**EQUAL EMPLOYMENT OPPORTUNITY**

 **COMPLIANCE REVIEW**

**OF**

**PALM BEACH COUNTY BOARD OF COMMISSIONERS**

**dba**

**PALM TRAN**

**Palm Beach County, Florida**

**Final Report**

**July 2010**

**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: Palm Beach County Board of County Commissioners dba Palm Tran

City/State: West Palm Beach, FL

Grantee Number: 1098

Executive Official: Mr. Charles D. Cohen

 Executive Director

 Palm Tran

 3201 Electronics Way

 West Palm Beach, FL 33407

On Site Liaison: Lorraine Szyms

 Assistant Executive Director

Report Prepared by: The DMP Group, LLC

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Site Visit Dates: January 26 - 28, 2010

Compliance Review Team: John Potts, 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”.

The Palm Beach County Board of Commissioners (dba Palm Tran) 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 Palm Tran’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 Palm Tran’s “Equal Employment Opportunity Program” was necessary.

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

iv. Background information

Palm Tran is a unit of the Palm Beach County Government. Palm Tran is the name of the Palm Beach County’s public (surface) transportation system. The rights to the name are vested in Palm Beach County. Palm Tran is also the name commonly used to refer to Palm Tran, Inc., a not-for-profit corporation created by the Palm Beach County Board of County Commissioners to operate and mange, on its behalf, Palm Beach County’s public transportation system.

The seven members of the Board of County Commissioners (BCC) serve as the Board of Directors of Palm Tran, Inc. The BCC serves as the legislative and policy-setting body for County government and enacts countywide laws and authorizes programs and all expenditures of County funds. The seven commissioners are elected from single-member districts to staggered four-year terms to represent the entire County. Palm Tran is funded by revenue from the County (dedicated gas taxes and ad-valorem taxes), Florida State transportation disadvantaged (TD) funds, Florida State block grant funds, FTA Federal funds (Section 5307), and farebox revenues.

Palm Tran serves the urbanized portion of Palm Beach County. The population of the service area is approximately 1.1 million people. Palm Tran operates fixed-route bus service directly and contracts with two private operators for the Palm Tran CONNECTION paratransit service. In addition to these services, Palm Beach County, through Palm Tran, purchased vehicles with FTA assistance that are leased to the cities of Boynton Beach and Lake Worth. Palm Beach County also provides financial assistance to the Tri-County Commuter Rail Authority, which provides Tri-Rail commuter rail service between Miami and West Palm Beach. Palm Tran provides feeder bus service to the six Tri-Rail stations in Palm Beach County.

Palm Tran operates a network of 34 fixed routes with a fleet of 144 buses for fixed-route service. The bus fleet consists of low floor and standard 29-, 30-, 35-, and 40-foot transit coaches. The current peak requirement is for 120 vehicles. The fixed-route system is a modified grid with timed transfer locations throughout the county. Timed-transfer points are provided to promote easy movement from the north/south main routes to the east/west routes.

Service is provided seven days a week (excluding holidays) serving more than 3,400 bus stops. Weekday service is operated from 5:00 a.m. to 10:00 p.m. Saturday service is operated from 8:00 a.m. to 8:00 p.m. Sunday service is operated from 9:00 a.m. to 5:00 p.m. In FY 2009, Palm Tran provided more than 10 million rides.

Palm Tran contracts with two private operators for the CONNECTION paratransit service. The contractors are MV Transportation Inc. and Palm Beach Metro Transportation, L.L.C. CONNECTION paratransit is available for ADA-certified riders and clients of other sponsoring programs during the same days and hours of service as the fixed routes. The CONNECTION fleet is owned by Palm Tran's contractors.

