**`**

**EQUAL EMPLOYMENT OPPORTUNITY**

 **COMPLIANCE REVIEW**

**OF**

**King County Department of Transportation**

**(King County DOT)**

**Seattle, Washington**

**Final Report**

**May 2011**

**Prepared For**

**U.S. DEPARTMENT OF TRANSPORATION**

**FEDERAL TRANSIT ADMINISTRATION**

**OFFICE OF CIVIL RIGHTS**

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**Table of Contents**

I. GENERAL INFORMATION 1

II. JURISDICTION AND AUTHORITIES 2

III. PURPOSE AND OBJECTIVES 3

IV. BACKGROUND INFORMATION 6

V. SCOPE AND METHODOLOGY 10

VI. FINDINGS AND RECOMMENDATIONS 19

1. Program Submission 19

2. Statement of Policy 20

3. Dissemination 22

4. Designation of Personnel Responsibility 24

5. Utilization Analysis 28

6. Goals and Timetables 30

7. Assessment of Employment Practices 32

8. Monitoring and Reporting System 35

9. Title I of the Americans with Disabilities Act 37

VII. SUMMARY OF FINDINGS………………………………………………38

VIII. ATTENDEES 40

i. General Information

Grant Recipient: King County Department of Transportation (King County DOT)

City/State: Seattle, WA

Grantee Number: 1731

Executive Official: Mr. Harold Taniguchi

 Director

 King County Department of Transportation

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 Seattle, WA 98104-3856

On Site Liaison: Frank Tordillos

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Site Visit Dates: October 27-29, 2009

Compliance Review Team: Maxine Marshall, Lead Reviewer

 Clinton Smith, Reviewer

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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”.

The King County Department of Transportation’s (King County DOT), Metro Transit Division (Metro Transit), is a recipient of FTA funding assistance and is therefore subject to the EEO compliance conditions associated with the use of these funds pursuant to 49 U.S.C. Section 5332, FTA Circular 4704.1 and 49 CFR Part 27. These regulations define the components that must be addressed and incorporated in King County DOT’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 King County DOT’s “Equal Employment Opportunity Program” was necessary.

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

iv. Background information

The King County (WA) Department of Transportation (King County DOT) is a unit of the King County Government. King County Government is led by the King County Executive, an elected position. Policy decisions are made by a nine-member elected County Council. King County employs over 12,000 persons, of which approximately 5,000 work in the King County DOT. The DOT is made up of five divisions: Transit, Road Services, Fleet Administration, King County International Airport at Boeing Field, and Marine. The DOT also works in partnership with many cities within the County as well as with subregional, regional, and state groups to integrate and improve transportation services. While the Metro Transit Division is the recipient of FTA funding and the primary focus of this Compliance Review, the Transit Division relies on other DOT departments for certain functions and reports, especially as they relate to human resources and diversity.

The Transit Division of King County DOT (Metro Transit) is a multimodal transit operator. Metro Transit operates a fleet of about 1,300 vehicles, which includes standard and articulated buses, electric trolleys, dual-powered buses, [hybrid diesel-electric buses](http://transit.metrokc.gov/am/vehicles/hy-diesel.html) and [streetcars](http://transit.metrokc.gov/tops/wfsc/waterfront_streetcar.html) that serve an annual ridership of 100 million within a 2,134 square mile area that includes the greater Seattle metropolitan area. Metro Transit operates 220 bus routes throughout King County, with nearly 10,000 bus stops and 126 park-and-ride facilities connecting riders with those routes. In addition to operating fixed route service, Metro Transit operates [paratransit van](http://transit.metrokc.gov/tops/accessible/paratransit.html) service, vanpools, and a subsidized taxi program.

Metro Transit operates the largest publicly owned [vanpool program](http://transit.metrokc.gov/tops/van-car/van-car.html) in the country, with more than 600 vans making more than 2.9 million trips per year. More than 5,000 people use those vans every day, eliminating a least 4,500 vehicles from area roads.

Metro Transit also operates a 1.3-mile electric [bus tunnel](http://transit.metrokc.gov/tops/tunnel/tunnel.html) underneath downtown Seattle, making stops at Convention Place, Westlake, University Street, Pioneer Square and the International District.

Metro Transit's ADA Paratransit Program is designed to meet the minimum service criteria established by the federal government serving persons with disabilities. The Taxi Program serves low-income King County residents ages 18 to 64 who have a disability or residents age 65 and over. Once registered, persons can buy taxi fare media each at a 50 percent discount over regular taxi fares to help meet their transportation needs.

