

Utah Transit Authority

Equal Employment Opportunity Compliance Review

Final Report

April 2012

FTA Report No. 0000

Federal Transit Administration



**PRE PA RE D BY**

The DMP Group, LLC

Washington, DC





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1. General Information

Grant Recipient: Utah Transit Authority

(UTA)

City/State: Salt Lake City, Utah

Grantee Number: 1167

Executive Official: Mr. Michael Allegra

General Manager

Utah Transit Authority

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Salt Lake City, Utah 84130-0810

On Site Liaison: Toby Alires

Manager of Civil Rights Compliance

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Site Visit Dates: December 6 – 8, 2011

Compliance Review Team: Maxine Marshall, Lead Reviewer

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1. Jurisdiction and authorities

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

The Utah Transit Authority (UTA) 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 UTA’s EEO program and were the basis for the selection of compliance elements that were reviewed in this document.

## PURPOSE AND OBJECTIVES

**PURPOSE**

The FTA Office of Civil Rights periodically conducts EEO Compliance Reviews of grant recipients and subrecipients to determine whether they are honoring their commitment, as represented by certification to FTA, that they are complying with their responsibilities under 49 U.S.C. Section 5332, FTA Circular 4704.1, and 49 CFR Part 27. In keeping with its regulations and guidelines, FTA determined that a Compliance Review of UTA’s “Equal Employment Opportunity Program” was necessary.

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

1. Background information

UTA is a public transit district created in 1970 as a political subdivision of the State pursuant to the Utah Public Transit District Act, Chapter 2, Part 10, Utah Code Annotated 1953, as amended. UTA is the public transit service provider for Salt Lake City and the counties of Box Elder, Tooele, Salt Lake, Davis, Weber, and Utah. The UTA service area is approximately 116 miles long and 50 miles wide. The population of the service area is approximately 1,885,648 persons.

Oversight of UTA is provided by a 15-member Board of Trustees appointed by elected officials within the municipalities and counties of the Transit District that pay a local sales tax to support its operations. Through UTA’s enabling legislation, the Utah State Legislature determines the number and manner in which Board members are appointed. Board members are appointed to serve four-year terms, with a limit of three consecutive terms.

UTA’s 15 member board consists of seven members who represent Salt Lake County and the remaining members each represent the following entities or officials: Salt Lake City; Utah County; Davis County; Weber County; the Governor; the Speaker of the Utah House of Representatives; the Utah State Senate; and the Utah Transportation Commission.

UTA is a multi-modal public transit service operator, providing light rail, fixed-route bus, paratransit, vanpool, and rideshare services. UTA’s light rail service, called TRAX, comprises three lines, North/South, University, and Medical Center. TRAX serves 25 stations along 19 miles. Nine of the stations serve downtown Salt Lake City and 11 of the stations have park-and-ride lots. Trains are directly operated out of and maintained at the Midvale Rail Service Center (formerly called Lovendahl) in Midvale. UTA has a total fleet of 69 light rail cars.

Fixed-route bus service, which is directly operated, consists of 127 routes providing regular, express commuter, and seasonal ski service. The fleet of 464 active and 29 contingency buses is operated out of four facilities: Meadowbrook and Central Divisions in Salt Lake City, Mt. Ogden Division in Ogden, and Timpanogos Division in Orem. Bus service amenities include the Ogden Transit Center in downtown Ogden, the Salt Lake City Intermodal Center in downtown Salt Lake City, and 106 park-and-ride lots.

Paratransit service, known as Flextrans, operates the same days and hours as fixed-route service. UTA handles all reservations and scheduling and operates the service in Salt Lake County. It contracts with United Way of Utah County for service in Utah County and MV Transportation for service in Weber County. UTA operates and maintains the Flextrans fleet from the Riverside Division in Salt Lake City. The contractors operate and maintain UTA-provided vehicles.

UTA leases vans for vanpools and offers rideshare matching services. UTA uses Congestion Mitigation/Air Quality (CMAQ) funds to purchase vans for fleet expansion and replacement vans are paid for with lease payments.

