

**EQUAL EMPLOYMENT OPPORTUNITY**

**COMPLIANCE REVIEW**

**Of**

**Maryland Transit Administration**

**(MTA)**

**Baltimore, Maryland**

**Final Report**

**August 2010**

**Prepared For  
U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL TRANSIT ADMINISTRATION  
OFFICE OF CIVIL RIGHTS**

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## I. GENERAL INFORMATION

Grant Recipient: Maryland Transit Administration (MTA)  
City/State: Baltimore, MD

Grantee Number: 1401

Executive Official: Mr. Ralign Wells  
Administrator  
Maryland Transit Administration (MTA)  
6 Saint Paul Street  
Baltimore, Maryland 21202

On Site Liaison: Ms. Paula Cullins  
Director, Office of Fair Practices

Report Prepared by: The DMP Group, LLC  
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Washington, DC 20011

Site Visit Dates: April 13 - 16, 2009 and April 23, 2010

Compliance Review Team: Maxine Marshall, Lead Reviewer  
Clinton Smith, Reviewer  
Khalique Davis, Reviewer

## **II. JURISDICTION AND AUTHORITIES**

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

Maryland Transit Administration (MTA) 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 MTA'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 MTA's "Equal Employment Opportunity Program" was necessary.

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

#### IV. BACKGROUND INFORMATION

The Maryland Transit Administration (MTA) was established in 1971, as a modal administration of the Maryland Department of Transportation (MDOT). At that time, MTA was primarily a local bus operator serving the City of Baltimore and surrounding communities. Today, MTA is a complex organization, responsible for directly operating public transportation service in the Baltimore urbanized area on four modes of service: fixed-route bus, ADA paratransit, heavy rail, and light rail. MTA is also responsible for oversight of contractor operated commuter bus, commuter rail, and ADA paratransit service. In addition to providing public transportation service in and around Baltimore, MTA is responsible for administering FTA funding to eleven urbanized areas, outside of Baltimore, more than 15 non-urbanized areas and over 30 non-profit agencies that operate transportation services for senior citizens and persons with disabilities. The Governor designated the MTA to administer the FTA grant application and program management for transportation programs in Maryland with the exception of the Washington Metropolitan Area Transit Authority (WMATA) in the Washington DC metropolitan area.

MTA is responsible for administering the following FTA-funded programs for public transportation services throughout the State of Maryland:

- Urbanized Area Formula Program (Section 5307)
- Capital Program (Section 5309)
- Non-Urbanized Formula Program (Section 5311)
- Job Access Reverse Commute (Section 5316)
- New Freedoms (Section 5317)



MTA's Office of Planning & Engineering was responsible for monitoring, managing, and providing technical assistance to the Locally Operated Transit Systems (LOTS) in each of Maryland's 23 counties plus several towns and cities who are subrecipients of Section 5307, 5309, 5310, and 5311 funds. MTA also provided planning and technical assistance to local operators and jurisdictions, as well as MPO liaison activities and overall state transit planning. The recently established Local Transit Support Division reported to MTA's Deputy Administrator for Planning & Engineering.

There were 11 urbanized area subrecipients eligible to receive Section 5307 funding and operate fixed route and demand response services. These subrecipients were:

- Annapolis Transit
- Allegany County Transit
- Carroll County Planning Department
- County Commissioners of Charles County
- Hartford Transit
- Howard Transit
- Montgomery County – Ride On
- Prince Georges' County – The BUS
- Transit Service of Frederick County
- Tri-County Council for the Lower Eastern Shore
- Washington County Transportation Department

There were 18 subrecipients of Section 5311 funds and 34 active subrecipients that received Section 5310 funding. There were six active subrecipients of Section 5316 funding and nine subrecipients of Section 5317 funding. The Section 5316 and 5317 subrecipients provide fixed route and demand response services.

