**EQUAL EMPLOYMENT OPPORTUNITY**

**COMPLIANCE REVIEW**

**OF**

**Miami-Dade Transit**

**(MDT)**

**Miami, Florida**

**FINAL REPORT**

**June 2011**

**Prepared For**

**U.S. DEPARTMENT OF TRANSPORATION**

**FEDERAL TRANSIT ADMINISTRATION**

**OFFICE OF CIVIL RIGHTS**

**Prepared By**

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i. General Information

Grant Recipient: Miami-Dade Transit

(MDT)

City/State: Miami, FL

Grantee Number: 1089

On Site Liaison: Cathy Lewis

Chief of Civil Rights and Labor Relations

Miami-Dade Transit

(MDT)

701 NW 1st Court

Miami, FL 33136

Report Prepared by: The DMP Group, LLC

2233 Wisconsin Avenue, NW Suite 405

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Site Visit Dates: January 25 – 27, 2011

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”.

Miami-Dade County and its public transit system, Miami-Dade Transit (MDT), 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 MDT’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 MDT’s “Equal Employment Opportunity Program” was necessary.

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

iv. Background information

Transit service in Miami-Dade County is operated by Miami-Dade Transit (MDT), an operating department of the County. The Miami-Dade Board of County Commissioners is the policy board responsible for overseeing the operation. MDT also provides limited transit service to Monroe and Broward Counties. MDT provides public transit services via four transportation modes: Metrobus, Metrorail, Metromover, and Paratransit.

Metrobus directly operates 94 fixed bus routes. Portions of the bus service operate over a 20-mile exclusive busway that was completed in 2007. Metrorail is a 22.6-mile heavy rail system with 22 stations. Metromover is a 4.4-mile people mover system, which is a three loop system in downtown Miami that has 21 stations. In addition, MDT purchases ADA complementary paratransit services, which is known locally as Special Transportation Services (STS), through a contracted broker from several private operators.

MDT has three bus maintenance locations: Northeast Facility, Central, and Coral Way. Metrorail has two facilities. The main rail maintenance facility is William Lehman on NW 72nd Avenue with a second facility on Dadeland Boulevard. The Metromover maintenance facility is located on First Avenue in downtown Miami. In addition to these bus and the rail facilities, MDT operates two transit centers, four bus terminals, five parking garages, eight park-and-ride facilities, a materials management facility and three administrative offices. MDT has fostered a number of joint development projects at Metrorail stations.

At the time of the Compliance Review and according to MDTs’ most recent Organization Chart, the Chief of Civil Rights and Labor Relations was MDT’s designated EEO Officer. The Chief of Civil Rights and Labor Relations reported to the MDT Director. MDT’s most recent Organization Chart reflected that MDT was organized under the following management structure that reported directly to the Director:

* Deputy Director of Operations
* Chief of Quality Assurance/Quality Control
* Chief of Office of Safety and Security
* Senior Executive Assistant
* Chief of Civil Rights and Labor Relations
* Chief of Strategic Planning and Performance MDT
* Assistant Director of Engineering, Planning and Development
* Senior Chief of Support Services
* Assistant Director of Financial Services

MDT’s Equal Employment Opportunity (EEO) function was performed primarily in the Office of Civil Rights and Labor Relations (OCR). According to the FY 2011 Functional Table of Organization, dated 11/22/10 , the following five positions reported to the Chief of Civil Rights and Labor Relations:

* Manager, Discipline and Special Projects
* MDT ADA Administrator
* Manager, Labor Relations
* Manager, EEO (Title VII) and Title VI
* Functional Manager, Disadvantaged Business Enterprises

According to MDT’s Utilization Analysis of its employee workforces as of October 2010, MDT had 3,407 employees and minorities represented nearly 91 percent of the total workforce, as follows:

* Blacks – 60.3 percent
* Hispanics – 30.3 percent

Females represented 33.5 percent of the workforce.