At the time of the Compliance Review and according to the most recent organization charts, the Metro Transit General Manager reported directly to the Director of the King County DOT. Metro Transit was organized under the following management structure that reported directly to the General Manager:

* Deputy General Manager
	+ Service Development
	+ Design and Construction
	+ Finance and Administration
	+ Human Resource
	+ Research and Management Information
	+ Transit Police
	+ Transit Safety
	+ Homeland Security Program
* Operations
* Vehicle Maintenance
* Power and Facilities
* Information Technology
* Sales and Customer Services
* Light Rail
* Paratransit/Rideshare

The Equal Employment Opportunity function was performed primarily by the Diversity Manager who was located in the Human Resources Department of the King County Government (not within DOT or Metro Transit). In August 2009, the jobs of the Diversity Manager and the County Employment Manager were combined. The function of the County Employment Manager was to oversee the employment process County-wide and recommend employment policy and practices. The Diversity and Employment Manager was assisted by one Senior Analyst. The Diversity Manager reported to the County Human Resources Director who reported to the County Chief Administrative Officer, who in turn reported to the County Executive.

Metro Transit’s service area is largely non-minority, as shown in Table 1. White residents represent 75.7 percent of the total population. Asians are the largest minority group at 10.8 percent. Hispanics follow at 7.8 percent, and Blacks represent 5.4 percent of the population. American Indians/Alaska Native and Native Hawaiians/Pacific Islanders each represent less than one percent of the total population.

**Table 1**

**Racial/Ethnic Breakdown of the King County Service Area**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  Hispanic Origin[[1]](#footnote-1) | 95,242 | 5.5% | 29,719 | 5.3% |

|  |  |  |
| --- | --- | --- |
| **Racial/ Ethnic Group** | King County  | City of Seattle |
| **Number** | **Percent** | **Number** | **Percentage** |
| White | 1,315,507 | 75.7% | 394,889 | 70.1% |
| Black | 93,875 | 5.4% | 47,541 | 8.4% |
| American Indian and Alaska Native | 15,922 | 0.9% | 5,659 | 1.0% |
| Asian | 187,745 | 10.8% | 73,910 | 13.1% |
| Hawaiian/Pacific Islander | 9,013 | 0.5% | 2,804 | 0.5% |
| Other Race | 44,473 | 2.6% | 13,423 | 2.4% |
| 2 or More | 70,499 | 4.1% | 25,148 | 4.5% |
| Total Minorities | 421,527 | 24.3% | 168,485 | 29.9% |
| Total Population | **1,737,034** | **100%** | **563,374** | **100%** |

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.

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

**METHODOLOGY**

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

1. A copy of personnel policy guides, handbooks, regulations, or other material, that governs employment practices for King County DOT.
2. A summary listing of all EEO complaints or lawsuits filed against King County DOT, internally or externally, during the last three years (September 1, 2006 - Present) alleging discrimination towards an employee or job applicant. The complaint listing should be provided chronologically and should identify the basis of the complaint, the race, gender or ethnicity of the complainant, with whom the complaint was filed, and the status or determination of the complaint.
3. Any updates to the *King County Equal Employment Opportunity/Affirmative Action Plan, 2008-2012,* to include the following:
	* + Statement of Policy issued by the CEO
		+ Description of Policy dissemination mechanisms
		+ Designation of EEO Officer and responsibilities
		+ Utilization analysis (to include a workforce and availability analyses)
		+ Goals and timetables
		+ Assessment of employment practices
		+ Description of EEO monitoring and reporting system
4. A copy of notices utilized by King County DOT to inform employees of their right to obtain reasonable accommodation and any formal procedures to make such accommodation. Also, please provide a listing of requests for reasonable accommodations from applicants and employees for the past three years; please note if King County DOT granted the requests.
5. A list of all King County DOT recruitment sources used during the last year, including the name and telephone numbers of contact persons.
6. A list of organizations in the community representing minorities, women and persons with disabilities, including the name and telephone numbers of contact persons.
7. A copy of the information given to King County DOT employees regarding employer-sponsored on-the-job training or educational programs.
8. A copy of the King County and the King County DOT current organization charts.
9. A copy of current job descriptions for King County’s EEO Officer and other EEO staff.
10. A listing of all King County DOT job titles for which written examinations are conducted.
11. A listing of all King County DOT job titles for which medical or physical examinations are conducted.
12. Procedures for EEO Monitoring and Reporting , as described in FTA Circular 4704.1
13. A report on the results of King County DOT’s goals for the 2008 affirmative action plan (AAP) year. For goals not attained, a description of the specific good faith efforts made to achieve them.
14. Data on applicants/hires for the past three years for each job title or job group. Provide the total number of applicants and the total number of hires, as well as the number of minority group and female applicants and hires.
15. 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.
16. 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.
17. 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.
18. Data on applicants/hires, promotions, terminations, demotions, suspensions and disciplinary actions for the past three years for persons with disabilities.
19. King County DOT Summary Utilization Analysis as of January 1, 2008 and January 1, 2009, prepared in accordance with FTA Circular 4704.1 Chapter III 2 d.
20. King County DOT Goals and Timetables for 2009 prepared in accordance with FTA Circular 4704.1 Chapter III 2 e.
21. A description of the procedures and criteria used by King County DOT to monitor its subrecipients and transit contractors to determine compliance with FTA EEO requirements.
22. Copies of EEO Programs from subrecipients and transit contractors that employ 50 or more transit related employees.

