

Hillsborough Area Regional Transit Authority

EEO Compliance Review

Final Report

April 2012

FTA Report No. 0000

Federal Transit Administration



**PRE PA RE D BY**

The DMP Group, LLC

Washington, DC





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1. General Information

Grant Recipient: Hillsborough Area Regional Transit Authority

(HART)

City/State: Tampa, Florida

Grantee Number: 1096

Executive Official: Mr. Phillip Hale

Chief Executive Officer

Hillsborough Area Regional Transit Authority

1201 E. 7th Avenue

Tampa, Florida 33605

On Site Liaison: Brenda Mowen

Chief Administrative Officer

Report Prepared by: The DMP Group, LLC

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Site Visit Dates: January 31 – February 2, 2012

Compliance Review Team: Maxine Marshall, Lead Reviewer

Karon Cofield, Reviewer

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1. 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 Hillsborough Area Regional Transit Authority (HART), 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 HART’s EEO program and were the basis for the selection of compliance elements that were reviewed in this document.

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

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

1. Background information

In October 1979, the Hillsborough Transit Authority, doing business as Hillsborough Area Regional Transit Authority (HART) began operating transit service in Hillsborough County, Florida.

HART is governed by a 13-member Board of Directors that is responsible for the overall leadership and policy direction for the Agency. The Board is comprised of three members from the City of Tampa, seven members from Hillsborough County, two State of Florida representatives and one City of Temple Terrace representative. The members serve for a period of three years without compensation and must be a resident of their appointed member jurisdiction.

The area served by HART is Hillsborough County to include Brandon, Northdale, South County, South Tampa, and Town ‘N Country.

HART’s mission is:

- *to be dedicated to providing excellent customer service while building solutions to support Hillsborough County’s needs…now and into the future.*

In accordance with its mission, HART operates a network of 177 HART buses, thirty-eight HARTPlus vans (for persons with physical, cognitive or developmental disabilities), eight HARTFlex Vans (door to door service), and the TECO Line Streetcar System. Service is provided on twenty-seven Local Routes, 12 Express Routes, with 23 Park-n-Rides, and five Flex/Routes/Zones. Service is available 365 days a year. Weekday service is provided from 5:00 a.m. to Midnight. Weekend bus service operates from 6:00 a.m. to 10:00 p.m. For fiscal year 2011, total ridership for all modes of transportation was 14,220,590.

According to HART’s most recent workforce statistics, dated April 1, 2011, HART had 752 employees and minorities represented 70 percent (524) of the total workforce as follows:

* Blacks—43.4 percent
* Whites—30 percent
* Hispanics—24.1 percent
* American Indians—less than one percent
* Asians—less than one percent
* Hawaiian/Pacific Islander—zero

Females represented 28.2 percent of the workforce. Approximately 605 (80.5 percent) of the 752 positions in HART’s workforce were represented by two unions. The Amalgamated Transit Union Local 1593 had 294 ATU active employee members. The International Brotherhood of Teamsters, Union Local #79 had 40 Teamsters active employee members.

The President/Chief Executive Officer (CEO) had the ultimate responsibility for the implementation of HART’s EEO program. The CEO delegated the responsibility for implementation of the EEO program to Chief Administrative Officer (CAO). The EEO Compliance Officer responsibilities are placed with the CAO who reported to and was directly responsible to HART’s CEO. At the time of the Compliance Review and according to HART’s most recent Organization Chart dated January 6, 2012, the following positions reported directly to the CEO:

* Chief Operating Officer
* Chief Administrative Officer
* Chief Financial Officer
* Director of HR-Risk and Legal Services
* Executive Office Manager/Clerk of the Board

The following table provides a demographic profile of Hillsborough County, HART’s service area, and the Tampa, St. Petersburg, Clearwater Metropolitan Service Area, HART’s labor market, using data from the the 2010 Census. The table shows the 2010 population by racial/ethnic group and the percentage of the racial/ethnic group population to the total population in 2010.

According to the 2010 Census, 66.3 percent of the total service area was White, 21.8 percent was Black, 26.8 percent was Hispanic, 3.7 percent was Asian, Hawaiian/Pacific Islander was 0.1 percent, and 0.4 percent was American Indian/Alaskan Native.

