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**EQUAL EMPLOYMENT OPPORTUNITY**

**COMPLIANCE REVIEW**

**OF**

**Connecticut Department of Transportation**

**(ConnDOT)**

**Newington, Connecticut**

**Final Report**

**September 2011**

**Prepared For**

**U.S. DEPARTMENT OF TRANSPORATION**

**FEDERAL TRANSIT ADMINISTRATION**

**OFFICE OF CIVIL RIGHTS**

**Prepared By**

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i. General Information

Grant Recipient: Connecticut Department of Transportation (ConnDOT)

City/State: Newington, CT

Grantee Number: 1401

Executive Official: Mr. Joseph F. Marie

Commissioner

Connecticut Department of Transportation (ConnDOT)

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Newington, Connecticut 06131-7546

On Site Liaison: Diane Donato

Equal Employment Opportunity Director

Connecticut Department of Transportation

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Site Visit Dates: December 7 – 9, 2010

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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.”

Connecticut Department of Transportation (ConnDOT) 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 ConnDOT’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 ConnDOT’s “Equal Employment Opportunity Program” was necessary.

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

iv. Background information

The mission of the Connecticut Department of Transportation (ConnDOT) is to provide a safe, efficient, and cost-effective transportation system that meets the mobility needs of its users.

ConnDOT is organized into the following Bureaus:

* Aviation and Ports
* Engineering and Highway Operations
* Finance and Administration
* Policy and Planning
* Public Transportation

The Governor of Connecticut has designated ConnDOT as the recipient of all FTA funds for rural areas statewide, as well as for the urbanized areas of Hartford, New Haven, Stamford, New Britain, Waterbury, Meriden, Bristol, and Wallingford. The Bureau of Finance and Administration is responsible for grants administration, capital planning, and equal opportunity and diversity for the entire DOT.

The Bureau of Public Transportation is responsible for all service and planning decisions for rail, fixed-route bus and complementary paratransit services in the urbanized and rural areas of the state. The Bureau of Public Transportation is organized into two primary units:

* Office of Rail – Administers subsidies used to fund two commuter rail services: the New Haven Line and the Shore Line East (SLE).
* Office of Transit and Rideshare – Administers Connecticut Transit (CTTransit). CTTransit is a state-run transit system operated under contract in eight urbanized areas: Hartford, New Haven, Stamford, Waterbury, New Britain, Meriden, Bristol, and Wallingford. ConnDOT has a contract with First Transit to operate in Stamford, New Haven, and Hartford, and with other private providers for services in New Britain, Bristol, Waterbury, Meriden, and Wallingford. In all eight of these service areas, the state is fully responsible for all operating deficits and capital costs. The state owns the vehicles and transit facilities in Hartford, New Haven, and Stamford, as well as those operated by Southeast Area Transit (SEAT) providing service in Eastern Connecticut in the towns of New London, Groton, and Norwich. CTTransit bus fares and services are subject to state control. CTTransit-branded services carry about 80 percent of the annual statewide bus ridership.

In addition, rural transit service funding is provided to five subrecipients: Estuary Transit District, Middletown Transit District, Northeastern Connecticut Transit District, Northwestern Connecticut Transit District, and the Windham Region Transit District.

The State of Connecticut is divided into eight counties and further divided into 169 towns, 21 cities, and nine boroughs. It covers 5,018 square miles and had a 2000 population of 3,405,565.

A demographic profile of the state from the 2000 Census, as presented on the following table, shows that 81.7 percent of the population is White non-Hispanic, 9.4 percent is Hispanic, 9.1 percent is Black and 2.5 percent is Asian.