The Administrator was MTA's Chief Executive Officer and was responsible for implementing the policies of the Secretary of the MDOT. As of March 31, 2010,

MTA was organized under the following management structure that reported directly to the Administrator:

- Assistant Administrator
- Chief of Staff
- Legal Counsel
- Safety, Quality Assurance & Risk Management
- Audits
- Fair Practices
- Labor Relations
- Police
- Deputy Administrator for Operations
- Deputy Administrator for Finance & Administration
- Deputy Administrator for Planning & Engineering

The Equal Employment Opportunity function was in the Office of Fair Practices. The Director of the Office of Fair Practices reported to the Administrator and was responsible for EEO, ADA, Title VI, and DBE. Within the Office of Fair Practices, there were four units and 11 positions. There were two positions in the ADA unit, and one of those positions was vacant. There were three positions in the EEO unit and one position in the Title VI unit. There were three positions in DBE and one of those positions was vacant. There was a Deputy Director position that was also vacant at the time of site visit. There were plans to combine the ADA and Title VI responsibilities because the open positions could not be filled due to hiring restrictions.

According to MTA's most recent workforce statistics, dated August 28, 2008, MTA had 3,179 employees (not including employees of subrecipients or contractors). These employees primarily operate public transportation service in the Baltimore

area. Minorities represented more than 75 percent of the total MTA workforce, as follows:

- African Americans - 74 percent
- Hispanics - one percent
- Asians – less than one percent
- American Indians - less than one percent

Females represented 38 percent of the workforce. As shown on Table 1, the City of Baltimore is predominately African American (64 percent), while the State of Maryland has a total population of approximately five million persons, with 64 percent white, 28 percent African American, four percent Asian, and four percent of Hispanic Origin.

**Table 1**  
**Racial/ Ethnic Breakdown of the MTA Service Area**  
**2000 – U.S. Census**

Racial/ Ethnic Group	Baltimore City		Statewide Totals	
	Number	Percent	Number	Percent
White	205,982	31.6	3,391,308	64.0
African American	418,951	64.3	1,477,411	27.9
American Indian and Alaska Native	2,097	0.3	15,423	0.3
Asian	9,985	1.5	210,929	4.0
Hawaiian/Pacific Islander	222	0.0	2,303	0.1
Other Race	4,363	0.7	95,525	1.8
Two or More	9,554	1.5	103,587	1.9
<b>Total Population</b>	<b>651,154</b>	<b>100%</b>	<b>5,296,486</b>	<b>100%</b>

<b>Hispanic Origin<sup>1</sup></b>	11,061	1.7	227,916	4.3
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<sup>1</sup> Per the 2000 Census, people of Hispanic origin can be, and in most cases are, counted in two or more race categories.

## 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<sup>®</sup> who reports and is directly responsible to the agency's CEO.

5. Utilization Analysis – The purpose of the utilization analysis is to identify those job categories where there is an underutilization and/or concentration of minorities and women in relation to their availability in the relevant labor market.
6. Goals and Timetables – Goals and timetables are an excellent management tool to assist in the optimum utilization of human resources.
7. Assessment of Employment Practices – Recipients, subrecipients, contractors and subcontractors must conduct a detailed assessment of present employment practices to identify those practices that operate as employment barriers and unjustifiably contribute to underutilization.
8. Monitoring and Reporting System – An important part of any successful EEO program is the establishment of an effective and workable internal monitoring and reporting system.
9. Title I – ADA – All recipients of federal financial assistance are required to prohibit employment discrimination on the basis of disability, and whenever a complaint is made, to have a process to make a prompt investigation whenever a Compliance Review, report, complaint, or any other information indicates a possible failure to comply with the ADA.