The basic adult fare for bus service is $1.50. A reduced fare of $0.75 is offered at all times to senior citizens age 65 or older, students age 21 or younger, persons with disabilities, and Medicare card holders. Children age eight and younger, senior citizens age 85 and older, uniformed police officers, and ADA-certified passengers ride the fixed routes for free. The fare for ADA paratransit service is $3.00. As an alternative to the cash fare, Palm Tran offers daily and monthly unlimited ride discounted passes for fixed-route service and ticket books for CONNECTION.

Palm Tran operates from two facilities. Its main facility in West Palm Beach opened in 1999 and houses the administrative offices as well as operations and maintenance. The second facility in Delray Beach serves the southern portion of the county. There are 95 buses assigned to the West Palm Beach facility and 46 assigned to Delray Beach.

At the time of the Compliance Review and according to Palm Trans’ most recent Organization Chart, the Executive Director was responsible for implementing the policies of the County Board of County Commissions. The Executive Director reported to the Assistant County Administrator, who reported to the President/County Administrator, who reported to the County Board of County Commissioners. Palm Tran’s most recent Organization Chart also reflected that Palm Tran was organized under the following management structure that reported directly to the Executive Director:

* Assistant Executive Director
* Manager, Information System
* Manager, Operations
* Manager, Human Resources
* Director, Paratransit Services
* Manager, Marketing and Community Affairs
* Executive Secretary

Palm Tran’s Equal Employment Opportunity (EEO) function was performed primarily by the Assistant Executive Director, according to Palm Tran’s May 28, 2009 *Affirmative Action Plan for 2009- 2012*. Palm Tran’s Assistant Executive Director reported to the Palm Tran Executive Director. Palm Beach County Government’s EEO function was performed by the Manager of Fair Employment Programs.

According to its most recent “2008 Utilization Analysis of the Total Workforce”, Palm Tran had 541 employees and minorities represented nearly 69 percent of the total workforce, as follows:

* + Blacks – 43.8 percent
	+ Hispanics – 21.4 percent
	+ Asians – 1.8 percent
	+ American Indians – 1.5 percent

Females represented 33.8 percent of the workforce. Approximately 87 percent of Palm Tran’s employees belonged to two unions, Amalgamated Transit Union (ATU), Local 1577 and SEIU, Florida Public Services Union, CtW, CLC.

The demographics of Palm Tran’s service area are shown in Table 1. According to the 2000 Census, the service area had a population of over 1.1 million persons. Palm Tran’s service area is diverse, with White residents representing 79.1 percent of the total population. Blacks are the largest minority group at 13.8 percent. Hispanics follow at 12.4 percent and Asians represent 1.5 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 Palm Tran Service Area**

**Racial/ Ethnic Breakdown of the**

**City of West Palm Beach and Palm Beach County areas**

Source: 2000 U.S. Census

|  |  |  |  |
| --- | --- | --- | --- |
| **Racial/ Ethnic Group** | City of West Palm Beach | Rest of Palm Beach County | Palm Beach County |
| **Number** | **Percent** | **Number** | **Percent** | **Number** | **Percent** |
| White | 47,696 | 58.1% | 846,511 | 80.7% | 894,207 | 79.1% |
| Black | 26,446 | 32.2% | 129,609 | 12.4% | 156,055 | 13.8% |
| American Indian and Alaska Native | 274 | 0.3% | 2,192 | 0.2% | 2,466 | 0.2% |
| Asian | 1,197 | 1.5% | 15,930 | 1.5% | 17,127 | 1.5% |
| Hawaiian/Pacific Islander | 133 | 0.2% | 559 | 0.1% | 692 | 0.1% |
| Other Race | 3,568 | 4.3% | 30,141 | 2.9% | 33,709 | 3.0% |
| Hispanic Origin[[1]](#footnote-2) | **14,955** | 18.2% | 125,720 | 12.0% | 140,675 | 12.4% |
| Total Population | **82,103** | **100.00%** | **1,049,081** | **100%** | **1,131,184** | **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 Palm Tran. Relevant documents from FTA’s files were reviewed as background. Next, an agenda letter was prepared and sent to Palm Tran by FTA’s Office of Civil Rights. The agenda letter notified Palm Tran of the planned Compliance Review, requested preliminary documents, and informed Palm Tran of additional documents needed and areas that would be covered during the on-site portion of the Review. It also informed Palm Tran of the staff and other organizations and individuals that would be interviewed. The following documents were requested:

| Documentation Requested  |
| --- |
| **0. Background** |
| 1. Description of Palm Tran Services and Organization
 |
| 1. Summary Listing of EEO Complaints and Lawsuits against Palm Tran during the last three years (October 1, 2006 – September 30, 2009) alleging discrimination towards an employee or job applicant. The summary shall indicate the date of the complaint, if the complaint was filed internally or externally, the basis for discrimination, the date the complaint was resolved or if the complaint is still open.
 |
| 1. A list of organizations in the community representing minorities, women, and persons with disabilities, including the name and telephone numbers of contact persons.
 |
| 1. Collective Bargaining Agreements covering the past three years for each bargaining unit, if applicable.
 |
| **1. Program Submission (FTA C. 4704.1.II, 5.)** |
| 1. Copy of Affirmative Action/ EEO Program most recently submitted to FTA
 |
|  Copy of Palm Tran 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 copy of the information given to employees regarding employer-sponsored training.
 |
| 1. A listing of all job titles for which written examinations are conducted.
 |
| 1. A listing of all job titles for which medical or physical examinations are conducted.
 |
| 1. Data on new hires for the past three years for each job title or job group. Provide the total number of applicants and the total number of hires, by job title, as well as the number of minority group and female applicants and hires, for the past three years.
 |
| 1. Data on competitive promotions for the past three years for each job title or job group. Provide the total number of promotions, as well as the number of minority group and female employee promotions. Indicate the departments from which and to which the employees were promoted.
 |
| 1. Data on terminations for the past three years for each job title or job group. Provide the total number of employee terminations, as well as the number of minority group and female employee terminations. Indicate if the terminations were voluntary or involuntary.
 |
| 1. Data on all demotions, suspensions, and disciplinary actions above the level of oral warning for the past three years for each job title or job group. Provide the total number of demotions, suspensions, and disciplinary actions, as well as the number of minority group and female employee demotions, suspensions, and disciplinary actions. Indicate the departments in which these employees worked when they were demoted, suspended or disciplined.
 |
| **8. Monitoring and Reporting (FTA C. 4704.1.III, 2.g.)** |
| 1. Procedures describing Palm Trans EEO Monitoring and Reporting System.
 |
| 1. A report on the results of Palm Tran’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.
 |
| 1. A description of the procedures and criteria used by Palm Tran 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 Palm Tran 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.
 |

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

Palm Tran’s site visit occurred January 26-28, 2010. The Entrance Conference was conducted at the beginning of the Compliance Review with Palm Tran’s senior management staff, the FTA Region IV Civil Rights Officer, and the contractor Review team. During the Entrance Conference, the Review team explained the goals of the Review and the needed cooperation of staff members. The detailed schedule for conducting the on-site visit was discussed.

Following the Entrance Conference, the Review team conducted a detailed examination of documents submitted by Palm Tran’s Assistant Executive Director on behalf of the agency. The Review team also held discussions with the Assistant Executive Director, as Palm Tran’s EEO Officer, regarding the implementation of the EEO Policy/Program.

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

Throughout the three-day site visit, interviews were also conducted with selected employees and managers and with interested parties who were not Palm Tran employees but who may have been familiar with employment practices and complaints of discrimination. Interviews were also carried out with representatives of social service agencies and community-based organizations.