**Racial/ Ethnic Breakdown of the State of Connecticut**

2000 – U.S. Census

|  |  |  |
| --- | --- | --- |
| **Racial/ Ethnic Group** | State of Connecticut **Total/**  **Percent** | United States of AmericaTotal/Percent |
| White | **2,780,355**  81.7% | **211,460,626**  75.1% |
| Black | 309,8439.1% | **34,658,190**  12.3% |
| American Indian and Alaska Native | **9,639**  0.3% | **2,475,956**  0.9% |
| Asian | **82,313**  2.5% | **10,242,998**  3.6% |
| Native Hawaiian/Pacific Islander | **1,366**  0.1% | **398,835**  0.1% |
| Two or More Races | **74,848**  2.2% | **6,826,228**  1.6% |
| Total Population | **3,405,565** | **299,398,484** |

|  |  |  |
| --- | --- | --- |
| Hispanic Origin\* | **320,323**  9.4% | **35,305,818**  12.5% |

\* Per the 2000 Census, people of Hispanic origin can be, and in most cases are,

counted in two or more race categories.

In accordance with FTA Circular 4704.1 Chapter II, ConnDOT submitted its EEO program directly to the Federal Highway Administration (FHWA) for review and approval, with a copy provided to FTA’s Region I Civil Rights Officer. In addition, the obligations set forth by FTA Circular 4704.1 are to be delegated to any contractor/subcontractor that operates service on behalf of a recipient and who meets the threshold requirements of employing 50 or more transit-related employees and receiving more than $1 million in FTA funding. ConnDOT has five contractors who qualify as being required to provide EEO Programs on behalf of ConnDOT, and these are:

* National Railroad Passenger Corporation (Amtrak)
* H. N. S. Management Company, Inc. (HNS)
* North East Transportation Company, Inc. (NET)
* DATTCO
* MTA Metro North Railroad (Metro North)

ConnDOT is not the primary FTA recipient responsible for reviewing and approving Metro North’s EEO Program because, in addition to the funds received from ConnDOT, Metro North is also a direct recipient of FTA funds, as an agency of the Metropolitan Transportation Authority (MTA) of New York. MTA is required to submit an Equal Employment Opportunity/Affirmative Action Plan (EEO/AAP) to the FTA Region II Civil Rights Officer for all of its operating agencies, including Metro North.

Amtrak, HNS, NET, and DATTCO are ConnDOT contractors that meet the EEO Program threshold requirements of 50 or more transit-related employees and more than $1 million in FTA funding. These agencies are required to submit their EEO Programs, developed in accordance with FTA Circular 4704.1 Chapter III, to ConnDOT for review and approval. ConnDOT is required to have copies of the EEO Programs available upon request.

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.

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

|  |
| --- |
| **Documents Requested for the EEO Compliance Review** |
| **0. Background** |
| 1. List of ConnDOT contractors and subrecipients that employ more than 50 transit- related employees and receive more than $1M in FTA funding. |
| 1. Summary Listing of EEO Complaints and Lawsuits against ConnDOT and its contractors and subrecipients during the last three years (October 1, 2007 – September 30, 2010) 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. A list of organizations in the communities served by ConnDOT and its subrecipients representing minorities, women, and persons with disabilities, including the name and telephone numbers of contact persons. |
| 1. Collective Bargaining Agreements covering the past three years for each bargaining unit, if applicable. |
| **Please provide the following items for:**  **CTTRANSIT (all Divisions and/or contractors) and South Shore Line (Amtrak)** |
| **1. Program Submission (FTA C. 4704.1.II, 5.)** |
| 1. Copy of Affirmative Action/ EEO Program |
| Copy of ConnDOT approval letters, if available |
| **2. Statement of Policy (FTA C. 4704.1.III, 2.a.)** |
| Copy of EEO Policy issued by CEO |
| 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 copy of the information given to employees regarding employer-sponsored training. |
| 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. 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 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. ConnDOT’s Monitoring and Reporting (FTA C. 4704.1.III, 2.g.)** |
| 1. A description of the procedures and criteria used by ConnDOT to monitor its subrecipients and contractors to determine compliance with FTA EEO requirements. |
| 1. Copies of EEO Programs from all subrecipients and contractors (other than CTTRANSIT and Shore Line) that employ 50 or more transit-related employees. |

