 412-952-9007 | Khalique.davis@thedmpgroup.com |

1. Counties of Burleson, Grimes, Houston, Leon, Madison, Montgomery, Polk, Robertson, San Jacinto, Trinity, Walker, Washington, Brazos, Angelina, Liberty and Nacgdoches [↑](#footnote-ref-2)