According to the 2010 Census, 78.8 percent of the total labor market was White, 11.8 percent was Black, 16.2 percent was Hispanic, 2.9 percent was Asian, Hawaiian/Pacific Islander was 0.1 percent, and 0.4 percent was American Indian/Alaskan Native.

**Table 1 – Demographics of the HART Service Area and**

**Labor Market Racial/ Ethnic Breakdown**

**Source: 2010 U.S. Census**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Racial/ Ethnic Group** | **Service Area**  **Hillsborough County** | | **Labor Market**  **Tampa, St. Petersburg, Clearwater MSA** | |
| **Num.** | **%** | **Num.** | **%** |
| White | 414,971 | 66.3% | 2,193,411 | 78.8% |
| Black | 136,200 | 21.8% | 329,334 | 11.8% |
| American Indian and Alaska Native | 2,450 | 0.4% | 9,930 | 0.4% |
| Asian | 23,320 | 3.7% | 80,879 | 2.9% |
| Hawaiian/ Pacific Islander | 451 | 0.1% | 2,079 | 0.1% |
| Other Race | 27,600 | 4.4% | 94,965 | 3.4% |
| Two or More | 20,578 | 3.3% | 72,645 | 2.6% |
| Hispanic Origin1 | 167,630 | 26.8% | 452,208 | 16.2% |
| **Total** | **625,570** | **100%** | **2,783,243** | **100%** |

1. scope and methodology

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

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

**METHODOLOGY**

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

| FTA Circular 4704.1 Requirement/Documentation to Be Provided Prior to the Site Visit |
| --- |
| **0. Background** |
| 1. Description of HART’s Services and Organization. |
| 1. Summary Listing of EEO Complaints and Lawsuits against HART during the last three years (January 1, 2009 – December 31, 2011) alleging discrimination towards an employee or job applicant. The summary shall indicate the date of the complaint, if the complaint was filed internally or externally, the basis for discrimination, the date the complaint was resolved or if the complaint is still open. |
| 1. Collective Bargaining Agreements for each bargaining unit, if applicable. |
| **1. Program Submission (FTA C. 4704.1.II, 5.)** |
| No documents requested, based on April 2011 submissions. |
| **2. Statement of Policy (FTA C. 4704.1.III, 2.a.)** |
| Copy of EEO Policy Statement, if updated since April 2011. |
| 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.)** |
| No documents requested, based on April 2011 submissions. |
| **6. Goals and Timetables (FTA C. 4704.1.III, 2.e.)** |
| 1. Goals and Timetables for 2009 and 2010, including a justification for not meeting goals, if applicable. |
| **7. Assessment of Employment Practices (FTA C. 4704.1.III, 2.f.)** |
| 1. A qualitative description of the Assessment of Employment Practices presented in Appendix V of the April 2011 EEO Program/AA Plan, for example, why were there no female internal applicants in the period covered? |
| 1. A copy of the most recent Comprehensive Salary Analysis, as described in the April 2011 EEO Program/AA Plan. |
| 1. A list of all recruitment sources used during the last year, including the name and telephone numbers of contact persons. |
| 1. A listing of all job titles for which written examinations are conducted. |
| 1. A listing of all job titles for which medical or physical examinations are conducted. |
| 1. Data on non-mandatory employer sponsored training offered during the past three years. Provide the total number of employees participating in each training opportunity, as well as the number of minority group and female participants. Indicate if supervisors authorized employee participation on a case-by-case basis. |
| **8. Monitoring and Reporting (FTA C. 4704.1.III, 2.g.)** |
| 1. Documentation of periodic meetings with management to discuss progress toward meeting EEO goals and timetables during the past two years. |
| 1. Copies of the periodic workforce population status reports to management, per HART’s 2011 EEO Program/AA Plan submission. |
| 1. A description of the procedures and criteria used by HART to monitor its subrecipients and contractors to determine compliance with FTA EEO requirements. |
| 1. Copies of EEO Programs from subrecipients and contractors that employ 50 or more transit-related employees. |

HART assembled the documents prior to the site visit and provided them to the Compliance Review team for advance review. Additional documents were provided during the site visit.