The demographics of MDT’s service area are shown in Table 1. According to the 2000 Census, the service area had a population of over 2.25 million persons. MDT’s service area is diverse, with White residents representing 69.7 percent of the total population. Hispanics are the largest minority group at 57.3 percent. Blacks follow at 20.3 percent and Asians represent 1.4 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 – Demographics of the MDT Service Area**

**Racial/ Ethnic Breakdown of the**

**Miami Dade County areas**

Source: 2000 U.S. Census

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Racial/ Ethnic Group** | City of Miami | | Rest of Miami Dade County | | Miami Dade County | |
| **Number** | **Percent** | **Number** | **Percent** | **Number** | **Percent** |
| White | 241,470 | 66.6 | 1,329,088 | 70.3 | 1,570,558 | 69.7 |
| Black | 80,858 | 22.3 | 376,356 | 19.9 | 457,214 | 20.3 |
| American Indian and Alaska Native | 810 | 0.2 | 3,555 | 0.2 | 4,365 | 0.2 |
| Asian | 2,376 | 0.7 | 29,377 | 1.6 | 31,753 | 1.4 |
| Hawaiian/Pacific Islander | 130 | 0.0 | 669 | 0.0 | 799 | 0.0 |
| Other Race | 19,644 | 5.4 | 83,607 | 4.4 | 103,251 | 4.6 |
| Two or More Races | 17,182 | 4.7 | 68,240 | 3.6 | 85,422 | 3.8 |
| Hispanic Origin[[1]](#footnote-1) | 238,351 | 65.8 | 1,053,386 | 55.7 | 1,291,737 | 57.3 |
| Total Population | **362,470** | **100%** | **1,890,892** | **100%** | **2,253,362** | **100%** |

v. scope and methodology

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

1. Program Submission – A formal EEO program is required of any recipient that both employs 50 or more transit-related employees (including temporary, full-time or part-time employees either directly employed and/or through contractors) *and* received in excess of $1 million in capital or operating assistance or in excess of $250,000 in planning assistance in the previous federal fiscal year. Program updates are required every three years.

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

3. Dissemination – Formal communication mechanisms should be established to publicize and disseminate the recipient’s EEO policy, as well as appropriate elements of the program, to its employees, applicants and the general public.

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

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

6. Goals and Timetables – Goals and timetables are an excellent management tool to assist in the optimum utilization of human resources.

7. Assessment of Employment Practices – Recipients, subrecipients, contractors and subcontractors must conduct a detailed assessment of present employment practices to identify those practices that operate as employment barriers and unjustifiably contribute to underutilization.