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

The EEO Compliance Review site visit at ConnDOT occurred December 7 – 9, 2010. The Entrance Conference was conducted at the beginning of the Compliance Review with ConnDOT’s EEO Office and management staff and representatives of its contractors, including:

* H. N. S. Management Company, Inc. (HNS)
* North East Transportation Company, Inc. (NET)
* DATTCO
* National Railroad Passenger Corporation (Amtrak)

FTA Headquarters staff and the Contractor Review team led the meeting. During the Entrance Conference, FTA and the Review team explained the goals of the Review and the needed cooperation of the contractors and ConnDOT’s 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 ConnDOT’s EEO Director on behalf of NET, Amtrak and HNS. ConnDOT had only recently obtained an EEO Program from DATTCO and did not provide that information to the Review team in advance. The Review team also held discussions with representatives from each of the agencies present regarding their EEO Programs and ConnDOT process for approving their EEO programs.

The next day, on-site interviews were conducted at HNS and NET offices with members of the agencies’ staff to learn about each agency’s employment practices, including recruitment, testing, hiring, promotions, transfers, discipline 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 of HNS’ Hartford and New Haven offices, and NET’s office in Waterbury.

**Staff Interviews**

Twelve staff members employed by two of ConnDOT’s contractors (HNS and NET), were independently selected by the Review team for interviews. The staff members selected were an ethnically diverse group and included both men and women and hourly and salaried employees. Staff members’ tenure with ConnDOT contractors ranged from between two and thirty years. Most employees said that their company was a diverse organization that provided opportunities for promotion with no significant barriers. Some had received promotions during their tenure.

The general consensus at each contractor was that there was little or no knowledge of who the EEO Officers were or what EEO’s role was within the organization. Many had no idea what the letters EEO represented. When EEO was explained in more detail, several recalled receiving some information and training on sexual harassment. Some had a vague recollection that diversity was discussed as part of the orientation for new employees. However, most staff members had no knowledge of receiving any EEO or diversity training. It should be noted that many of the staff members had been with the agency greater than ten years. Some were aware of the federal EEO posters seen at various areas throughout the facility, but few had seen or were aware of the agency’s EEO Policy Statement.

A few staff members, including some at the supervisory level, were aware that internal complaints could be filed through one of the EEO Officers. None of the staff members were aware that external discrimination complaints could be filed with an external agency.

Most believe that supervisory positions did not have barriers, but specific concerns were raised regarding promotions and harassment in the bus operations departments. One individual recalled hearing about some issues regarding the lack of women as Transportation Supervisors but acknowledged that he was not fully aware of the details of the issues.

Most of the staff expressed an interest in receiving additional information about the EEO Officers and the role of EEO in the company. Some also expressed a desire to know the company’s statement on discrimination and the procedure to file a complaint. None of the individuals interviewed mentioned having concerns about any specific complaints regarding EEO matters other than one who stated a desire to see the complaint process time shortened.

Several thought that updated and targeted diversity training would also be helpful. Almost all of the staff members interviewed thought that an annual update on EEO would be helpful. Other expressed recommendations were:

* To make the program better known to the agency.
* Make people comfortable bringing up issues as they arise. Several interviewed expressed a reluctance to bring a concern to the HR department or a supervisor who controlled their jobs.
* To institute an online course on diversity.
* To have the EEO Officers attend the bus operators’ annual meetings and provide information on EEO.

1. Findings and recommendations

The EEO Compliance Review focused on ConnDOT’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 and subsequent to the site visit.

At the 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.