King County DOT assembled the documents prior to the site visit and provided them to the Compliance Review team for advance review.

King County DOT’s site visit occurred October 27-29, 2009. The Entrance Conference was conducted at the beginning of the Compliance Review with King County DOT’s senior management staff and the contractor Review team. During the Entrance Conference, the Review team explained the goals of the Review and the needed cooperation of staff members. The detailed schedule for conducting the on-site visit was discussed.

Following the Entrance Conference, the Review team conducted a detailed examination of documents submitted by King County DOT’s Human Resources Department on behalf of the agency. The Review team also held discussions with King County DOT’s Human Resources staff and Diversity Manager regarding King County DOT’s EEO Program and its implementation.

The next day, a group interview was conducted with members of King County DOT’s Human Resources staff to learn about King County DOT’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 and with interested parties who were not King County DOT employees but who may have been familiar with employment practices and complaints of discrimination. Interviews were also carried out with representatives of social service agencies and community-based organizations.

**Community Interviews**

Several community representatives were interviewed, representing a wide range of involvement in the community. The individuals included minority business members, community center staff, and civil rights advocates. Most of the individuals stated that they were aware of King County’s involvement in job fairs within the last year. None recalled having received a copy of King County’s EEO Policy or who the EEO Officer was at transit agency. Some had received notifications from King County regarding available job opportunities. Most representatives were aware that the transit agency posted job notices on the County’s website.

Most of those interviewed believed that King County hired, promoted, and disciplined persons without regard to race, color, age, sex, disability or national origin. However, several questioned whether the hires and promotions were in all areas of the agency, e.g., engineering and upper management. Most of those interviewed viewed the transit agency as a very diverse organization and stated that they would like to receive direct notifications on available employment opportunities so they could better disseminate the information to their constituents.

**Staff Interviews**

Ten staff members were independently selected for interviews. The staff members interviewed were an ethnically diverse group consisting of both men and women. All of the staff members had been employed by King County for several years. Many employees said that King County was a very diverse organization that can provide opportunities for promotion with no significant barriers. Many had received promotions during their tenure at King County.

The general consensus was that there was little or no knowledge of who the EEO Officer was or how the King County EEO Program operated. Most employees knew the agency was required to have an EEO Officer but did not know who that individual was. Only two employees knew how to file an internal complaint. While many believed the agency was diverse, most also expressed a reluctance to file an internal complaint. A few were aware that externals complaints could be filed with a State agency but again expressed a reluctance to file for fear of retaliation.

Some employees were aware of the EEO Notices posted at various areas throughout the facility, but few had seen or were aware of the agency’s EEO Policy Statement. Most expressed a desire to know what the agency’s statement was on discrimination and what the process was if an employee wanted to file a complaint.

Everyone recalled having received training on sexual harassment within the last three years and they knew that EEO training was part of the orientation for new employees. Upper level staff in management positions appears to receive additional EEO training about every two years. However, most other employees had no knowledge of receiving any additional EEO or diversity training after new employee orientation. Employees hired in the last five years recalled EEO being discussed as a part of the new employee orientation.

Diversity training was the number one issue most employees suggested would be very helpful. Almost all employees indicated the King County’s strong, diverse workforce actually increased the need for this training. Many employees expressed the need to better understand their co-workers and their cultures. Staff employees thought this was especially important for supervisors and mangers that had been with the agency for many years and have not changed their ideas or opinions regarding race, gender, culture or religion orientation as the agency has changed and become more diverse over the years.

Several individuals interviewed mentioned having concerns about promotion to upper management for minorities and believed that despite the election of the previous minority King County Executive, “glass ceilings” still exist at the agency. Most believed that supervisor positions did not have barriers but specific concerns were raised regarding promotions and harassment in the engineering and service management departments.

Other specific EEO recommendations for King County were:

* To permit different ethnic employees to take notes for classes in their own language
* To institute monthly cultural/diversity highlights from different ethic groups (in addition to MLK Holiday observance)
* To increase the frequency of internal agency management training for staff employees (especially women with primary child care responsibilities)
* To provide written policies and guidelines on what is required and how to advance to management and supervisory positions within the agency.