**Community Interviews**

Several community representatives were interviewed and they had a wide range of involvement in the African American, Hispanic, and persons with disabilities communities in the Palm Beach service area. One of the community representatives stated that he was aware of Palm Beach County’s involvement in job fairs within the last year. No one noted having received a copy of Palm Tran’s EEO Policy or knew who the EEO Officer was at the transit agency. None of those interviewed expressed a concern about the transit agency’s practice when it came to hiring, promoting, and disciplining persons without regard to race, color, age, sex, disability or national origin. No one had any knowledge of accusations of discrimination at Palm Tran. No one had received notifications from Palm Tran regarding available employment opportunities.

Most of those interviewed viewed the transit agency as a very diverse organization and stated that they would like to receive direct notifications on available employment opportunities so they could disseminate the information to their constituents.

**Staff Interviews**

Eleven staff members were independently selected for interviews. The staff members interviewed were an ethnically diverse group consisting of both men and women. Most of the staff members had been with Palm Tran over ten years. Most of the employees believed that Palm Tran was a very diverse organization with opportunities for promotion with no significant barriers throughout most areas of the agency. Several individuals had received promotions in their time at Palm Tran. A few individuals were of the opinion that the culture in some circles at Palm Tran presented adverse challenges to the promotion of minorities.

Several of the individuals were aware of who the EEO Officer was and most felt confident that, if they filed a complaint, it would be addressed. Most individuals acknowledged seeing the EEO posters throughout the Palm Tran facilities.

All of the employees acknowledged having received technical training within the last three years. Some of the managers and supervisors had received training relevant to EEO. A few individuals expressed a concern about the transit agency’s lack of training or the lack of a variety in the training options.

The staff had a few suggestions and recommendations. It was suggested that employees receive training relevant to promotional opportunities. It was also suggested that the standards and metrics used for evaluating employee performance be more clearly communicated to the employees.

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

Following the site visit, Palm Tran 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 Palm Tran'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.

Five deficiencies were identified in the following four areas: Dissemination, Designation of Personnel Responsibility, Assessment of Employment Practices, and Monitoring and Reporting System. Subsequent to the site visit, Palm Tran submitted documentation to close four of the deficiencies. A deficiency remains in Monitoring and Reporting System.

Following the issuance of the Draft Report, Palm Tran provided a written description of its plans for correcting the outstanding deficiency.

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 Palm Tran, no deficiencies were found FTA requirements for Program Submission. Palm Tran submitted its most recent EEO Program Update, entitled *Palm Tran* *Affirmative Action Plan for 2009 – 2012*, to FTA in June 5, 2009. The most recent Update, which reported on employment data as of May 28, 2009, was comprised of the following areas:

* Legal Basis for Equal Opportunity/Affirmative Action
* Equal Employment/Affirmative Action Policy
* Responsibility for Implementation
* Dissemination of Policy
* Workforce Analysis / Identification of Problem Areas
* Summary of Work Force Statistics
* Development & Execution of Action Oriented Programs/Procedures
* Compliance with Sex Discrimination Guidelines
* Compliance with Rehabilitation Act of 1973, The American with Disabilities Act of 1999, and The Vietnam Era Veterans Readjustment Act of 1974
* Discrimination Complaint Procedures
* Targeted Work Goals
* Summary of Tables
* List of Tables of Utilization Analysis of Total Work Force; pages 25 – 35
* List of Tables of New Hires by Job Categories - Race and Sex; pages 37 – 39
* List of Tables of Terminations by Job Categories – Race and Sex; pages 40 – 42
* Exhibit 1- Policy Statement
* Exhibit 2 – Palm Tran, Inc. and Amalgamated Transit Union; Labor Management Agreement, Article 6
* Exhibit 3 – Palm Tran, Inc and Service Employee International Union; Labor Management Agreement, Article 6

The FTA Region IV Regional Civil Rights Officer approved the Palm Tran EEO Program Update submittal on July 15, 2009 through June 14, 2012.

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 Palm Tran, no deficiencies were found with FTA requirements for Statement of Policy. Prior to the site visit, Palm Tran provided the Review team with two identical *Policy Statements*, one dated April 25, 2006 and the other dated May 29, 2009. Both were issued by the CEO to all employees. The Policy Statements contained only three of the required elements of a Statement of Policy as described in FTA Circular C 4704.1.