HART’s site visit occurred January 31 – February 2, 2012. The Entrance Conference was conducted at the beginning of the Compliance Review with HART’s senior management staff, FTA EEO Program Analyst 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 HART’s EEO Officer on behalf of the agency. The Review team also held discussions with the EEO Officer regarding the implementation of the EEO Policy/Program.

The next day, a group interview was conducted with members of HART’s Human Resources staff to learn about HART’s employment practices, including recruitment, testing, hiring, promotions, transfers, disciplines and terminations. Files and records of employment actions, such as new hires, promotions, demotions, and terminations, were requested. Most of the files were not available during the site visit due to storage issues during HART’s temporary facilities during construction.

Throughout the three-day site visit, interviews were also conducted with selected employees and managers in HART’s Administrative Offices and Operations facilities at 4305 East 21st Avenue, and the Administrative Offices at 1200 East 7th Avenue.

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

**Staff Interviews**

Twelve staff members were independently selected by the Review team for interviews. The staff members selected were an ethnically and gender diverse group and included hourly and salaried employees. Staff members’ tenure with HART ranged from two to 19 years.

The general consensus was that there was little or no knowledge of the EEO Officer or EEO’s role within the organization. A couple of staff members mentioned the maintenance department did not have adequate female and/or minority representation but they were unsure if any females or minorities applied for positions and did not get hired. Other staff members stated that promotion barriers do exist within the organization. One staff member believed that a promotion ceiling exists that was based on gender or ethnicity. A few staff members felt that they don’t receive equal compensation for doing the same job. Some staff members also felt that more training opportunities should be offered. A few of the staff expressed an interest in receiving periodic updates and additional information about the role of EEO in the agency. Some individuals thought that updated and targeted diversity training would be helpful. Other suggestions included making the program better known in the agency and that the EEO Officer should increase her visibility.

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

1. Findings and recommendations

The EEO Compliance Review focused on HART’s compliance with eight specific requirements of FTA Circular 4704.1. This section describes the requirements and findings at the time of the Compliance Review site visit. Deficiencies were initially identified in the following four areas: *Dissemination, Designation of Personnel Responsibility, Assessment of Employment Practices, and Monitoring and Reporting System.*

Following the site visit, on April 19, 2012, HART submitted documentation of corrective actions to close the deficiency in the area of *Monitoring and Reporting System.* HART also described several actions it will take to address the outstanding deficiencies in *Dissemination, Designation of Personnel Responsibility,* and *Assessment of Employment Practices*.

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 HART, no deficiencies were found with FTA requirements for Program Submission. Prior to the site visit, HART provided its most recent EEO Program Plan submission, entitled *Hillsborough Area Regional Transit Authority (HART), April 1, 2011, Equal Employment Opportunity Program/ Affirmative Action Plan* (HART EEO Program) to FTA on August 26, 2011. HART’s EEO Program was comprised of the following areas:

* Facility Identification Statement
* Statement of Equal Employment Opportunity Policy
* Dissemination
* Designation of Personnel Responsibility
* Utilization Analysis
* Goals and Timetables
* Assessment of Employment Practices
* Monitoring and Reporting System
* Conclusion

The EEO Program had been developed by a consultant and addressed all of the requirements of FTA C. 4704.1.II, 5. The FTA Headquarters Civil Rights Program Analyst approved the HART EEO Program submittal on August 25, 2011, through August 27, 2014.