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

1. Findings and recommendations

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

Deficiencies were identified in the following three areas: *Statement of Policy, Dissemination, and Designation of Personnel Responsibility* . King County DOT was asked to provide additional information in one other area, *Assessment of Employment Practices*. Following the Site Visit, King County DOT staff provided documentation to address the areas of deficiency and the additional information requested. The Draft Report incorporates those submittals, which were adequate to close all of the deficiencies.

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 King County DOT, no deficiencies were found FTA requirements for Program Submission. King County DOT submitted its most recent EEO Program Update, entitled *EEO/AA Plan 2008 - 2012,* to FTA in January of 2008. The most recent Update, which reported on employment data as of January 10, 2007, was comprised of the following areas:

* Executive Statement
* Affirmative Action Program Required Elements
* Past Plan Activity
* 2008 – 2012 Plan Areas of Improvement
* Equal Employment Opportunity Complaints
* Internal Monitoring and Reporting
* Plan Terminology and Guidance
* Glossary of Terms
* Appendices

The FTA Region X Regional Civil Rights Officer approved the King County DOT EEO Program Update submittal on July 24, 2008 through January 1, 2011.

1. Statement of Policy

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

**Finding**: During this Compliance Review of King County DOT, deficiencies were found with FTA requirements for Statement of Policy. King County DOT identified its official EEO Policy Statement as PER 22-3-3, entitled “Nondiscrimination and Anti-Harassment Policy & Procedures”. This Policy Statement was promulgated by the former County Executive in 2002. This County Executive recently resigned and a special election for a new County Executive was scheduled for November 2009.

The following table lists the elements required to be in an EEO Statement of Policy according to FTA Circular 4704.1 Chapter III, 2a and where each element can be found in King County DOT EEO Policy Statement PER 22-3-3:

|  |
| --- |
| King County DOT EEO/AA Policy: PER 22-3-3**Nondiscrimination and Anti-Harassment** **Policy & Procedures**  |
| FTA C. 4704.1 Policy Statement Requirements | **Section** **Reference** |
| Issued by CEO | On Cover |
| Commitment to EEO | Section 6.1 |
| Undertake an Affirmative Action Program | Not Included |
|  EEO Program Assignment to Agency Executive | Section 7.6[[2]](#footnote-2) |
| Management Personnel Share Responsibility | Section 6.2 |
| Applicants/Employees Right to File Complaints | Section 7.3 |
| Performance by Managers/Supervisors Evaluated | Not Included |
| Successful Achievement Provides Benefits | Not Included |

Several of the missing elements of the Policy Statement, such as “Undertaking an affirmative action program to overcome the effects of past discrimination” and that the “Successful achievement of EEO goals provide benefits to the agency”, were not included in the official Policy Statement, but were included in Title 3 of the King County Code, or in the “EEO/AA Policy Statement and Reaffirmation” included in the EEO*/AA Plan 2008 – 2012.* For example, Section 3.12.180 c. of “Title 3” outlined King County DOT’s commitment to its affirmative action program, stating that it “shall promote the objectives of public policy set forth in applicable federal and state laws relating to nondiscrimination, equal employment opportunity, affirmative action and civil rights.”

FTA C. 4704.1 requires the EEO Policy Statement to declare that an agency executive be responsible for the implementation of the EEO program. Section 7.6 of King County DOT’s Policy statement that was referenced during the site visit as addressing this requirement was not sufficient. Section 7.6 did not identify an agency executive, by name or title, as being responsible for the implementation of the EEO program.

On December 11, 2009, King County DOT submitted a new Policy Statement entitled *Equal Employment Opportunity Policy, Metro Transit, Department of Transportation – King County Washington*. The following table lists the elements required to be in an EEO Statement of Policy according to FTA Circular 4704.1 Chapter III, 2a and whether each element can be found in this new Policy:

|  |
| --- |
| ***Equal Employment Opportunity Policy*** ***Metro Transit******Department of Transportation – King County Washington***  |
| FTA C. 4704.1 Policy Statement Requirements | **Included?** |
| 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 |

This corrective action was adequate to close the deficiency in this area.

3. Dissemination

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

**Finding**: During this Compliance Review of King County DOT, deficiencies were found with FTA requirements for Dissemination. Prior to the site visit, King County DOT provided a copy of its policy dissemination procedures, entitled *Description of Policy Dissemination Mechanism,* describing its procedures for internal and external dissemination of its EEO policy/program.