## METHODOLOGY

This EEO Compliance Review was conducted concurrently with a Title VI Compliance Review. The findings of the Title VI Compliance Review will be presented in a separate report. The initial step of the Compliance Reviews consisted of consultation with the FTA Region III Civil Rights Officer and Civil Rights Headquarters staff regarding the decision to conduct the Compliance Reviews of MTA. Relevant documents from FTA's files were reviewed as background. Next, an agenda letter was prepared and sent to MTA by FTA's Office of Civil Rights. The agenda letter notified MTA of the planned Compliance Reviews, requested preliminary documents, and informed MTA of additional documents needed and areas that would be covered during the on-site portion of the Review. It also informed MTA of the staff and other organizations and individuals that would be interviewed. The following documents were requested for the EEO Compliance Review:

1. A copy of personnel policy guides, handbooks, regulations, or other material, that governs employment practices.
2. A copy of each complaint or lawsuit filed against MTA, internally or externally, during the last three years (January 2006-December 2008) alleging discrimination towards an employee or job applicant.
3. MTA's most recent Affirmative Action Plan to include the following:
  - Statement of Policy issued by the CEO
  - Description of Policy dissemination mechanisms
  - Designation of EEO Officer and responsibilities
  - Utilization analysis (to include a workforce and availability analyses)
  - Goals and timetables
  - Assessment of employment practices
  - Description of EEO monitoring and reporting system

4. A copy of notices utilized by MTA 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 MTA granted the requests.
5. A list of all recruitment sources used during the last year, including the name and telephone numbers of contact persons.
6. A list of 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 employees regarding employer-sponsored on-the-job training or educational programs.
8. A copy of MTA's current organization chart.
9. Copies of current job descriptions for MTA's EEO Officer, and other EEO staff.
10. Collective Bargaining Agreements covering the past three years for each bargaining unit, if applicable.
11. A listing of all job titles for which written examinations are conducted.
12. A listing of all job titles for which medical or physical examinations are conducted.
13. Process Flow Charts and Operating Procedures of the EEO Monitoring and Reporting Systems.
14. A report on the results of MTA's goals for the 2008 affirmative action plan (AAP) year. For goals not attained, a description of the specific good faith efforts made to achieve them.
15. Data on applicants/hires for the past three years for each job title or job group. Provide the total number of applicants and the total number of hires, as well as the number of minority group and female applicants and hires.

16. Data on competitive promotions for the past three years for each job title or job group. Provide the total number of promotions, as well as the number of minority group and female employee promotions. Indicate the departments from which and to which the employees were promoted.
17. Data on terminations for the past three years for each job title or job group. Provide the total number of employee terminations, as well as the number of minority group and female employee terminations. Indicate if the terminations were voluntary or involuntary.
18. Data on all demotions, suspensions, and disciplinary actions above the level of oral warning for the past three years for each job title or job group. Provide the total number of demotions, suspensions, and disciplinary actions, as well as the number of minority group and female employee demotions, suspensions, and disciplinary actions. Indicate the departments in which these employees worked when they were demoted, suspended or disciplined.
19. Data on applicants/hires, promotions, terminations, demotions, suspensions and disciplinary actions for the past three years for persons with disabilities.
20. Utilization Analysis for the past two years prepared in accordance with FTA Circular 4704.1 Chapter III 2 d.
21. Goals and Timetables for the past two years prepared in accordance with FTA Circular 4704.1 Chapter III 2 e.
22. A description of the procedures and criteria used by MTA to monitor its subrecipients and contractors to determine compliance with FTA EEO requirements, including FTA Section 5307, 5310, 5311, 5316, and 5317 subrecipients.
23. Copies of EEO Programs from subrecipients and contractors that employ 50 or more transit related employees, including FTA Section 5307, 5310, 5311, 5316, and 5317 subrecipients.

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



The initial site visit to MTA occurred April 13-16, 2009. A joint Title VI and EEO Entrance Conference was conducted at the beginning of the Compliance Reviews with MTA senior management staff, FTA Headquarters staff, and the contractor Review teams. During the Entrance Conference, the Review team explained the goals of the Reviews and the needed cooperation of staff members. The detailed schedule for conducting the on-site visit was discussed.