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

| FTA Circular 4704.1 Requirement/Documentation to Be Provided to The DMP Group, LLC |
| --- |
| **0. Background** |
| 1. Description of Miami-Dade Transit Services and Organization |
| 1. Summary Listing of EEO Complaints and Lawsuits against Miami-Dade Transit during the last three years (October 1, 2007 – September 30, 2010) alleging discrimination towards an employee or job applicant. The summary shall indicate the date of the complaint, if the complaint was filed internally or externally, the basis for discrimination, the date the complaint was resolved or if the complaint is still open. |
| 1. Collective Bargaining Agreements covering the past three years for each bargaining unit, if applicable. |
| **1. Program Submission (FTA C. 4704.1.II, 5.)** |
| 1. Copy of Affirmative Action/ EEO Program most recently submitted to FTA |
| Copy of Miami-Dade Transit’s Submittal Letter |
| Copy of FTA Approval Letter, if available |
| **2. Statement of Policy (FTA C. 4704.1.III, 2.a.)** |
| Copy of EEO Policy issued by CEO |
| 3. Dissemination (FTA C. 4704.1.III, 2.b.) |
| Documentation of Internal Dissemination of EEO Policy |
| Documentation of External Dissemination of EEO Policy |
| **4. Designation of Personnel Responsibility for EEO (FTA C. 4704.1.III, 2.c.)** |
| 1. Copy of Position/Job Description for EEO Officer and EEO Staff |
| 1. Organization Chart showing EEO Officer Reporting Relationship |
| **5. Utilization Analysis (FTA C. 4704.1.III, 2.d.)** |
| 1. Utilization Analysis for the past two years prepared in accordance with FTA Circular 4704.1 Chapter III 2. d. |
| **6. Goals and Timetables (FTA C. 4704.1.III, 2.e.)** |
| 1. Goals and Timetables for the past two years prepared in accordance with FTA Circular 4704.1 Chapter III 2 e. |
| **7. Assessment of Employment Practices (FTA C. 4704.1.III, 2.f.)** |
| 1. A copy of personnel policy guides, handbooks, regulations, or other material that govern employment practices. |
| 1. A list of all recruitment sources used during the last year, including the name and telephone numbers of contact persons. |
| 1. A listing of all job titles for which written examinations are conducted. |
| 1. A listing of all job titles for which medical or physical examinations are conducted. |
| 1. Data on new hires for the past three years for each job title or job group. Provide the total number of applicants and the total number of hires, by job title, as well as the number of minority group and female applicants and hires, for the past three years. |
| 1. Data on competitive promotions for the past three years for each job title or job group. Provide the total number of promotions, as well as the number of minority group and female employee promotions. Indicate the departments from which and to which the employees were promoted. |
| 1. Data on average salaries or wages paid, during the past three years, by job title or job group, to all employees, as well as the average salaries or wages paid to minority and female employees. |
| 1. Data on employer sponsored training offered during the past three years. Provide the total number of employees participating in each training course, as well as the number of minority group and female participants. Indicate if training was mandatory, or if supervisors authorized employee participation on a case-by-case basis. |
| 1. Data on terminations for the past three years for each job title or job group. Provide the total number of employee terminations, as well as the number of minority group and female employee terminations. Indicate if the terminations were voluntary or involuntary. |
| 1. Data on all demotions, suspensions, and disciplinary actions above the level of oral warning for the past three years for each job title or job group. Provide the total number of demotions, suspensions, and disciplinary actions, as well as the number of minority group and female employee demotions, suspensions, and disciplinary actions. Indicate the departments in which these employees worked when they were demoted, suspended or disciplined. |
| **8. Monitoring and Reporting (FTA C. 4704.1.III, 2.g.)** |
| 1. Procedures describing Miami-Dade Transit’s EEO Monitoring and Reporting System. |
| 1. A report on the results of Miami-Dade Transit’s goals for the 2009 affirmative action plan (AAP) year. For goals not attained, a description of the specific good faith efforts made to achieve them. |
| 1. A description of the procedures and criteria used by Miami-Dade Transit to monitor its subrecipients and contractors to determine compliance with FTA EEO requirements. |
| 1. Copies of EEO Programs from subrecipients and contractors that employ 50 or more transit-related employees. |
| **9. Title I of the Americans with Disabilities Act (Section 102.b.5)** |
| 1. A copy of notices utilized by Miami-Dade Transit to inform employees of their right to obtain reasonable accommodation and any formal procedures to make such accommodation. |
| 1. A list of requests for reasonable accommodation during the past three years and whether the requests were granted or denied. |

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

MDT’s site visit occurred January 25 - 27, 2011. The Entrance Conference was conducted at the beginning of the Compliance Review with MDT’s senior management staff, the FTA Region IV Civil Rights Officer, and the contractor Review team. During the Entrance Conference, FTA and 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 MDT’s Chief of Civil Rights and Labor Relations on behalf of the agency. The Review team also held discussions with the Chief of Civil Rights and Labor Relations and EEO staff members regarding the implementation of the EEO Policy/Program.

The next day, a group interview was conducted with members of MDT’s Human Resources staff to learn about MDT’s employment practices, including recruitment, testing, hiring, promotions, transfers, discipline and terminations. Files and records of employment actions, such as new hires, promotions, demotions, and terminations, were requested and reviewed.

Throughout the three-day site visit, interviews were also conducted with selected employees and managers of MDT’s administrative and operating departments.

**Staff Interviews**

Ten staff members were independently selected by the Review team for interviews. The staff members selected were an ethnically diverse group and included both men and women and hourly and salaried employees. Staff members’ tenure with MDT ranged between two and twenty-six years. Many staff member said that MDT was a diverse organization that provides opportunities for promotion with no significant barriers. Some had received promotions during their time at MDT.