King County DOT was able to document that it used the following methods to disseminate its EEO policy internally:

* Distributed to all new hires during Employee orientation
* Included in all union labor agreements
* Included in mandatory management training
* Discussed during DOT-wide EEO/AA committee meetings
* Meetings held semiannually with management to discuss EEO
* EEO posters were distributed to 89 locations throughout King County DOT facilities

King County DOT’s EEO Program Update, entitled *EEO/AA Plan 2008 – 2012*, listed the following methods of external communication of the EEO Policy Statement:

* *The EEO/AA Plan will be available to external organizations.*
* *Copies of the EEO/AA Plan will be provided to appropriate federal agencies upon request for regulatory compliance purposes.*
* *The EEO/AA Plan will also be available to individuals and organizations that represent persons of color, women, veterans and persons with disabilities.*
* *HRD will ensure that King County presents itself as an equal employment opportunity employer by including statements to that effect in all job announcements and advertisements.*
* *The EEO/AA Plan will be made accessible to the public by making either hard and/or electronic copies available to the King County Library and the City of Seattle Library.*
* *The EEO/AA Plan will also be provided to the Executive Department’s labor unions.*

During the site visit, King County DOT was able to document that the EEO Policy had been made available upon request and had been provided to the King County and City of Seattle Libraries.

Following the site visit, King County posted its entire Equal Employment Opportunity/Affirmative Action Plan, including the Policy Statement, on its website at: <http://www.kingcounty.gov/jobs/whyjoinourteam.aspx>

This corrective action was adequate to close the deficiency in this area.

4. Designation of Personnel Responsibility

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

**Finding**: During this Compliance Review of King County DOT, 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*.

The Equal Employment Opportunity function for Metro Transit was performed primarily by the Diversity Manager who was located in the Human Resources Department of the King County Government (not within DOT or Metro Transit). In August 2009, the jobs of the Diversity Manager and the County Employment Manager were combined. The function of the Employment Manager was to oversee the employment process County-wide and recommend employment policy and practices. The Diversity and Employment Manager was assisted by one Senior Analyst. The Diversity Manager reported to the County Human Resources Director who reported to the County Chief Administrative Officer, who in turn reported to the County Executive. Prior to the site visit, King County DOT provided classification descriptions for the Diversity Manager and the County Employment Manager, and a job announcement dated March 5, 2007 for the Diversity Manager. The documents detailed the duties and responsibilities for the positions. This position was compensated at a level consistent with that of a Division Director. The staff of the County Employment and Diversity Manager was comprised of a senior analyst. The Manager also worked with the different King County Human Resources Department staffs. The Program Guidelines of FTA Circular 4704.1 Chapter III, 2c states:

*The EEO program manager should be identified by name in all internal and external communications regarding the agency’s EEO program.*

King County DOT’s most recent EEO Plan entitled EEO*/AA Plan – June 1, 2009* and the Policy Statement entitled *Nondiscrimination and Anti-Harassment Policy and Procedures* did not identify by name or position who was the EEO Officer.

The Program Guidelines of FTA Circular 4704.1 Chapter III, 2c also provide for nine program responsibilities that the EEO Officer should, at a minimum, have. The table below summarized the required elements of an EEO Officer contained in the documents provided by King County DOT detailing the duties and responsibilities of the EEO Officer:

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

The County Employment and Diversity Manager did not concur on all new transit hires nor did this position investigate employment discrimination complaints. Each Department was assigned a Human Resources Service Delivery Manager and Analysts. Within Metro Transit, the Human Resources Department Analysts assigned to a specific section concurred on the candidates selected.

Prior to the site visit, King County DOT provided two documents describing its internal complaint tracking system. One of the documents was entitled “Internal Complaint Tracking System”, and it had been provided by the Transit Employee Relations Supervisor. The other document entitled “EEO Monitoring and Reporting System” was provided by the County Employment and Diversity Manager. According to the document provided by the County Employment and Diversity Manager, discrimination complaints were received by Diversity Management Services. This was, however, not consistent with the other complaint procedure document received from the Transit Employee Relations Supervisor. When the Review team inquired during the Site Visit, the County Employment and Diversity Manager explained that Operations Department complaints are not received in Diversity Management Services. Internal complaints (regardless of the type of complaint) were generally received by the Operations Department managers, section supervisors, or as a union grievance. Metro Transit attempted to resolve all complaints at the lowest level of management not involved in the complaint. Frequently, employees in the Transit Employee Relations section of Human Resources would advise managers on how to handle complaints. Until recently (October 2009), King County DOT did not have a mechanism in place for tracking discrimination complaints.

King County did have an Office of Civil Rights (OCR) whose mission included the investigation of complaints of violations of the Fair Employment Act by King County and other employers. This unit functions as an external unit, outside of the King County DOT.