Following the Entrance Conference, the EEO Compliance Review team conducted a detailed examination of documents submitted by MTA's Office of Fair Practices on behalf of the agency.

The next day, a group interview was conducted with members of MTA's Human Resources staff to learn about MTA'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 four-day site visit, interviews were also conducted with selected employees and managers and with interested parties who were not MTA 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.

At the end of the site visit, a joint EEO/Title VI Exit Conference was held with MTA's senior management staff, FTA Headquarters staff, and the contractor Review team. At the Exit Conference, initial findings and corrective actions were discussed with MTA. The Review identified a number of deficiencies and MTA worked with

the Review team to implement corrective actions. In April of 2010, the Review team conducted an on-site follow-up to the initial EEO Compliance Review site visit as part of MTA's Triennial and State Management Review.

This Draft Report incorporates the corrective actions taken by MTA during the period from April 2009 through April 2010 and reflects the observations of the Review team in April 2010 to assess the actual implementation of the corrective actions.

## VI. FINDINGS AND RECOMMENDATIONS

The EEO Compliance Review focused on MTA's compliance with nine specific requirements of FTA Circular 4704.1 and Title I of the ADA. At the time of the Compliance Review site visit in April 2009, deficiencies were identified in the following six areas: Statement of Policy, Dissemination, Designation of Personnel Responsibility, Goals and Timetables, Assessment of Employment Practices, and Monitoring and Reporting System. At the time of the follow-up to the Compliance Review in April 2010, all deficiencies were corrected and closed.

### 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:** At the time of the initial Compliance Review of MTA, no deficiencies were found with FTA requirements for Program Submission. MTA submitted its most recent EEO Program Update, entitled *MTA 2005-2010 EEO/AA Plan*, (2005 EEO/AA Plan) to FTA. The *2005 EEO/AA Plan*, which reported on employment, was comprised of the following areas:

- Introduction
- Maryland Transit Administration Organization Chart

- Equal Opportunity Definition
- Statement of Policy
- Dissemination of Policy Statement
- Responsibility for Implementation
- Budget
- Equal Employment Opportunity Plan Strategies
- Utilization Analysis
- Goals and Timetables
- Implementation of Equal Employment Opportunity Program
- Training Reclassification and Promotion Procedures
- Affirmative Monitoring and Evaluation
- Accomplishments

The FTA Region III Regional Civil Rights Officer approved the *2005 EEO/AA Plan* Update submittal on April 9, 2008 through September 10, 2010.

## 2. 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:** At the time of the initial Compliance Review of MTA, deficiencies were found with FTA requirements for Statement of Policy. Prior to the site visit, MTA provided the Review team with information on its Policy Statement included in its most recent EEO Program Update to the FTA, entitled *2005 EEO/AA Plan*.

The Policy Statement in the *2005 EEO/AA Plan* did not include all the required elements of a Statement of Policy as described in FTA Circular C 4704.1, including

the identification of the Equal Employment Opportunity (EEO) Officer, a statement of the right to file complaints, statement of commitment to overcome past discrimination, and use of goals. Following the site visit, MTA provided the Review team with new Policy Statement on June 24, 2009. Another updated policy statement, signed by the current MTA Administrator, was provided during the follow-up of the Review in April 2010.

The following table lists the elements required to be in a Statement of Policy and where each element can be found in the latest documents:

<b>MTA EEO Policy Documents</b>			
<b>FTA C. 4704.1 Policy Statement Requirements</b>	<b>2005 EEO/AA Plan</b>	<b>6/24/2009</b>	<b>1/6/2010</b>
Issued by CEO	Yes	Yes	Yes
Commitment to EEO	Yes	Yes	Yes
Undertake an Affirmative Action Program	No	Yes	Yes
EEO Program Assignment to Agency Executive	No	Yes	Yes
Management Personnel Share Responsibility	Yes	Yes	Yes
Applicants/Employees Right to File Complaints	No	Yes	Yes
Performance by Managers/Supervisors Evaluated	Yes	Yes	Yes
Successful Achievement Provides Benefits	Yes	Yes	Yes

The deficiency in this area is now closed.