The general consensus was that many employees were aware of EEO and its general purpose of helping to increase diversity. However, most did not know the other functions of the EEO office. The EEO knowledge base was greater in the administrative departments as compared to operations. About half of all staff members were aware of who the EEO Officer was or someone in the civil rights department.

Despite the general knowledge regarding EEO’s role in diversity, most staff members were not aware of EEO’s function in the areas of filing complaints. Most also expressed an interest in receiving additional information about the EEO officer and her functions and responsibilities. Most had not filed a complaint, but expressed a desire to know the agency’s statement on discrimination and the procedure to file internal and external complaints. Most thought they were required to initially file complaints with their manager or supervisor. They were not aware they could go directly to the EEO office or an outside agency. A few indicated they would be more comfortable filing a complaint outside the agency.

All administrative staff members interviewed had recalled, in the past several years, reviewing the online diversity training and believed it was helpful. Most operations supervisors had seen or participated in the online training, while most bus operators, mechanics and service workers had not participated in any EEO training.

Most staff members in operations stated that, since they did not have the same access to computers and a designated desk, the EEO training should be more targeted in operations and more frequent. Many recalled some discussion of EEO during their initial employee orientation but few recalled the details. They suggested an annual update, from EEO staff, for each work shift, to ensure that everyone received the information.

While many employees believed MDT was a diverse agency with limited barriers, several staff members expressed a concern that Hispanics had an unfair advantage, especially in management and supervisory positions. Others suggested that any Hispanic advantage was the result of Miami’s demographics, not bias.

Other specific recommendations were:

* To ensure that compensation for internal promotions was equal to compensation from outside hires. The general opinion was that outside hires had more flexiablity to neogotiate salary than individuals promoted internally;
* Increase representation of African-Americans in the Information Technology (IT) department and promote more women in operations management.
* Maintain the online diversity training. It was very informative and helpful to those who took the class.

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

Following the site visit, MDT 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 MDT'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.

Two deficiencies were identified in the following areas: Assessment of Employment Practices and Monitoring and Reporting System. Following the site visit, MDT worked with FTA’s Office of Civil Rights and submitted corrective actions adequate to close 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 MDT, no deficiencies were found FTA requirements for Program Submission. Prior to the site visit, MDT provided its most recent EEO Program Plan submission, entitled *Miami-Dade Transit Office of Civil Rights and Labor Relations, Equal Employment Opportunity Program, Fiscal Years 2006-2007*, to FTA on April 16, 2008. MDT’s 2006-2007 EEO Program was comprised of the following areas:

* MDT Equal Employment Opportunity Program Statement Introduction
* MDT Discrimination Complaint Filing Procedure
* Definitions – FTA EEO Program
  + Policy Issues
  + Dissemination Issues
* Dissemination of Information Regarding the EEO Program
  + Internal Dissemination
  + External Dissemination
  + Responsibility for Implementation of the EEO Program Plan
* Miami Dade Transit Policy on Sexual Harassment
* Miami Dade County Administrative Order No. 7-37 (Unlawful Harassment)
* MDT Zero Tolerance Policy of Violence
* Management Internship Program
* Appendices

The FTA Region IV Regional Civil Rights Officer approved the MDT EEO Program Plan submittal on May 5, 2008 through May 5, 2011.

**Advisory Comment**: MDT’s EEO Program Plan submission did not include all the required sections in accordance with FTA Circular 4704.1 Chapter III. The EEO Plan did not include information about the Assessment of Employment Practices or its Monitoring and Reporting System. The Review team advised MDT to incorporate these elements in its EEO Program due to FTA on April 4, 2011. The Review team also advised MDT to include more quantitative analysis in its Utilization Analysis and the Assessment of Employment Practices.