Prior to the review, Palm Tran also provide the Review team with a copy of PPM# PT-P-028 entitled *Affirmative Action Plan (AAP)*, dated May 10, 2007 and issued by the Human Resources Department. The PPM contained only three of the required elements of a Statement of Policy as described in FTA Circular C 4704.1.

During the site visit, the Review team received a revised copy of Palm Tran’s *Equal Employment Opportunity Policy Statement*, dated January 26, 2010 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).

The required Statement of Policy elements and whether each element were found in Palm Tran’s *Policy Statements* and *PPM* are shown in the table below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| FTA C. 4704.1 Policy Statement Requirements | **Palm Tran EEO Policy****Statement****April 25, 2006** | **Palm Tran Revised EEO Policy****Statement****May 29, 2009** | **Palm Tran Affirmative Action Plan** **(Human Resources PPM)****May 10, 2007** | **Palm Tran EEO Policy Statement****January 26, 2010** |
| Issued by CEO | Yes | Yes  |  No |  Yes |
| Commitment to EEO | Yes | Yes | Yes | Yes |
| Undertake an Affirmative Action Program | Yes | Yes | Yes | Yes |
|  EEO Program Assignment to Agency Executive | No | No | No  | Yes |
| Management Personnel Share Responsibility | No | No | Yes | Yes |
| Applicants/Employees Right to File Complaints | No | No | No | Yes |
| Performance by Managers/Supervisors Evaluated | No | No | No | Yes |
| Successful Achievement Provides Benefits | No | No | No |  Yes |

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 Palm Tran, deficiencies were found with FTA requirements for Dissemination. In its most recent EEO Program Update, entitled Palm Tran *Affirmative Action Plan for 2009 – 2012,* to FTA, Palm Tran described the internal and external dissemination of its EEO Policy/Program. The Plan stated the Policy would be disseminated as follows:

*Internal Communications*

* *Palm Tran, Inc. has a current EO/AA Policy which is available to all employees*
* *The nondiscrimination Policy is being included in Palm Tran’s Employee Handbook*
* *The nondiscrimination Policy is also included in the Agreement between Palm Tran, Inc and Amalgamated Transit Union – A.F. of L-C.I.O. – C.L.C., Local 1577 and the National Conference of the Fireman and Oiler- Service 3 Employee International Union (SEIU) Local 1227.*
* *The nondiscrimination Policy is reviewed with all new employees in the new hire orientation*
* *The Executive Director’s policy is posted on all bulletin boards for employees and applicants to review*

*External Communications*

* *Palm Tran informs all recruiting sources verbally and/or in writing of the EO/AA policy*
* *Minority and women organizations, community agencies, community leaders schools and college are notified of Palm Tran’s policy verbally and /or in writing*
* *Prospective employees are made aware of the policy through posting in the reception area, where applications are received*
* *An acknowledgement that Palm Tran is an Equal Opportunity/Affirmative Action Employer, M/F/V/D, ends all classified ads and appears at the bottom of the employment application.*

During the site visit, the Review team learned that Palm Tran’s EEO Policy Statement as well as the County’s pamphlets, *Employment Discrimination is Unlawful* and *Fact Sheet on National Origin Discrimination*, were distributed during new hire orientation. The Policy was posted on internal bulletin boards for employees to review. On Palm Tran’s employment application that was provided at the site visit and found through a link on the County’s website, there was the phrase *Equal Opportunity/Affirmative Action/Veterans’ Preference Employer M/F/D/V*. On Palm Tran’s *Employment Opportunities* announcements, there was the phrase *EO/AA Employer/M/F/D/V*. However, during the site visit, Palm Tran did not provide any other documentation of external dissemination of its EEO Policy/Program. For example, the policy was not posted in the Palm Tran reception area where applications were received. As noted previously, during the site visit, the Review team received a revised copy of Palm Tran’s *Equal Employment Opportunity Policy Statement* that included all of the required elements as described in FTA Circular C 4704.1 and was signed by the Executive Director.