Following the Site Visit, on December 11, 2009, King County DOT submitted the following in a written response:

*Metro Transit believes that with the promulgation of the new policy statement by the General Manager, and the addition of the concurrence procedure noted below, the County’s current EEO program meets the requirements of Circular 4704.1. Grantees are permitted to combine the HR and EEO functions if the grantee provides written documentation regarding how it would manage collateral functions and potential conflicts and the process is comprehensive and not subject to a “case by case” review. Metro Transit believes that King County structure and policies provide comprehensive documentation of how the EEO program is its own priority and how conflicts are managed.*

*Metro Transit also notes that in its 2003 written submittal for the Tri-annual audit conducted by the FTA, the Human Resources Director was cited as the designated EEO Officer for Transit, and all current policies were in place. In its 2003 audit FTA found no EEO deficiencies. Metro Transit is committed to meeting the requirements of the Circular within the existing structure of King County.*

In its response, and in the new EEO Policy Statement, King County identifed the County Human Resources Director as the EEO Officer. King County did not have a classification description for this position.

*The Human Resources Division (HRD) Director is the county’s EEO Officer. King County has integrated the EEO program into its personnel system, which incorporates EEO considerations in all personnel actions and decisions. The statement of intent for the “Personnel System” makes it clear that equal employment opportunity is the core intent of the County’s personnel practices.*

*The HRD Director is identified as the county’s EEO Officer in several ways through the assignment of responsibilities; County Code 3.12.330, Executive Policy PER 22-3-2, & AA/EEO plan.*

This response was adequate to close the deficiency in this area.

5. Utilization Analysis

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

**Finding**: During this Compliance Review of King County DOT, no deficiencies were found with FTA requirements for Utilization Analysis. King County DOT provided utilization analyses for 2007and 2008 that detailed the work force analysis and availability analysis. King County DOT’s EEO/AA Plan had a section entitled *Summary Analysis, Analysis Data as of 2007-01-01* that detailed its Utilization Analysis. The King County DOT Utilization Analyses showed the workforce by:

* EEO – 1 Categories/Job Groups
* Gender
* Ethnicity
* Number of Employees in each Category/Job Group
* Current Utilization
* Class Goals
* Underutilized

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Job Group** | **Total Females** | **Total Minorities** | **Black** | **Asian** | **Native American** | **Hispanic** |
| **#** | **%** | **#** | **%** | **#** | **%** | **#** | **%** | **#** | **%** | **#** | % |
| **Officials and Administrators**# of Empl: **23** | Current Class GoalUnderutilized | 68.632.63 | 26.0937.51**Yes** | 63.50.00 | 26.0915.49No | 41.330.00 | 17.395.80No | 01.461.46 | 0.006.34**Yes** | 00.220.22 | 0.000.95No | 20.420.00 | 8.701.82No |
| **Professionals**# of Empl: **687** | Current Class GoalUnderutilized | 266244.090.00 | 38.7235.53No | 171133.970.00 | 24.8919.50No | 5339.780.00 | 7.715.79No | 9670.140.00 | 13.9710.21No | 107.760.00 | 1.461.13No | 1213.261.26 | 1.751.93**Yes** |
| **Technicians**# of Empl: **25** | Current Class GoalUnderutilized | 27.665.66 | 8.0030.65**Yes** | 45.251.25 | 16.0021.01**Yes** | 32.130.00 | 12.008.53No | 11.890.89 | 4.007.55**Yes** | 00.420.42 | 0.001.69No | 00.660.66 | 0.002.65**Yes** |
| **Protective Svc Workers**# of Empl: **3** | Current Class GoalUnderutilized | 01.021.02 | 0.0034.11Yes | 00.340.34 | 0.0011.20No | 00.070.07 | 0.002.43No | 00.120.12 | 0.003.96No | 00.060.06 | 0.001.94No | 00.080.08 | 0.002.75No |
| **Administrative Support**# of Empl: **281** | Current Class GoalUnderutilized | 160210.5550.55 | 56.9474.93**Yes** | 10260.500.00 | 36.3021.53No | 5220.370.00 | 18.517.25No | 4024.360.00 | 14.238.67No | 44.690.69 | 1.421.67**Yes** | 67.561.56 | 2.142.69**Yes** |
| **Skilled Crafts**# of Empl: **883** | Current Class GoalUnderutilized | 8476.640.00 | 9.518.68No | 233106.970.00 | 26.3918.23No | 9948.120.00 | 11.215.45No | 10457.400.00 | 11.786.50No | 1319.436.43 | 1.472.20**Yes** | 1726.589.58 | 1.933.01**Yes** |
| **Service Maint.**# of Empl: **324** | Current Class GoalUnderutilized | 6258.680.00 | 19.1418.11No | 12992.400.00 | 39.8128.52No | 5130.130.00 | 15.749.30No | 5229.190.00 | 16.059.01No | 68.682.68 | 1.852.68**Yes** | 2020.870.87 | 6.176.44**Yes** |
| **Transit Operators**# of Empl: **2659** | Current Class GoalUnderutilized | 6071323.4716.38 | 22.8349.77**Yes** | 980459.480.00 | 36.8617.28No | 640197.30.00 | 24.077.42No | 22591.200.00 | 8.463.43No | 2857.9729.97 | 1.052.18**Yes** | 8781.370.00 | 3.273.06No |
| **Totals: 4,885** |  | **1,187** | **23.0** | **1625** | **33.3** | **902** | **18.5** | **518** | **10.6** | **61** | **1.2** | **144** | **2.9** |