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 HART, no deficiencies were found with FTA requirements for Statement of Policy. Prior to the site visit, HART provided the Review team with its EEO Program, dated April 1, 2011, that was signed by HART’s Interim CEO. The Interim CEO had since been appointed to the CEO position on a permanent basis. The Policy Statement in the EEO Program contained all of the required elements of a Statement of Policy as described in FTA Circular C 4704.1 III 2.a as indicated in the table below.

|  |  |
| --- | --- |
| FTA C. 4704.1 III 2.a Policy Statement Requirements | **HART AA/EEO Statement dated**  **August 2011** |
| Issued by CEO | Yes |
| Commitment to EEO | Yes |
| Undertake an Affirmative Action Program | Yes |
| EEO Program Assignment to Agency Executive | Yes |
| Management Personnel Share Responsibility | Yes |
| Applicants/Employees Right to File Complaints | Yes |
| Performance by Managers/Supervisors Evaluated | Yes |
| Successful Achievement Provides Benefits | Yes |

1. Dissemination

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

**Finding**: During this Compliance Review of HART, deficiencies were found with FTA requirements for Dissemination. Included in the Dissemination of Policy sections of HART’s EEO Program was the following list of methods HART stated that it used to disseminate its EEO Policy internally and externally:

*Internal Communications*

*Management personnel are fully informed by:*

* *Written communication from the Chief Executive Officer;*
* *Including the Equal Employment Opportunity Policy and reference to the*
* *Equal Employment Opportunity Program/Affirmative Action Plan in the*
* *HART’s policy manual; (See Attachment D)*
* *Meetings held at least semiannually to discuss the Equal Employment*
* *Opportunity Program / Affirmative Action Plan and its implementation;*
* *Disbursement of the Equal Employment Opportunity Program/Affirmative Action Plan; and,*
* *Development and distribution of an Executive Summary.*

*All personnel are informed by:*

* *Posting of official Equal Employment Opportunity Posters and Policy Statement in conspicuous and accessible locations*
* *Including the Equal Employment Opportunity Policy Statement in employee handbooks, reports, manuals and union contracts*
* *Meeting with minority and female employees to get their suggestions in implementing and refining the Equal Employment Opportunity Program / Affirmative Action Plan;*
* *Presenting and discussing the Equal Employment Opportunity Policy Statement and the Equal Employment Opportunity Program / Affirmative Action Plan as part of employee orientation and in all training programs;*
* *Reaffirming the Equal Employment Opportunity Policy Statement periodically by the distribution of a letter from the Chief Executive Officer attached to a copy of the policy statement;*
* *Conducting training classes on harassment and discrimination prevention;*
* *Picturing both minority and non-minority men and women in HART internal publications and literature;*
* *Advising employees, through posting of the Equal Employment Opportunity Policy Statement, that concerns and problems regarding equal employment opportunity / affirmative action should be brought to the attention of the EEO / AA Officer.*

*External Communications*

* *Disseminating HART’s Equal Employment Opportunity Policy Statement as well as appropriate elements of the Equal Employment Opportunity Program / Affirmative Action Plan to employment agencies, hiring halls, unions, educational institutions, minority and women’s organizations, organizations for individuals with disabilities, veteran organizations, civil rights organizations, community action groups, training organizations and others when such organizations are engaged to refer qualified applicants and request that they actively recruit and refer minorities, females, individuals with disabilities and veterans for any positions listed;*
* *Disseminating HART’s Equal Employment Opportunity Policy Statement as well as appropriate elements of the Equal Employment Opportunity Program/Affirmative Action Plan to public media sources, especially radio and television stations, newspapers, magazines, and other journals when such media sources are used;*
* *Including the statement that HART is an “Equal Employment Opportunity Employer” on all advertising;*
* *Listing all full-time and part-time employment openings with the local employment service with the exception of: a) executive and top management positions, b) positions that will be filled from within the Company, and c) temporary positions lasting three (3) days or less;*
* *Including the statement that HART is an “Equal Employment Opportunity Employer” on all HART employment applications;*
* *Advising applicants, through posting of the Equal Employment Opportunity Policy Statement that concerns and problems regarding equal employment*

Prior to the site visit, HART provided documentation showing that the EEO Policy Statement was made available on HART’s intranet and internet.

During the site visit, the Review team observed that the EEO Policy Statement was posted throughout HART’s facilities and was available on its intranet.

HART was not able to provide documentation that it had disseminated its Policy Statement as described in its EEO Program. HART’s EEO Program’s list of methods for disseminating its EEO Program did not include posting the Policy Statement on the internet or intranet as one of the methods for disseminating the policy.