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 ConnDOT, deficiencies were found with FTA requirements for Program Submission. The Program Guidelines of FTA Circular 4704.1 Chapter II, 3c state:

*All subrecipients will be responsible for complying with the EEO objectives contained in this circular. UMTA recommends that designated State agencies request EEO programs from their subrecipients as specified in this circular. This will enable designated State agencies to determine if subrecipients are in compliance with UMTA EEO objectives.*

ConnDOT affirmed that none of its public (Sections 5311, 5316 or 5317) subrecipients met the EEO Program thresholds. ConnDOT had contractual agreements with four service contractors (subrecipients) that received in excess of $1 million in capital or operating assistance in the previous Federal fiscal year and had over 50 employees. The contractors were HNS, Amtrak, DATTCO, and NET. Prior to the site visit, ConnDOT provided the Review Team with EEO Programs and supporting documents from three of the contractors:

* Amtrak
* HNS
* NET

The documentation included the submittal of their EEO/AAP, ConnDOT’s request for additional information, and the contractors’ response to those requests. ConnDOT also provided a copy of letters, dated September, 16 2010, from ConnDOT’s EEO Director to Amtrak, HNS, and NET approving their EEO Programs. No information was provided for DATTCO prior to the site visit. During the site visit, ConnDOT informed the Review team that DATTCO’s EEO Program had been received in their office the previous week. ConnDOT had not completed its review of the Program as of the conclusion of the site visit. DATTCO’s EEO Program was submitted to the Review team after the site visit and after revising its utilization analysis and goals, using formats provided by FTA, the program adequately met FTA requirements.

Amtrak’s EEO Program, entitled, *National Railroad Passenger Corporation, Amtrak, Northeast Division (Transportation), FY2010 Functional Affirmative Action Plan*, was developed according to 41 CFR 60-2. It was determined that Amtrak’s plan did not contain all the required elements according to FTA Circular 4704.1. For example, the plan did not include a section on the internal and external dissemination of agency’s EEO policy. The EEO Programs approved by ConnDOT for HNS and NET contained sections covering all of the required elements to be included in an EEO Program according to FTA Circular 4704.1. However, as will be documented in the following sections of this report, NET’s programs did not fully reflect the Circular requirements.

Subsequent to the site visit, NET provided a revised 2009 Affirmative Action Plan. The revision was dated January 11, 2011 and fully met FTA requirements.

Amtrak responded to the deficiencies in this area by stating that:

*Our current affirmative action program is a national program structured in a functional arrangement as part of a special agreement with the OFCCP, who requires submission only upon request. Although we do not prepare state based affirmative action plans, to address the deficiency, we will explore appropriate EEO submission applicable to the state of Connecticut as required.*

It should be noted that a FTA EEO Program is required for FTA-funded services operated by Amtrak under contract in other states, including Maryland and California.

**Corrective Action and Schedule**: Within 120 days, ConnDOT must submit to the FTA Office of Civil Rights an Affirmative Action Plan for Amtrak that contains all the required elements according to FTA Circular 4704.1.

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 ConnDOT, deficiencies were found with FTA requirements for Statement of Policy. Prior to the site visit, ConnDOT provided copies of the 2009 EEO Policy Statements for HNS, Amtrak, and NET. The following table lists the elements required to be in a Statement of Policy and whether the element was found in the contractors’ policy statement:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Contractor EEO Policy Statements** | | | | |
| FTA C. 4704.1 Policy Statement Requirements | **HNS** | **Amtrak** | **NET** | **DATTCO** |
| Issued by CEO | No | No | Yes | Yes |
| Commitment to EEO | No | Yes | Yes | Yes |
| Undertake an Affirmative Action Program | No | Yes | Yes | Yes |
| EEO Program Assignment to Agency Executive | No | Yes | Yes | Yes |
| Management Personnel Share Responsibility | No | Yes | Yes | Yes |
| Applicants/Employees Right to File Complaints | No | No | No | Yes |
| Performance by Managers/Supervisors Evaluated | No | Yes | No | Yes |
| Successful Achievement Provides Benefits | No | Yes | No | Yes |

As shown above, none of the policy statements contained all the required elements. However, in letters dated September 16, 2010, ConnDOT approved the contractor’s plans, including the Policy Statements. During the site visit, DATTCO provided a copy of its EEO Statement of Policy. Upon review, it was determined that all of the required elements were found in DATTCO’s EEO Statement of Policy. Amtrak’s Policy Statement contained most of the required elements, but was not issued by the CEO. A file entitled, “Amtrak Communications” provided by ConnDOT prior to the site visit, included a letter dated August 31, 2010, written by ConnDOT’s EEO Director, in response to Amtrak’s 2010 EEO/AAP submitted for approval. The second page of the document stated:

*In response to 2(a) Statement of Policy, please note the following:*

*The “Equal Employment Opportunity: It’s Your Job” letter (hereinafter referred to as EEO Letter) is not meant to replace the policy statement, but rather complement our equal employment opportunity policy by reiterating Amtrak’s prohibition of discrimination and harassment, and is prominently displayed and disseminated throughout Amtrak.*

The “Equal Employment Opportunity: It’s Your Job” document referenced above was included in Amtrak’s EEO Program and was posted with the Policy Statement.

Following the site visit, NET and HNS submitted revised EEO Policy Statements. NET’s Policy Statement was included as part of its revised EEO Program. The new Policy Statements were issued by the CEO and contained all the required elements. The new Policy Statements have been distributed throughout the companies.

Amtrak responded that it would update both the Equal Employment Opportunity and Affirmative Action Policy Statement and will incorporate the Policy into its affirmative action plan.

**Corrective Action and Schedule**: Within 120 days, ConnDOT must submit to the FTA Office of Civil Rights an EEO Policy Statement for Amtrak that contains all the required elements according to FTA Circular 4704.1.

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 ConnDOT, deficiencies were found with FTA requirements for Dissemination. The EEO Programs for HNS and NET included sections detailing the agencies’ policies for the internal and external dissemination. Prior to the site visit, HNS provided documentation demonstrating the internal and external dissemination of its EEO Policy. Copies of public advertisements were provided along with a list of minority organizations that received the Policy. During the site visit, NET was not able to provide documentation of the internal or external dissemination of its EEO Policy.

The 2010 *Functional Affirmative Action Plan* (FAAP) for Amtrak did not include

a section or discussion covering the dissemination of the EEO Policy, as previously discussed. However, Amtrak provided the following descriptions of how it disseminates its EEO commitment:

* *Amtrak notifies recruitment sources of our policy on non-discrimination using various formats, but does not use the policy statement or EEO letter itself. Examples may include flyers, email notifications, brochures, advertisements or other forms of media, all of which include statements regarding Amtrak’s equal employment opportunity policy.*
* *The EEO letter, as well as federal and state EEO posters, are disseminated throughout Amtrak via local contacts per area by way of mail, email and/or facsimile, and are prominently displayed in all common employee areas including break rooms, cafeterias, lobbies, office & kitchen bulletin boards, etc. In addition, local contacts assist in site inspections to ensure updated EEO posters and related notices are prominently displayed.*

Following the site visit, NET provided a revised EEO Program that included an internal dissemination listing for 2010. However, the list of external agencies was not provided, nor was documentation that the policy had been disseminated externally.

**Corrective Action and Schedule**: Within 120 days, ConnDOT must submit to the FTA Headquarters Office of Civil Rights documentation that NET has disseminated its EEO Policy externally to recruitment sources, local minority and women’s organizations, community agencies, and community leaders.

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 ConnDOT, 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*.

Prior to the site visit, ConnDOT provided the Review team copies of the EEO Programs for three of its contractors, HNS, Amtrak and NET, which contained information on the duties and reporting relationship of the EEO Officers. During the site visit, DATTCO provided the Review team details of the responsibilities for its designated EEO 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 should, at a minimum, have. The EEO Programs for each of the contractors contained the responsibilities outlined in the Circular, as summarized in the following table. For HNS, the table also reflects the responsibilities as outlined in the position descriptions provided.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| FTA Designation of Personnel Responsibility for EEO | | | | |
| **EEO Officer Program Responsibilities**  (FTA Circular 4704.1 III.2.c) | **HNS**  EEO/AAP and Position Descriptions | **Amtrak**  AAP | **NET**  EEO/AAP | **DATTCO**  EEO/AAP |
| Develop EEO Policy/Program | Yes | Yes | Yes | Yes |
| Assist Management in Data Needs, Setting Goals and Timetables, etc. | Yes | Yes | Yes | Yes |
| Internal Monitoring and Reporting System | No | Yes | No | Yes |
| Reporting Periodically to CEO on EEO Progress | Yes | No | No | Yes |
| Liaison to Outside Organizations/Groups | Yes | Yes | No | Yes |
| Current Legal Information Dissemination | Yes | Yes | Yes | Yes |
| Recruitment Assistance/Establish Outreach Sources | Yes | Yes | No | Yes |
| Concur in All Hires/Promotions | No | No | No | No |
| Process Employment Discrimination Complaints | Yes | Yes | Yes | Yes |