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 MDT, no deficiencies were found with FTA requirements for Statement of Policy. Prior to the site visit, MDT provided the Review team with its EEO Program Plan submission entitled *Miami-Dade Transit Office of Civil Rights and Labor Relations, Equal Employment Opportunity Program, Fiscal Years 2006-2007.* Included in the plan was MDT’s EEO Policy Statement dated, April 1, 2008. The Policy Statement contained most of the required elements of a Statement of Policy as described in FTA Circular C 4704.1. The required Statement of Policy elements and whether each element can be found in MDT’s *Policy Statement* are shown in the table below:

|  |  |  |
| --- | --- | --- |
| FTA C. 4704.1 Policy Statement Requirements | **MDT EEO Policy Statement** | **MDT Revised EEO Policy Statement dated 1/26/11** |
| Issued by CEO | Yes | Yes |
| Commitment to EEO | Yes | Yes |
| Undertake an Affirmative Action Program | **No** | Yes |
| EEO Program Assignment to Agency Executive | Yes | Yes |
| Management Personnel Share Responsibility | Yes | Yes |
| Applicants/Employees Right to File Complaints | Yes | Yes |
| Performance by Managers/Supervisors Evaluated | Yes | Yes |
| Successful Achievement Provides Benefits | Yes | Yes |

During the site visit, MDT revised its *Equal Employment Opportunity Policy Statement*, dated January, 26, 2011, that included all of the required elements as described in FTA Circular C 4704.1 and was signed by the Executive Director (see table above).

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 MDT, no deficiencies were found with FTA requirements for Dissemination. Prior to the site visit, MDT provided the Review team with the following list of methods used to disseminate its EEO Policy internally and externally:

*Internal Communications*

* *EEO policy statement is posted on bulletin boards, in employee lounges and throughout the work locations areas,*
* *EEO policy statement is incorporated into the new employee orientation manual and posted on the internal website,*
* *Nondiscrimination clauses are included in all collective bargaining agreements,*
* *An audio/visual PowerPoint presentation of EEO policies and procedures is available on TransitNet (intranet),*
* *MDT’s EEO Program is posted on TransitNet,*
* *Job Opening section of the TransitNet has a statement that MDT is an equal opportunity employer*

*External Communications*

* *All employment advertisements include a statement that Miami Dade County is an equal opportunity employer(EEO)*
* *Prospective employees are made aware of the policy through posting on Miami Dade County website and on the South Florida Workforce One-Step Career Center’s website where applications are completed*
* *An acknowledgement that MDT is an* Equal Opportunity Employer *(E O E) is displayed on all specialized career opportunity literature*
* *Documentation that MDT posted their job openings in two majority and one minority (Hispanic) paper that also contained the acknowledgement that MDT is an E O E.*

During the site visit, the Review team observed that MDT’s EEO Policy Statement was posted on internal bulletin boards for employees to review.

A portion of the recruitment and processing of applicants for employment at MDT is handled by Miami-Dade County. All employment applications have to be completed online on the County’s website. On the Miami-Dade County website where the employment applications are completed, there was a statement that Miami Dade-County was an Equal Opportunity Employer. MDT also provided material that had been developed for the purpose of reaching out to segments of the available workforces that were under-represented in the organization. The materials included a statement that Miami-Dade County is an Equal Opportunity Employer. During the site visit, MDT shared that, as a part of its ongoing outreach efforts, focus groups have been created to determine what barriers exists that MDT must address when recruiting particular ethnic groups.

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 MDT, no deficiencies were found with FTA requirements for Designation of Personnel Responsibilities. The Program Guidelines of FTA Circular 4704.1 (Note: sometimes we quote the Circular as “FTA Circular C 4704.1” and other times without the “C”. Is there a difference and should we be consistent?)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*.

According to the organization charts provided by MDT during the site visit, the Chief of Civil Rights and Labor Relations was the designated EEO Officer. The Chief of Civil Rights reported to the Director of MDT who was the CEO of MDT. During the site visit, MDT provided job descriptions for the following four positions that have responsibility for MDT’s EEO program:

* Chief, Office of Civil Rights and Labor Relations, dated February 7, 2008
* Manager, Office of Civil Rights and Labor Relations, dated February 7, 2008
* Personnel Technician, dated September 10, 2007
* Personnel Specialist 3, dated March 30, 2007