Following the issuance of the Draft Report, on April 19, 2012, HART submitted its Standard Operating Procedures (SOP) entitled, *EEO Program/AA Plan Administration,* dated April 19, 2012, which included a checklist to assist the EEO Officer with tracking EEO and Affirmative Action activities including dissemination of the EEO Policy both internally and externally. HART reported that most of the internal dissemination was complete and that external dissemination was “In progress”.

**Corrective Action and Schedule**: Within 90 days of the issuance of the final report, HART must submit to the FTA Office of Civil Rights documentation of internal and external dissemination of its EEO Policy in accordance with HART’s EEO Program and its SOP.

1. Designation of Personnel Responsibility

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

**Finding**: During this Compliance Review of HART, 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*.

HART’s EEO Program contained a section entitled *Designation of Personnel Responsibility* that detailed who was designated as HART’s EEO Officer, the essential requirements for the position, the EEO Officer’s responsibilities, and management’s responsibility to HART’s EEO Program.

Prior to the site visit, HART provided job descriptions for a Compliance Officer dated October 1, 2007; for a Chief Administrative Officer dated January 26, 2012; and for an EEO/AA Officer dated January 26, 2012. HART also provided a copy of its most recent organization chart dated January 6, 2012, showing the Chief Administrative Officer (CAO) was the 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 was expected to carry out as part of his job. The following table identifies the responsibilities included in the list of responsibilities for the EEO Officer as outlined in FTA Circular 4704.1 III.2.c.

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

During the site visit, HART was not able to demonstrate that the CAO had been carrying out the functions of the EEO Officer as detailed in the EEO Program and according to the FTA C 4704.1 III 2.c. The EEO Officer did not have any training or practical knowledge of EEO laws or precepts. HART reported that the EEO Officer had not been concurring on all hires, and was not processing all employment discrimination complaints. A number of complaints were investigated and processed by the Director of Human Resources or the Human Resources Manager.

It also appeared that the Human Resources department staff took the lead in setting goals and monitoring EEO progress.

Following the issuance of the Draft Report, on April 19, 2012, HART submitted a memo from the Chief Executive Officer dated April 19, 2012, designating the Project Coordinator as the HART EEO Officer. The Project Coordinator list of responsibilities included all the responsibilities of an EEO Officer in accordance with FTA C 4704.1 III 2.c., and had a direct reporting relationship to the Chief Executive Officer. The newly designated EEO Officer received training on the following dates:

* March 15, 2012 – FTA Webinar on EEO
* March 23 – 24, 2012 – AAAA/PDTI certification course “Complaint Processing, Counseling and Resolution”

HART did not provide documentation that the Project Coordinator reported to the CEO on EEO matters. The January 6, 2012 organization chart showed the Project Coordinator reporting to the Chief Administrative Officer. Also, HART did not provide documentation that employees had been informed of the change of the EEO Officer or that the EEO Policy Statement had been changed to identify the new EEO Officer.

**Corrective Action and Schedule**: Within 90 days of the issuance of the final report, HART must submit to the FTA Office of Civil Rights documentation of the reporting relationship of the Project Coordinator/EEO Officer, that employees have been notified of the change, and that the EEO Policy Statement has been revised.

1. Utilization Analysis

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

**Finding**: During this Compliance Review of HART, no deficiencies were found with FTA requirements for Utilization Analysis. HART’s EEO Program contained utilization analysis/workforce analysis dated as of April 1, 2011. The workforce analysis included a statistical breakdown of the workforce by department, job group, and job title. The workforce was cross-referenced by race, national origin and gender. HART’s current workforce was compared to the available workforce for the relevant labor market to identify areas of underutilization. HART identified the relevant labor market to be the Tampa-St. Petersburg-Clearwater Metropolitan Statistical Area. The workforce analysis was categorized into the following job groups:

* Officials and Managers
* Professionals
* Technicians
* Administrative Support Workers
* Craft Workers
* Operatives
* Laborers and Helpers
* Service Workers

Key findings of the workforce analysis showed:

* HART’s 2011 Total Workforce was 752 employees
* Total Hispanic representation at HART was 24.1 percent
* Total Black representation at HART was 43.4 percent
* Total Female representation at HART was 28.2 percent

HART was advised to review its labor market to confirm that the Metropolitan Statistical Area truly represents the recruiting area for all positions. The MSA was three times the size of the service area and contained a lower percentage of minorities than in the more immediate Hillsborough County area.