### **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:** At the time of the initial Compliance Review of MTA, deficiencies were found with FTA requirements for Dissemination. MTA had not developed adequate procedures for publishing and circulating its EEO policy to its employees or the general public. MTA's EEO policy was not distributed or presented as a part of the new employee orientation. The policy statement was not published on MTA's website. Furthermore, MTA did not have procedures for distributing its EEO program and policy externally to community groups and organizations.

Following the 2009 Review, MTA submitted documentation that it had disseminated its EEO Policy externally to recruitment sources, local minority and women's organizations, community agencies, and community leaders. The Review team confirmed that the following was posted on MTA's website.

- *MTA EEO Policy Statement*

*It is the policy of the Maryland Transit Administration (MTA) to provide equal employment opportunity for all persons regardless of race, sex, color, creed, religion, national origin, age and physical or mental disability. The MTA, in cooperation with all employees, is committed to implementing its Affirmative Action Program (AAP) that includes setting goals and timetables to successfully overcome the effects of past discrimination that affect minorities and women in the workforce.*

*The overall responsibility for the effective implementation of the AAP has been assigned to Mr. Tony Brown, Assistant Administrator, located at 6 Saint Paul Street, 26th Floor, Baltimore MD 21202, or by phone at 410-767-8769. The designated EEO Officer, Ms. Paula Cullings, Director of MTA's Office of Fair Practices, is responsible for investigating complaints of discrimination and monitoring all personnel transactions to ensure fair and equal employment opportunities. These responsibilities include recruitment, selection and promotion, as well as compensation, benefits, transfers, work assignments, training and education and other similar personnel management and administration issues.*

*All Directors, managers and supervisors share the responsibility in the active participation of the achievement of the MTA's equal employment opportunity objectives as outlined in the AAP and management performance will be evaluated in the same way as other Agency objectives. The successful achievement of our EEO/AAP goals will provide benefits to the MTA through fuller utilization and development of previously underutilized human resources.*

*All MTA employees, applicants, contractors or vendors with problems, questions or complaints have the right to file a complaint and should contact Ms. Cullings, located at 6 Saint Paul Street, 20th Floor, Baltimore MD 21202, or by phone at 410-767-3934.*

*Ralign Wells, MTA Administrator 01/06/10*

Additional internal and external dissemination were confirmed during the April 2010 follow-up Review.

The deficiency in this area is now closed.

#### **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:** At the time of the initial Compliance Review of MTA, no deficiencies were found with FTA requirements for Designation of Personnel Responsibilities. An Advisory Comment was made regarding EEO concurrence on all hires and promotions. 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 Director of the Office of Fair Practices was designated in the *Affirmative Action Program* as the EEO Officer. This position reported to the Administrator.

The Program Guidelines of FTA Circular 4704.1 Chapter III, 2c provide for nine program responsibilities, summarized in the Table below, that the EEO Officer should, at a minimum, have. Prior to and during the site visit, MTA provided information regarding the role and responsibilities of the EEO Officer. In its initial submittal of responses to the Compliance Review agenda letter information request, MTA provided a job description and a discussion that summarized its hiring process. During the site visit, a number of employment files were reviewed, including several hiring actions. The review of the files revealed that the EEO Officer had signed off on some, but not all, hiring actions. Specifically, the EEO Officer did not concur in all promotions. During the site visit, other aspects of the responsibilities were discussed and are summarized in the table below.