The Program Guidelines of FTA Circular 4704.1 Chapter III, 2c provide for nine program responsibilities, summarized in the Table below, which the EEO Officer was expected to carry out as part of his/her job. The following table identifies the responsibilities included in the list of responsibilities for each of the job functions provided as outlined in FTA Circular 4704.1.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **EEO Officer Program Responsibilities**  (FTA Circular 4704.1 III.2.c) | **MDT Job Function Descriptions** | | | |
| **Chief** | **Manager** | **Personnel Technician** | **Personnel Specialist 3** |
| Develop EEO Policy/Program | Yes | No | No | No |
| Assist Management in Data Needs, Setting Goals and Timetables, etc. | Yes | Yes | No | Yes |
| Internal Monitoring and Reporting System | No | Yes | Yes | Yes |
| Reporting Periodically to CEO on EEO Progress | Yes | No | No | No |
| Liaison to Outside Organizations/Groups | Yes | Yes | No | No |
| Current Information Dissemination | Yes | No | No | Yes |
| Recruitment Assistance/Establish Outreach Sources | No | Yes | No | No |
| Concur in All Hires/Promotions | Yes | No | No | No |
| Process Employment Discrimination Complaints | Yes | Yes | Yes | Yes |

According to the job descriptions, no single position description included all the required EEO responsibilities, however, all of the required responsibilities were accounted for by a member of MDT’s Office of Civil Rights and Labor Relations.

During the site visit, the Chief of the Office of Civil Rights explained that the Office of Civil Rights had been reorganized approximately six months earlier, at the advice of FTA’s Region IV Civil Rights Officer. Previously, the Chief Office of Civil Rights and Labor Relations had dual responsibilities that included Human Resources. As a result of the reorganization, the Human Resources responsibilities were separated from Civil Rights and moved under Support Services. This was done to alleviate any perceived conflict of interest that may have existed by having the Civil Rights responsibilities and the Human Resources responsibilities in the same department.

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 MDT, no deficiencies were found with FTA requirements for Utilization Analysis. During the site visit, MDT provided the Review team with a copy of its workforce utilization analyses for 2010. The MDT *Work Force Statistics Updated: December 7, 2010,* provided information on the following job categories:

* Officials/Administrators
* Professionals
* Technicians
* Paraprofessionals
* Office and Clerical
* Skilled Craft
* Service/Maintenance

The Utilization Analysis contained information on the number and percentage of employees in each job category, by gender and ethnicity.

Key findings of the 2010 utilization analysis showed:

* MDT’s 2008 total workforce was 3,407 employees
* Total Hispanic representation at MDT was 30.3 percent
* Total Black representation at MDT was 60.3 percent
* Total Female representation at MDT was 33.5 percent

The worksheets also included the numbers and percentages of the available workforce by gender and ethnicity for each job category and in total. The available workforce was compared with the current workforce to determine the areas of underutilization. MDT based its employment availability percentages on the Miami-Dade County recruitment area.

**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 MDT, 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, MDT provided information regarding its goals and timetables established in its *EEO Plan for 2006 – 2007* and the goals established for 2011 based on the 2009 – 2010 Utilization Analysis. A review of the utilization analysis and established goals revealed that the goals were not adequate to address the underutilization identified for each category by race and sex. For example, in the category of Technicians, Hispanic females were underutilized by 22.1 percent or 39 persons, and Black females by 10.7 percent or 19 persons. As noted above, goals and timetables must be set to correct any underutilization of specific affected classes of persons identified in the utilization analysis. There was no goal for Hispanic females, and a goal of one person was established for Black females. MDT did not have any long-term goals.

Following the site visit, MDT worked with FTA’s Office of Civil Rights and submitted goals and timetables to correct underutilization, presented in terms of long-range goals and short-term numerical goals, in accordance with the requirements of FTA C. 4704.1.

The deficiency in this area is now closed.

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 MDT, deficiencies were found with FTA requirements for Assessment of Employment Practices. MDT did not provide documentation that it had regularly 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.*

MDT’s EEO Plan provided prior to the site visit did not include qualitative or quantitative analyses of MDT’s employment practices.