1. **Goals and Timetables**

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

**Finding**: During this Compliance Review of HART, no deficiencies were found with FTA requirements for Goals and Timetables. The Program Guidelines of FTA Circular 4704.1 Chapter III, 2e state:

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

*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.*

The Utilization Analysis/ Workforce Analysis included inHART’s EEO Program included the short-term numerical and percentage goals for 2011. In another section of HART’s EEO Program entitled *Goals and Timetables* there were narrative discussions of the short-term goals for each job group.

Prior to the site visit, HART provided its numerical hiring goals established for 2008 – 2009, a narrative discussion of the 2008 – 2009 goals, and long-term and short-term goals and timetables for April 1, 2011 to March, 31, 2014 dated January 24, 2012. The Goals and Timetables for 2011 to 2014 contained HART’s 2011 short-term goals and timetables for its long-range two-year goals. The following information was provided for the goals for each job category:

* Labor Force Availability percentage
* Number of HART Incumbents as of March 31, 2011
* Number of Persons Underutilized
* Hiring Goals – Year 1 (April 1, 2011)
* Hiring Goals – Year 2 (April 1, 2012 to March 31, 2013)
* Hiring Goals – Year 3 (April 1, 2013 to March 31, 2014)

Numerical Goals were established to correct the underutilization for the following areas as follows:

* Executive/Senior Level Officials: 1 – Female
* First/Mid Level Officials: 1 – Minority
* Technicians: 1 – Female
* Administrative Support Workers: 1 – Female
* Craft Workers: 3 – Females
* Operatives: 88 – Females
* Service Workers: 7 – Females

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

1. Assessment of Employment Practices

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

FTA Circular 4704.1 III.2.f 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, as follows:

*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.*

HART’s EEO Program contained a section titled *Assessment of Employment Practices* that contained a narrative description of employment practices, such as recruitment and selection, promotions, terminations, and discipline. The narrative stated that an *Impact Ratio Analysis* had been conducted in each of the areas and the conclusion was that all employment practices were consistently applied and that no practices had been identified that operated as barriers and contributed to underutilization. The EEO Program also contained a number of tables that included the numbers of applicants, hires, promotions, terminations, etc. during a 12-month period ending March 31, 2011.

Prior to the site visit, HART provided an additional narrative description of employment practices, a copy of a comprehensive salary assessment that was conducted in 2011, a list of recruitment sources, a listing of all jobs requiring written and physical or medical tests, and a listing of employees who had participated in non-mandatory training during the past three years.

During the site visit, HART did not provide qualitative assessments to support the conclusion that there were no employment practices that created barriers. The Review team conducted an analysis of several of the data included in HART’s EEO Program, and found that some practices such as terminations of minorities and females, appeared to occur at a ratio similar to their composition in the workforce, however other areas, such as suspensions, showed that Black women were more than twice as likely to be suspended (37 percent) than their representation (15 percent) in the workforce. HART was not aware of this disparity and had not proposed a program of remedial, affirmative actions to address this or other problem areas. The comprehensive salary study did not consider gender or ethnicity to confirm that no disparities existed with respect to compensation.

The table below summarizes the qualitative and quantitative analysis of employment practices required per FTA C. 4704.1 III.2.f found in the reports provided by HART.

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

During the site visit, the Review team provided technical assistance and a template for performing the required quantitative and qualitative assessments of employment practices.

In its April 19, 2012, reply, HART indicated the following actions taken in response to the draft report:

*HART will conduct a complete review utilizing the model assessment tools provided by the DMP group and the materials provided by FTA during the webinar on March 15, 2012 and will submit to the FTA within 90 days of the final report.*

**Corrective Action and Schedule**: Within 90 days of the issuance of the final report, HART must submit to the FTA Office of Civil Rights a quantitative and qualitative assessment of employment practices, as described in FTA Circular 4704.1 III.2.f.