Source: *King County DOT’s EEO/AA Plan,* Summary Analysis, Analysis Data as of 2007-01-01

As shown above, King County DOT had a diverse workforce. The areas with underutilization were:

* Officials and Administrators – Females and Asians
* Professionals – Hispanic
* Technicians – Females, Asians and Hispanics
* Administrative Support – Females, Native Americans and Hispanics
* Skilled Crafts - Native Americans and Hispanics
* Transit Operators – Females and Native Americans

King County DOT updates its utilization analysis annually in areas of underutilization.

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 King County DOT, 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.*

 Prior to and during the Site Visit, King County DOT provided information regarding its goals and timetables established in its updated 2007 EEO/AA Plan. Included in the plan update utilization section were the established goals and timetables. The goals were presented numerically and as percentages for each job category by race, national origin and sex.

Annual analysis on King County DOT’s progress on the 2007 goals were found in the 2008 and 2009 EEO Program Update, entitled *EEO/AA Plan – June ,1 2008 Progress Report,* and *EEO/AA Plan – June 1, 2009 Progress Report,* respectively. The Progress Reports included the following documents:

* Executive Vision
* Executive Summary
* Placement Goal
* Implementation Plan Progress
* King County Code Requirements

Included in the EEO/AA Plan Progress Reports were updates on the goals established in the 2007 plan. In the *Placement Goal – Setting Status* sections of the reports, the following information was provided for each goal placement area:

* Current number of positions for each job group
* Current percentage of each demographic by job group and the corresponding previously establish 2007 goal percentage
* The resulting rate of placement as a percentage of the number of positions filled relative to the goal verses total number of positions filled in the past year
* Prior year actual placement rate

King County DOT’s progress reports also included detailed narratives of the prior year and the proposed implementation activities (strategies for accomplishing goals) for the coming year.

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 King County DOT, no deficiencies were found with FTA requirements for Assessment of Employment Practices. King County DOT documented that it had generally conducted qualitative and/or quantitative assessments of employment practices. However, an Advisory Comment was made to request that King County DOT conduct an assessment of the tests administered to mechanics.

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.*

King County was able to document that it had conducted quantitative analyses of its practices in accordance with FTA Circular 4704.1. King County DOT provided detailed information regarding its assessments of Human Resources practices and procedures and the impact on equal employment opportunities. These included procedures to assess Classification Specifications to assure that artificial barriers were removed from the specifications and that only essential functions were identified, as required. King County DOT has recently implemented an online hiring system, known as *Neogov*. This system handled recruitment, selection, and applicant tracking and provided extensive data to allow the Diversity manager to assess the impacts of employment practices on minority and female applicants. Throughout the Training Program given to managers on *Neogov*, repeated references were made to integrating equal employment opportunity considerations into the hiring process. These range from the recruitment phase to the selection phase.

Additionally, King County DOT was able to document that it conducted extensive analyses of disciplinary actions of its operators and on termination of officers. With respect to discipline, King County DOT provided annual reports, to include data going back more than ten years, cross-referencing the frequency of discipline administered to operators by race and gender and by operating locations. The report identified disparities where minorities were disciplined at a higher level than non-minorities. King County DOT was working with an “Operator Discipline Work Group”, made up of transit operators, operations supervisors, union representatives, and human resources and diversity staff, to identify strategies to eliminate the disparities.

King County DOT also had a diverse management group review all operator terminations to assure consistent application of the rules prior to terminating an employee. A review of termination files by the Compliance Review team did not reveal a pattern or practice of discriminatory practices in these areas.

However, during the Compliance Review, it was determined that a test administered to applicants for the Mechanic position had not been evaluated to determine if there was any bias in the test that might have created a barrier contributing to the underutilization of women and minorities in this category. During a recent recruitment for mechanics, 74 percent of the applicants and 100 percent of the minority and female applicants failed the test. Upon further review of the utilization analysis, it was determined that there was a slight underutilization of minorities and females in the skilled craft category. At the time of the Review, 76 percent of the mechanics were white male, while the availability analysis showed that white males should represent 73 percent of the workforce. The data also showed that white males are more likely to be assigned to the day shift (82 percent white) compared to the night or “graveyard” shift which was 66 percent white.