Subsequent to the site visit, Palm Tran provided a PPM entitled *Equal Employment Opportunity (EEO)/Affirmative Action (AA) External Dissemination EEO Policy*, dated January 27, 2010, that described its policy for external dissemination of its EEO Policy. In addition, Palm Tran provided a list of sixteen local agencies to which it had sent its EEO Policy and a sample letter sent to those agencies. 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**: During this Compliance Review of Palm Tran, deficiencies were found with FTA requirements for Designation of Personnel Responsibilities. The Program Guidelines of FTA Circular 4704.1 Chapter III, 2c states:

*An executive should be appointed as Manager/Director of EEO who reports and is directly responsible to the agency’s CEO*. *Since managing the EEO program requires a major commitment of time and resources, the Manager/Director of EEO should be given top management support and assigned a staff commensurate with the importance of this program*.

At the time of the site visit, the Assistant Director was designated in the Palm Tran*, Affirmative Action Plan for 2009 – 2012, 2008* as the EEO Officer. This position reported to the Executive Director who was the Palm Tran CEO. The Plan also indicated that the Manager of the Fair Employment Program was responsible for the County’s EEO duties and responsibilities. In its initial submittal of responses to the Compliance Review agenda letter information request, Palm Tran provided two position descriptions, *Position Description for Palm Tran’s Assistant Executive Director* and *Position Description for Palm Beach County Manager, Fair Employment Program.* Palm Tran’s position description for the Assistant Executive Director did not include any designation of EEO Officer, and, while the County’s Fair Employment Program Manager did receive the designation of EEO Officer for the County, neither position description contained all of the responsibilities as outlined in FTA Circular 4704.1.

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 contained in the Palm Tran Assistant Executive Director Position Description and the County’s Fair Employment Program Manager Position Description:

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

During the site visit, the Review team learned that, while Palm Tran’s Assistant Executive Director had been designated as the EEO Officer for Palm Tran, Palm Tran’s Human Resources Department had been responsible for administering most of the EEO responsibilities without oversight by the Assistant Executive Director on EEO matters. The County’s EEO Officer was responsible for one major activity for Palm Tran. The County EEO Officer had been designated as the in-house person for the County’s EEO complaints. County employees, including Palm Tran, were permitted to take their complaints directly to the County EEO Officer. For most other EEO matters, the County’s EEO Officer served all County employees except Palm Tran. The County EEO Officer utilized a different employee database system than Palm Tran so it did not set and monitor goals for Palm Tran. She also did not sign off on Palm Tran employee hires and promotions. Palm Tran’s EEO Officer must be responsible for all of the duties and responsibilities as described in FTA C. 4704.1.

Subsequent to the site visit, Palm Tran provided a PPM entitled *Equal Employment Opportunity (EEO)/Affirmative Action (AA) EEO Officer Designation*, dated January 27, 2010, that designated Lorraine Szyms as the EEO Officer and described her EEO duties consistent with FTA C. 4704.1. The deficiency in this area is now closed.

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 Palm Tran, no deficiencies were found with FTA requirements for Utilization Analysis. Prior to the site visit, Palm Tran provided the Review team with a copy of its workforce utilization analyses for 2006, 2007, and 2008. The Palm Tran *Utilization Analysis of Total Work Force* 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 as well as the employment availability percentages in each job category. Palm Tran based its employment availability percentages on the Palm Beach County SMSA recruitment area.

Key findings of the 2008 utilization analysis showed:

* Palm Tran’s 2008 Total workforce was 541employees
* Total Hispanic representation at Palm Tran was 21.4 percent
* Total Black representation at Palm Tran was 43.8 percent
* Total Female representation at Palm Tran was 31.4 percent

During the Review, it was determined that Palm Tran had some numerical errors in its utilization analysis for the *Professionals* job category. Palm Tran was advised by the Review Team to correct the numbers for *Professionals* in the utilization analysis and then determine if there was underutilization in that job category.