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 HART, 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.*

HART’s EEO Program included a section entitled *Monitoring and Reporting Systems* that detailed HART’s procedures for assessing EEO accomplishments, evaluating the EEO Program during the year, identifying how various units perform against goals, providing precise and factual database for future projections.

Prior to the site visit, HART provided it *AA Goal Data* Report for the following periods:

* May 21, 2010
* July 29, 2010
* September 24, 2010
* January 1, 2011
* April 1, 2011
* February 1, 2012

The reports provided performance updates on the short-term and long-range EEO goals by job group broken down by gender and ethnicity. HART also provided the following list of dates of periodic meetings with management to discuss progress toward meeting EEO goals and timetables; August 3, 2010, September 14, 2010, September 29, 2010, October 13, 2010, and October 28, 2010.

At the site visit, HART was unable to demonstrate that it had been consistently reviewing EEO accomplishments and reporting on these to management on a periodic basis according to procedures outlined in its EEO Program. HART was unable to provide documentation of the items reviewed or discussed for the various dates provided for the meetings.

In its April 19, 2012, response, HART provided its Standard Operating Procedures entitled, *EEO Program/AA Plan Administration,* dated April 19, 2012. Section 7.3 of the report titled *Monitoring and Reporting on Effectiveness of EEO Program/AA Plan* included the following three procedures:

1. *The EEO Officer produces a report that tracks HART’s AA Plan goals and progress based on data from the Human Resources Department. The HR department maintains a SOP that outlines the procedures fo collecitng this data.*
2. *The EEO/AA Officer reports to the Chief Executive Officer at least semi-annually on the effectiveness of EEO Program/AA Plan and accomplishments.*
3. *Implementaion of the EEO Program/AA Plan will be monitored by the EEO/AA Officer who will conduct an annual internal review of the program. The purpose of this review is to ensure that EEO/AA activities HART committed to in the EEO Program/AA Plan are being carried out and properly documented. The* ***EEO/AA Activities “Checklist”*** *attached to this SOP will be used as a tool to assist in conducting this internal review and tracking required activities.*

The deficiencies in this area are closed.

1. SUMMARY OF FINDINGS

| **Requirements of**  **FTA Circular 4704.1** | **Site Review Finding** | **Description of Deficiencies** | **Corrective Actions** | **Response Days/ Closed Date** |
| --- | --- | --- | --- | --- |
| 1. Program Submission | ND |  |  |  |
| 1. Statement of Policy | ND |  |  |  |
| 1. Dissemination | D | No documentation of adequate internal or external dissemination, as per HART’s EEO Program | HART must submit to the FTA Office of Civil Rights documentation of dissemination of its EEO Policy in accordance with  HART’s EEO Program. | 90 Days from the issuance of the final report |
| 1. Designation of Personnel Responsibility | D | * EEO Officer does not have requisite skills, e.g., knowledge of EEO regulations * EEO Officer does not perform required duties | HART must submit to the FTA Office of Civil Rights documentation of the reporting relationship of the Project Coordinator/EEO Officer, that employees have been notified of the change, and that the EEO Policy Statement has been revised. | 90 Days from the issuance of the final report |
| 1. Utilization Analysis | ND |  |  |  |
| 1. Goals and Timetables | ND |  |  |  |
| 1. Assessment of Employment Practices | D | * No qualitative assessments of employment practices * Narrative only describes current practices | HART must submit to the FTA Office of Civil Rights a quantitative and qualitative assessment of employment practices, as described in FTA Circular 4704.1 III.2.f. | 90 Days from the issuance of the final report |
| 1. Monitoring and Reporting System | D | * No system in place for monitoring and reporting on accomplishments * No documentation of consistent periodic reports to management on accomplishment of goals | HART must submit to the FTA Office of Civil Rights a system for monitoring and reporting on its accomplishments, including a specific time period for reporting, e.g., quarterly or semi-annually. | Closed  April 19, 2012 |

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

1. attendees

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| --- | --- | --- | --- |
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