None of the EEO Programs or position descriptions provided included all nine program responsibilities in accordance with FTA Circular 4704.1. For each of the contractors, a portion of the responsibilities for overseeing the EEO program was handled by Human Resources Managers. Either the EEO Officer, coordinator, or staff personnel that report to the EEO Officer were also the Human Resources Managers responsible for all personnel and labor relations activities. The EEO responsibility was a collateral duty assignment and there would be potential conflicts of interest. None of the agencies had a process in place for addressing the major conflicts of interest that result from the dual responsibility. There was no system of checks and balances between the two functions if a conflict arose.

Following the site visit, HNS provided a revised copy of its complaint procedures that addressed conflicts of interest between EEO and HR roles. HNS also provided a copy a revised Policy Bulletin, with a revised dated of January 3, 2011, that documents HNS’ hiring practices, and a Personnel Action Form used during the hiring process. Included in the procedures was the requirement that the EEO Officer must concur on all hires. The Personnel Action form had a line for the EEO Officer to sign and date, documenting their concurrence.

NET’s revised EEO Program provided after the site visit included revisions to the Designation of Personnel Responsibilities. The revised listing of responsibilities for the EEO Officer did cover most of the responsibilities. However, there was not a requirement for an internal monitoring and reporting system.

**Corrective Action and Schedule**: Within 120 days, ConnDOT must submit to the FTA Headquarters Office of Civil Rights for each contractor (i.e., NET, Amtrak and DATTCO):

* A revised Job Description for the contractors EEO Officers that contains all the required responsibilities outlined in FTA C 4704.1.
* A comprehensive procedure for addressing possible conflicts regarding the dual obligations and responsibilities between the Human Resources and EEO functions.

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 ConnDOT, deficiencies were found with FTA requirements for Utilization Analysis. Prior to the site visit, ConnDOT provided the EEO Program for Amtrak, NET, and HNS. Amtrak and NET had properly prepared utilization analyses in accordance with FTA requirements.

While HNS’s utilization analysis was prepared in accordance with the Circular requirements, the calculation of its available workforce for determining employment availability was incorrect. HNS used only the total number of unemployed Connecticut citizens instead of the total number of employed and unemployed citizens to determine the percentage of available employees. As a result, HNS understated the available workforce, incorrectly calculated utilization, and did not assess the areas of underutilization correctly. During the site visit, HNS’ utilization analysis was recalculated for one job category using the correct availability workforce numbers. The recalculated amount showed underutilization in areas not previously identified. The previous calculations failed to show areas where women were underutilized. FTA provided technical assistance for HNS to recalculate its workforce availability to reassess its areas of underutilization.

Subsequent to the site visit, HNS provided a revised utilization analysis prepared using the appropriate available workforce to reassess its areas of underutilizations. Of seven job categories, women were underutilized in nine of 21 areas and minorities were underutilized in two of 21 areas. HNS did not include in its submission, a narrative assessment of the areas of underutilization or a plan of action to remedy the underutilization.

**Corrective Action and Schedule**: Within 120 days, ConnDOT must submit to the FTA Headquarters Office of Civil Rights documentation that HNS has prepared a written plan of action to remedy the areas of underutilization identified in the revised utilization analysis.