During the site visit, Palm Tran provided the Review team with a revised Utilization Analysis report that contained the corrected numbers for the *Professionals* category.

**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 Palm Tran, no deficiencies were found with FTA requirements for Goals and Timetables. The Program Guidelines of FTA Circular 4704.1 Chapter III, 2e state:

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

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

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

Prior to and during the site visit, Palm Tran provided information regarding its goals and timetables established in its *Affirmative Action Plan for 2009 - 2012*. Since underutilization occurred in the employment of females, the long-term goals were presented as percentages for each job category by sex and the short-term goals were presented numerically. Race and ethnicity goals were not required because Palm Tran was not under utilized in those areas.

As previously described, it was determined that Palm Tran had some numerical errors in its utilization analysis for the *Professionals* job category. Palm Tran was advised by the Review Team to correct the numbers in the utilization analysis and update its Goals and Timetables where there was underutilization.

During the site visit, Palm Tran provided the Review team with a revised Goals and Timetables report that contained the *Professionals* category and stated that they were in the process of updating their annual numerical goals.

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

Prior to and during the site visit, Palm Tran provided information regarding its goals and timetables as well as summary information regarding its hiring, promotions, discipline, and terminations. Palm Tran did not provide documentation that it had utilized this or any other information to undertake a qualitative and quantitative analysis of employment practices to identify those practices that operate as employment barriers and unjustifiably contribute to underutilization. As an example, the 2008 Palm Tran utilization analysis showed that females were underutilized in the service/maintenance category by 31percent (60 percent availability versus 29 percent utilization). This is the category that contained the bus operator positions. Due to the underutilization, Palm Tran set a short term goal of hiring ten females. However, during 2008, Palm Tran hired fifteen bus operators and only one was a female. In this circumstance, Palm Tran did not any perform any analysis to identify those practices that operated as employment barriers and unjustifiably contributed to underutilization.

Subsequent to the site visit, Palm Tran provided a PPM entitled *Equal Employment Opportunity (EEO)/Affirmative Action (AA) Assessment of Employment Practices, EEO Responsibilities*, dated January 27, 2010, that described its procedures for conducting qualitative and quantitative assessments of employment practices as described in FTA C. 4704.1. 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 Palm Tran, 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 and during the site visit, Palm Tran provided summary information regarding its hiring, promotions, discipline, and terminations. Palm Tran did not provide documentation that it had utilized this or any other information to monitor and report on its EEO program. During the site visit, it was determined that, with the exception of reviewing its Palm Tran EEO Policy/Program submittal to the FTA in 2009 with the Executive Director, there was no documentation of any periodic reporting by the EEO Officer to the Executive Director on the EEO Program consistent with FTA C. 4704.1.

Subsequent to the site visit, Palm Tran provided a PPM entitled *Equal Employment Opportunity (EEO)/Affirmative Action (AA) EEO Officer Designation*, dated January 27, 2010, that contained its monitoring and reporting system as described in FTA C. 4704.1. The deficiency in this area is now closed.

In addition, Palm Tran had two contractors, MV Transportation Inc. and Palm Beach Metro Transportation L.L.C., that met the threshold requirements in FTA C. 4704.1 for being required to have an EEO Policy/Program as described in the Circular. During the site visit, it was determined that the two contractors did not have EEO Policies/Programs as described in the Circular.

Subsequent to the site visit, Palm Tran provided an unsigned document entitled *Affirmative Action Program for MV Transportation, Inc. Florida Divisions*, dated April 1, 2009 to March 31, 2010. The document did not conform to all the required elements in FTA C. 4704.1. For example, the Statement of Policy was not signed by the CEO. It did not discuss the requirement that applicants and employees have the right to file complaints. It did not discuss the fact that the performance by managers and supervisors will be evaluated on the success of the EEO program. It did not discuss the element that successful achievement of EEO goals will provide benefits. In addition, the Program used the “80 percent Rule” to determine underutilization, which is not consistent with the FTA Circular.