Prior to the site visit, MDT provided considerable data pertaining to employment practices. The table below summarizes the missing elements of the qualitative and quantitative analysis of employment practices required per FTA Circular C. 4704.1 found in MDT’s EEO submittal.

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

MDT did not provide documentation that it had undertaken a qualitative and quantitative analysis of employment practices to identify those practices that operate as employment barriers and unjustifiably contribute to underutilization. As an example, the 2006-2007 MDT utilization analysis showed that Black females were disciplined at a rate that far exceeded their representation in the workforce. However, there was no discussion of this apparent disparate treatment and no analysis of the reasons and possible corrective actions. In this circumstance, MDT did not perform any analysis to identify practices, such as discipline, that might have a disparate impact.

During the site visit, MDT informed the Review Team that approximately 1,200 reclassifications are made by the County each month (for all County employees, including MDT). A reclassification could result in a change of title and an increase or a decrease in compensation. MDT had not done any quantitative or qualitative analysis of the reclassifications to determine if minorities and females were fairly treated in this practice.

Subsequent to the site visit, MDT provided qualitative and quantitative analysis of employment practices for the past three years for the following areas:

* New Hires – MDT’s recruitment efforts garnered a very high percentage of minority and female new hires.
* Terminations – Black females were terminated at a substantially higher percentage rate as compared to other minority and females
* Voluntary Terminations – Leading cause of voluntary terminations was employee retirements
* Reclassifications – Black males and females were reclassified at a substantially lower percentage rate
* Lay-off Actions – Highly disproportionate number of Hispanic females impacted by lay-offs
* Promotions – Black females are promoted at a disproportionately lower percentage rate

For each area, there was a qualitative discussion of the circumstances that impacted the results observed, actions to be taken to mitigate the unintended disparities of current practices, or measures to be taken to further examine current practices.

The deficiency in this area is now closed.

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 MDT, 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.*

Prior to the site visit, MDT provided the Review team a copy of its guidelines and procedures manual for its monitoring and reporting system dated December 1, 2010. The list of procedures included providing statistical quarterly updates of key EEO performance indicators to senior management. MDT had also recently added EEO performance to its TransitNet report of key MDT performance standards.

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 MDT, no deficiencies were found with FTA requirements for Title I of the ADA. MDT included persons with disabilities as a protected group in its Equal Opportunity Policy Statement. The following statements were attached to MDT job listing on its webpage:

*In accordance with the requirements of title II of the Americans with Disabilities Act of 1990 ("ADA"), Miami-Dade County will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.*

*Employment: Miami-Dade County does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under title I of the ADA.*

Prior to the site visit, MDT provide a list of requests for reasonable accommodations over the last two years and how those request were adjudicated. Many of the requests had been approved. During the site visit, MDT also provided the Review team a copy of its reasonable accommodation procedural manual. MDT’s qualifications for those who qualify for reasonable accommodations were more inclusive than the stipulations outline in Title I of the ADA. In addition to individuals who are permanently disabled, MDT made accommodations for short-term disability. Miami-Dade County was responsible for making accommodations for applicants.

**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 | AC | Consider including the assessment of employment practices and the Monitoring and Reporting System in its EEO Program submittal. |  |  |
| 2. Statement of Policy | ND |  |  |  |
| 3. Dissemination | ND |  |  |  |
| 4. Designation of Personnel Responsibility | ND |  |  |  |
| 5. Utilization Analysis | ND |  |  |  |
| 6. Goals and Timetables | D | Does not follow FTA requirements for short term and long term goals  Goals were incorrect | MDT must submit to the FTA Office of Civil Rights 2011 Goals and Timetables to correct underutilizations, and present them in terms of long-range percentage goals and short-term numerical goals in accordance with the requirements of FTA C. 4704.1. | Closed |
| 7. Assessment of Employment Practices | D | No documentation of qualitative or quantitative assessment of employment practices | MDT must submit to the FTA Office of Civil Rights qualitative and quantitative analyses of its employment practices, including the practice of reclassification and “bumping” to identify any barriers that have an adverse impact on the employment or promotion of women or minorities, in accordance with the requirements of FTA C. 4704.1. | Closed |
| 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

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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)