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 ConnDOT, 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, ConnDOT provided goals included in the EEO Programs for HNS, Amtrak, and NET. NET’s 2009 goal was “*…to achieve a female and minority work force composition which is comparable to the female and minority composition of the relevant labor market.*”

According to NET’s utilization analysis, there were ten areas where underutilization was indentified. NET’s goals did not include detailed percentages or timetables. Only one of the areas of underutilization identified was addressed by the goal developed. No long-range or short-term goals were established. The 2010 goals provided by NET were the same as the 2009 goals, and did not provide justification for failure to address areas of underutilization identified in the prior year.

According to HNS’ utilization analysis, the workforce analysis revealed underutilization in one job category out of the 14 job categories measured. However, as noted in the utilization analysis section above, HNS understated the available workforce in its utilization analysis, and thus did not correctly assess its areas of underutilization. As a result, HNS’ goals were incorrect.

According to Amtrak’s utilization analysis, the workforce analysis revealed underutilization in 17 areas. Amtrak’s goals are stated as percentages. There are no numerical goals or timetables to accompany the percentage goals. Amtrak’s goals are not presented in terms of short-term or long-range objectives. There was no discussion of potential job openings or promotional opportunities.

Following the site visit, NET submitted revised goals. The goals were broken down into short-term and long-range goals. A short narrative discussion was provided for goals. HNS also submitted revised goals following the site visit. The goals were established based on the areas of underutilization identified using the appropriate available workforces numbers.

**Corrective Action and Schedule**: Within 120 days, ConnDOT must submit to the FTA Headquarters Office of Civil Rights Goals and Timetables for Amtrak for 2011 in accordance with the requirements of FTA Circular 4704.1.

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 ConnDOT, deficiencies were found with FTA requirements for Assessment 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.*

The EEO Programs provided by ConnDOT for HNS, NET, and Amtrak, prior to the Review, included considerable data pertaining to employment practices. The EEO Program provided by DATTCO following the Review contained all of the required information. The table below summarizes the qualitative and quantitative analysis of employment practices required per FTA Circular 4704.1 found in each of the EEO/AAP provided for each contractor.

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

NET’s 2009 EEO Program had a section entitled *Identification of Problem Areas,* that contained narratives of hiring practices, disciplinary actions, terminations, promotions and transfers, and seniority practices. Also, a document entitled, *NET Hires, Promotions, and Terminations*, detailed numbers for hiring, promotions, terminations and disciplines actions for 2007, 2008 and 2009*.* There was no information about employment practices related to wages, salary levels, and other forms of compensation and benefits. During the site visit, the Review Team requested support or documentation of analysis of the statistical data provided. NET was unable to provide documentation of assessment of its statistical employment numbers.

Appendices K through O of HNS’ 2009 EEO Program included a section entitled *Assessment of Employment Practices* that contained details of hiring practices and training employees received. For the statistical information presented for promotions, terminations and disciplinary actions, there was no narrative explanation of the information presented that elaborated on the impact on HNS’ employment practices. Furthermore, there was no consideration of employment practices identifying those areas that operate as employment barriers and contribute to underutilization. An assessment of the impact of external factors on the employment of affected classes was not provided. During the site visit, the Review team requested documentation of any analysis and assessments done of its employment practices. HNS was not able provide any documentation to support its assessments of its employment practices.

Subsequently, HNS supplied copies of the minutes from Executive Staff meetings and corresponding agendas that documented periodic reporting on HNS’ assessment of employment practices. HNS also provided additional statistical information. No narrative assessment of this information was included.

Amtrak’s EEO Program had detailed employment numbers presented for each job title by race, national origin, and sex. The details included salary ranges, total number of employees and total number of minorities. There was no statistical information provided for applicants and hires, disciplinary actions, discharges, terminations, and promotions or transfers. Amtrak’s EEO Program also included a section entitled; *Identification of Problem Areas* that contained detailed descriptions of employment and hiring practices. The analysis covered the application process and selection practices, salary disparity analysis, training opportunities offered, examination of seniority practices, and external factors relevant to working at Amtrak.