<b>EEO Officer Program Responsibilities</b> (FTA Circular 4704.1 III.2.c)	<b>MTA 2005 EEO/AA Plan</b>
	<b>Dir. of Office of Fair Practices</b>
Develop EEO Policy/Program	Yes
Assist Management in Data Needs, Setting Goals and Timetables, etc.	Yes
Internal Monitoring and Reporting System	Yes
Reporting Periodically to CEO on EEO Progress	Yes
Liaison to Outside Organizations/Groups	Yes
Current Information Dissemination	Yes
Recruitment Assistance/Establish Outreach Sources	Yes
Concur in All Hires/Promotions	No
Process Employment Discrimination Complaints	Yes

During the follow-up Review in April 2010, MTA provided copies of internal memoranda dating from June 2009 through January 2010, showing that the EEO Officer was provided a memorandum and supporting documentation describing the selection process and concurred on promotions.

There are no outstanding Advisory Comments 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:** At the time of the initial Compliance Review of MTA, no deficiencies were found with FTA requirements for Utilization Analysis. MTA provided workforce utilization analyses based on the State of Maryland Civilian Labor Force percentages supplied by the United States Bureau of the Census. The MTA Utilization Analyses showed the workforce by:

- EEO – 1 Categories/Job Groups
- Gender
- Ethnicity
- Availability
- Need for Goals
- Number of Employees in each Category/Job Group

## **6. Goals and Timetables**

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

**Finding:** At the time of the initial Compliance Review of MTA, deficiencies were found with FTA requirements for Goals and Timetables. The Program Guidelines of FTA Circular 4704.1 Chapter III, 2e states:

*Goals and timetables are an excellent management tool to assist in the optimum utilization of human resources. Specific and detailed percentage and*

*numerical goals with timetables must be set to correct any underutilization of specific affected classes of persons identified in the utilization analysis.*

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

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

In MTA's 2005 EEO/AA Plan, for each EEO category, there was a discussion of the identified number and percentages of underutilization and a general statement of the relevant short term and long term goals. MTA identified job classifications where there was underutilization and targeted positions for minority and women recruitment, but did not give percentage or numerical goals.

Following the initial Review, MTA submitted numerical *Affirmative Action Goals and Timetables* for each identified area of underutilization for 2009 in accordance with the requirements of FTA Circular 4704.1. The document identified both short term and long-term (five-year) goals.

The deficiency in this area is now closed.

## **7. 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:** At the time of the initial Compliance Review of MTA, deficiencies were found with FTA requirements for Assessment of Employment Practices. MTA did not document that it had conducted qualitative or quantitative assessments of employment practices.

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

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

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

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

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

MTA's most recent EEO Program Update, *2005 EEO/AA Plan*, did not have any information on MTA's assessment of employment practice. During the follow-up

Review, MTA provided a *2009 EEO Program Assessment*, dated 4/21/2010. The *Assessment* included the following:

- Applicant and new hires data, by race and sex
- Separations, both voluntary and involuntary, by race and sex
- Promotions by race and sex, compared to the workforce
- Disciplinary actions

The assessment also took a first step at identifying test that are used for hires and promotions at MTA and reported that job descriptions are being examined to identify any practices that could operate as employment barriers and unjustifiably contribute to underutilization. This report included a quantitative and qualitative analysis of obstacles and barriers preventing the MTA from meeting EEO goals, as well as planned strategies to decrease the obstacles.

The deficiency in this area is closed.

#### **8. 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:** At the time of the initial Compliance Review of MTA, 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.*

MTA prepared a very comprehensive *Equal Employment Opportunity Annual Report*, for submission to the Governor. The most recent report for 2009 included the following information:

- Assignment of Responsibility
- EEO Program Accomplishments
- ADA Reasonable Accommodation Requests
- Summary of Interviews Conducted
- Contractual Work Force Utilization
- Summary of External Discrimination Complaints
- Summary of Internal Discrimination Complaints Training Activity Summary
- Total Full – Time Employees
- Total Part – Time Employees
- Total Part – Time and Part – Time Work Force Utilization
- EEO Report By Service Type
- Work Force By Service Type
- Executive Pay Plan Work Force By Salary Grade, Race and Gender
- Summary Of Agency Salary
- Personnel Transaction Analysis
- Summary of Separations and Terminations
- Separations And Terminations By Age, Race and Gender
- Work Force Utilization Analysis