Following the issuance of the Draft Report, Palm Tran provided an *Affirmative Action Plan for 2010-2012*, dated April 1, 2010, for Palm Beach Metro Transportation L.L.C. The document referenced FTA C. 4704.1, but did not conform to all the required elements in FTA C. 4704.1. For example, the Statement of Policy did not contain all of the required elements. Additionally, the *Plan* did not include a utilization analysis, goals and timetables, or an assessment of employment practices.

Palm Tran also noted in its response to the Draft Report that it would require MV Transportation to correct the deficiencies with its Statement of Policy. The deficiencies with the Statement of Policy were cited as *examples* of deficiencies with the entire *Affirmative Action Program for MV Transportation, Inc. Florida Divisions*, dated April 1, 2009 to March 31, 2010. Palm Tran is reminded to assure that both the MV and the Palm Beach Metro plans conform to all the new requirement of FTA C. 4704.1.

**Corrective Action and Schedule**: No later than October 29, 2010, Palm Tran must submit to the FTA Office Region IV Civil Rights Officer documentation that its two paratransit contractors have developed EEO Policies/Programs that contain all of the required elements in FTA C. 4704.1.

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 Palm Tran, no deficiencies were found with FTA requirements for Title I of the ADA. Palm Tran included persons with disabilities as a protected group in its Equal Opportunity Policy Statement. In information given to potential applicants on the Palm Tran website regarding employment opportunities, there was the statement that “Palm Tran is proud to be an Equal Opportunity Employer, supporting diversity in the workplace. M/F/D/V”. Palm Beach County had two PPMs, CW-P-017 and CW-P-051, that addressed compliance with the ADA in employment. Palm Beach County had an Occupational Health Clinic that, among other things, would assist Palm Tran in providing reasonable accommodation, if needed. During the site visit, it was determined that Palm Tran had not received any requests for reasonable accommodations in the recent past.**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 | ND |  |  |  |
| 3. Dissemination |  D | Inadequate external dissemination of policy  | Palm Tran must submit to the FTA Region IV Civil Rights Officer documentation that it has externally disseminated its revised EEO Policy/Program as described in FTA C. 4704.1 | Closed1/27/2010 |
| 4. Designation of Personnel Responsibility | D | Inadequate designation of personnel responsibility | Palm Tran must submit to the FTA Region IV Civil Rights Officer documentation that the EEO Officer is fulfilling the duties as described in FTA C. 4704.1  | Closed1/27/2010 |
| 5. Utilization Analysis |  ND  |  |  |  |
| 6. Goals and Timetables | ND |  |  |  |
| 7. Assessment of Employment Practices | D | Inadequate documentation of qualitative or quantitative assessments of employment practices | Palm Tran must submit to the FTA Region IV 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 | Closed1/27/2010 |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 8. Monitoring and Reporting System | D | Inadequate documentation of monitoring and reporting systemInadequate monitoring of contractors requiring FTA EEO programs | Palm Tran must submit to the FTA Region IV Civil Rights Officer documentation thatit has a monitoring and reporting system as described in FTA C. 4704.1.Palm Tran must submit to the FTA Region IV Civil Rights Officer documentation thatits two paratransit contractors have developed EEO Policies/Programs that contain all of the required elements in FTA C. 4704.1. | Closed1/27/2010Due 10/29/10 |
| 9. Title I of the ADA | ND |  |  |  |

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

VIII. attendees

| **NAME** | **TITLE/****ORGANIZATION** | **PHONE** |  **E-MAIL** |
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1. Per the 2000 Census, people of Hispanic origin can be, and in most cases are, counted in two or more race categories. [↑](#footnote-ref-2)