**Corrective Action and Schedule**: Within 120 days, ConnDOT must submit to the FTA Office of Civil Rights qualitative and quantitative assessments of employment practices, including the use of tests and the impacts, identifying any barriers that have an adverse impact on the employment or promotion of women or minorities for HNS and NET in accordance with the requirements of 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 ConnDOT, 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.*

Of the four contractors of ConnDOT that met the EEO Program threshold requirements in FTA C. 4704.1, three had submitted plans to ConnDOT. In letters dated September 16, 2009, ConnDOT approved all three plan submittals. As a result of the Compliance Review, and as described in this report, it was determined that none of the contractors’ EEO Programs conformed to FTA C. 4704.1, therefore, ConnDOT’s monitoring system was insufficient.

**Corrective Action and Schedule**: Within 120 days, ConnDOT must submit to the FTA Headquarters Office of Civil Rights documentation that it has implemented a monitoring and reporting system for evaluating and approving the EEO Programs for all contractors who meet the threshold requirements for having an EEO Program as described in FTA C. 4704.1.

**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 | D | EEO/AAP does not conform to FTA requirement | ConnDOT must submit to the FTA Headquarters Office of Civil Rights an Affirmative Action Plan for Amtrak that contains all the required elements according to FTA C. 4704.1. | 120 Days |
| 2. Statement of Policy | D | Policy lacks required elements | ConnDOT must submit to the FTA Headquarters Office of Civil Rights EEO Statement of Policy for Amtrak that contains all the required elements FTA C. 4704.1. | 120 Days |
| 3. Dissemination | D | Lacking of documentation of internal and external dissemination | ConnDOT must submit to the FTA Headquarters Office of Civil Rights documentation that NET has disseminated its EEO Policy externally to recruitment sources, local minority and women’s organizations, community agencies, and community leaders. | 120 Days |
| 4. Designation of Personnel Responsibility | D | Inadequate designation of personnel Responsibility  No written procedures for conflict resolution for collateral duty assignment | ConnDOT must submit to the FTA Headquarters Office of Civil Rights for each contractor:   * A revised Job Description for the EEO Officers that contains all the required responsibilities outlined in FTA C 4704.1. * A comprehensive procedure for addressing possible conflicts regarding the dual obligations/ responsibilities between the Human Resources and EEO functions. | 120 Days |
| 5. Utilization Analysis | D | Utilization not properly stated | ConnDOT must submit to the FTA Office of Civil Rights documentation that HNS has prepared a written plan of action to remedy the areas of underutilization identified in the revised utilization analysis. | 120 Days |
| 6. Goals and Timetables | D | Does not follow FTA requirements for quantifiable short term and long term goals  Goals were incorrect | ConnDOT must submit to the FTA Office of Civil Rights 2011 Goals and Timetables for Amtrak presented in term of long-range goals and short-term numerical goals in accordance with the requirements of FTA C. 4704.1. | 120 Days |
| 7. Assessment of Employment Practices | D | No documentation of qualitative or quantitative assessment of employment practices | ConnDOT must submit to the FTA Headquarters Office of Civil Rights qualitative and quantitative assessments of employment practices, including the use of tests identifying any barriers that have an adverse impact on the employment or promotion of women or minorities for HNS and NET in accordance with the requirements of FTA C. 4704.1. | 120 Days |
| 8. Monitoring and Reporting System | D | Inadequate documentation of monitoring of contractors | ConnDOT must submit to the FTA Headquarters Office of Civil Rights documentation that it has implemented a monitoring and reporting system for evaluating and approving the EEO Programs of all contractors who meet the threshold requirements for having an EEO Program, as described in FTA C. 4704.1. | 120 Days |

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

VIII. attendees

| **NAME** | **TITLE/**  **ORGANIZATION** | | **PHONE** | | **E-MAIL** |
| --- | --- | --- | --- | --- | --- |
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