However, MTA could not adequately document its monitoring of its subrecipients. The subrecipient EEO plans provided during the initial Review did not meet FTA requirements. Also, EEO plans were not maintained for all MTA subrecipients meeting the threshold requirements. MTA did not comply with its own procedures for EEO oversight outlined in Chapter 13, *Non-Discrimination*, of MTA's *Locally Operated Transit System (LOTS) Program Manual*.

Following the initial Review, MTA provided a manual entitled *EEO Plans for Subgrantees Participating in FTA programs*, dated March 18, 2010. According to the manual, MTA had reviewed the FY 2009 grant awards to determine which subrecipients received \$250,000 in FTA funding assistance and employed 50 or more transit related employees. Furthermore, MTA had obtained the EEO plans from all its subrecipients for which a plan was required. MTA was advised to continue to work with the subrecipients to ensure that the plans fully meet FTA requirements. The deficiency in this area is now closed.

## **9. 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:** At the time of the initial Compliance Review of MTA, no deficiencies were found with FTA requirements for Title I of the ADA. MTA had included

persons with physical or mental disabilities as a protected class in its EEO Policy Statement. Further, MTA has policies and procedures in place for advising employees and applicants of their rights to obtain reasonable accommodations. MTA provided a summary of reasonable accommodation requests and the determinations made in granting or denying the request. The following notice was posted on the employment page of MTA's website.

*Appropriate auxiliary aids and services for qualified individuals with disabilities will be provided upon request. After receiving test notification, please contact MTA's Employment Services organization at 410-767-3860 in advance so that we may make arrangements to accommodate your needs. For additional information and links to a wealth of employment and other resources available for individuals with disabilities visit our [Americans with Disabilities Act \(ADA\)](#) page.*

MTA did report one external complaint regarding a denial of reasonable accommodation that was resolved through mediation.

## VII. SUMMARY OF FINDINGS

Requirements of FTA Circular 4704.1	Site Review Finding	Description of Deficiencies	Corrective Actions	Response Days/ Closed Date
1. Program Submission	ND			
2. Statement of Policy	D	Policy Lacks required elements	Revise and re-issue policy statement to include all required elements contained in FTA C. 4704.1	June 24, 2009
3. Dissemination	D	Inadequate internal and external dissemination of policy	MTA must submit to the FTA Region III Civil Rights Officer documentation that it has externally disseminated its revised EEO Policy/Program as described in FTA C. 4704.1	April 23, 2010
4. Designation of Personnel Responsibility	AC	Assure that EEO Officer concurs on all promotions.		April 23, 2010
5. Utilization Analysis	ND			
6. Goals and Timetables	D	Does not follow FTA requirements for quantifiable short term and long term goals	MTA must submit to the FTA Region III Civil Rights Officer short term and long term numerical and percentage goals as described in FTA Circular 4704.1. III.2.e.	June 24, 2009
7. Assessment of Employment Practices	D	No documentation of qualitative or quantitative assessment of employment practices	MTA must submit to the FTA Region III Civil Rights Officer documentation that it has procedures in place to conduct qualitative and quantitative assessments of employment practices as described in FTA C. 4704.1	April 23, 2010
8. Monitoring and Reporting System	D	Inadequate documentation of monitoring and reporting system	MTA must submit to the FTA Region III Civil Rights Officer documentation that it has a monitoring and reporting system as described in FTA C.	April 23, 2010



Requirements of FTA Circular 4704.1	Site Review Finding	Description of Deficiencies	Corrective Actions	Response Days/ Closed Date
			4704.1.	
9. Title I of the ADA	ND			

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

## VIII. ATTENDEES

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