Following the Site Visit, on February 25, 2010, King County DOT submitted to the FTA Office of Civil Rights an assessment of the use of tests for mechanics and the impacts, if any, on the employment or promotion of women or minorities in this position. The assessment concluded that the testing instrument was limited to specific duties required to perform the job on a day-to-day basis. However, King County DOT identified several issues regarding test administration that could have resulted in barriers for women and minorities. King County DOT affirmed that it would implement the following modifications with the next recruitment for the mechanic position.:

* Increase the diversity of the test administrators
* Consistently use a combination of the written and skills test for a final score
* Conduct an ongoing review and monitoring after each recruitment process

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 King County DOT, no 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.*

At the site visit, King County DOT was able to demonstrate that it had been consistently reviewing EEO accomplishments and reporting on these to management on a periodic basis. As noted previously, King County’s Diversity Management Services section of the Human Resources Division prepared and presented annual progress reports on its EEO/AA Plan. The Progress Report was presented to the County Executive, the County Council, and to Department Directors. The Progress Report contained an assessment of progress made in meeting its goals in any areas of underutilization identified in its 2008-2012 Plan. The Progress Report identified goals met or exceeded and those Departments and/or job categories where goals were not met. Finally, the Progress Report identified strategies used to accomplish goals during the prior year and those strategies that would be used during the upcoming year to meet EEO goals. Semi-annually, Diversity Management Services provided an update to the Human Resources Service Delivery Managers to assist them in recruitment efforts and planning.

Additionally, King County and King County DOT had “Employee-Based EEO/AA Advisory Committees” that were created to ensure that employees were aware that they were protected under laws prohibiting discrimination on the basis of race, color, religion, sex, national origin, ancestry, age, marital status, veteran status, disability, and sexual orientation. The Committees worked to ensure that the workforce represented and met the diverse community served. King County DOT was able to document that its Committees met quarterly with the Director of DOT to discuss issues related to recruitment, promotion, selection, hiring and termination. The Committees’ roles were advisory. The Committees did not respond to or investigate allegations of discrimination, harassment or retaliation.

1. Title I of the Americans with Disabilities Act

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

**Finding**: During this Compliance Review of King County DOT, no deficiencies were found with FTA requirements for Title I of the ADA. King County included persons with disabilities as a protected group in its “Nondiscrimination and Anti-Harassment Policy & Procedures”. King County DOT also informed employees of their rights to reasonable accommodation though a separate Administrative Policy and Procedure, entitled “Disability Accommodation in Employment”, PER 22-4-2. This Policy extended the requirements of the ADA, as well as local and state disability laws, to King County DOT employees and applicants. Employment applications also notified applicants that they were entitled to reasonable accommodations. King County DOT provided documentation that it had, on average, provided workplace accommodation to approximately 300 employees and applicants in a given year. Formal workplace accommodations were managed and tracked by the Transit Disability Services unit. **VII. SUMMARY OF FINDINGS**

| **Requirements of** **FTA Circular 4704.1** | **Site Review Finding** | **Description of Deficiencies** | **Corrective Actions** | **Response Days/ Closed Date** |
| --- | --- | --- | --- | --- |
| 1. Program Submission | ND |  |  |  |
| 2. Statement of Policy | D | Policy lacks required elements | King County DOT must submit to FTA a revised and re-issued policy statement to include all required elements contained in FTA C. 4704.1. | **Closed**12/11/2009 |
| 3. Dissemination |  D | Inadequate external dissemination of policy  | King County DOT must submit to FTA documentation that it has disseminated its EEO Policy externally in accordance with FTA C. 4702.1 | **Closed**12/11/2009 |
| 4. Designation of Personnel Responsibility | D | Inadequate designation of personnel responsibility | King County DOT must submit to FTA:* A Classification Description for the position that will perform the EEO Officer function for Metro Transit as outlined in FTA Circular 4704.1
* A revised EEO Policy Statement identifying the EEO Officer
* An assurance that the hiring process for Metro Transit has been revised to allow the EEO Officer authority to concur in all hires and promotions.
 | **Closed**12/11/2009 |
| 5. Utilization Analysis |  ND  |  |  |  |
| 6. Goals and Timetables | ND |  |  |  |
| 7. Assessment of Employment Practices | AC | No assessment of mechanic test | King County DOT should conduct an assessment of the tests administered to mechanics.  | **Closed** February 25, 2010 |
| 8. Monitoring and Reporting System | ND |  |  |  |
| 9. Title I of the ADA | ND |  |  |  |

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

VIII. attendees

| **NAME** | **TITLE** | **PHONE** | **E-MAIL** |
| --- | --- | --- | --- |
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1. Per the 2000 Census, people of Hispanic origin can be, and in most cases are, counted in two or more race categories. [↑](#footnote-ref-1)
2. Section 7.6 is not sufficient to meet FTA requirements, as later described [↑](#footnote-ref-2)