UTA’s mission is:

*– Utah Transit Authority strengthens and connects communities enabling individuals to pursue a fuller life with greater ease and convenience by leading through partnering, planning, and wise investment of physical, economic, and human resources.*.

According to UTA’s most recent workforce statistics, dated November 3, 2011, UTA had 2,120 employees and minorities represented 20.8 percent of the total workforce, as follows:

* Blacks – 2.7 percent
* Hispanics – 10.4 percent
* American Indians – 1.4 percent
* Asians – 2.4 percent
* Hawaiian/Pacific Islanders– 1.8 percent

Females represented 21.6 percent of the workforce. Approximately 1,200 of the 2,134 positions of UTA’s workforce were represented by the Amalgamated Transit Union, Local 382.

The General Manager (GM) has the ultimate responsibility for the implementation of UTA’s EEO program. The GM has delegated the responsibility for implementation of the EEO program to the Manager of Civil Rights Compliance as the EEO Officer. According to the EEO Program, the EEO Officer reported to the GM in all matters related to civil rights compliance. At the time of the Compliance Review and according to UTA’s most recent Organization Chart, UTA was organized under the following management structure that reported directly to the GM

* General Counsel/ President of Government Resources
* Chief Capital Development Officer
* Chief Operating Officer
* Chief Business Solutions and Technology Officer
* Chief Planning Officer
* Senior Advisor to the General Manager
* Chief Communications and Customer Focus Officer
* Chief Financial Officer

The following tables represent a demographic profile of the UTA service area using data from the 2000 and the 2010 Census. Tables 1 and 2 shows the 2000 and 2010 population by racial/ethnic group. Table 3 shows the increase (or decrease) in population from 2000 to 2010 and the percentage of the racial/ethnic group population to the total population in both 2000 and 2010.

From 2000 to 2010, the total population of the UTA service area increased 21.9 percent. The White population increased 16.8 percent, while the Black population increased 64.5 percent, the Hispanic population increased 71.1 percent, the Asian population increased 48.8 percent, the Hawaiian/Pacific Islander population increased 51.3 percent, and the American Indian/Alaskan Native population increased 19.2 percent. In 2010, 84.5 percent of the total population was White (a decrease of 3.7 percent from 2000), 1.2 percent was Black (an increase of 0.3 percent), 14.9 percent was Hispanic (an increase of 4.3 percent), 2.4 percent was Asian (an increase of 0.4 percent), was 1.1 percent Hawaiian/Pacific Islander (an increase of 0.2 percent), and 0.8 percent was American Indian/Alaskan Native (a negligible increase).

**Table 1 – Demographics of the UTA Service Area**

**Racial/ Ethnic Breakdown – Source: 2000 U.S. Census**

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Racial/ Ethnic Group** | **Box Elder County** | | **Weber County** | | **Salt Lake County** | | **Tooele County** | | **Utah County** | |
| **Num.** | **%** | **Num.** | **%** | **Num.** | **%** | **Num.** | **%** | **Num.** | **%** |
| White | 39,699 | 92.9% | 172,339 | 87.7% | 775,666 | 86.3% | 36,330 | 89.2% | 340,388 | 92.4% |
| Black | 71 | 0.2% | 2,748 | 1.4% | 9,495 | 1.1% | 521 | 1.3% | 1,096 | 0.3% |
| American Indian and Alaska Native | 375 | 0.9% | 1,510 | 0.8% | 7,892 | 0.9% | 694 | 1.7% | 2,206 | 0.6% |
| Asian | 409 | 1.0% | 2,508 | 1.3% | 22,991 | 2.6% | 244 | 0.6% | 3,917 | 1.1% |
| Hawaiian/ Pacific Islander | 34 | 0.1% | 319 | 0.2% | 11,075 | 1.2% | 72 | 0.2% | 2,122 | 0.6% |
| Other Race | 1,473 | 3.4% | 12,943 | 6.6% | 48,166 | 5.4% | 1,835 | 4.5% | 11,974 | 3.2% |
| Two or More | 684 | 1.6% | 4,166 | 2.1% | 23,102 | 2.6% | 1,039 | 2.6% | 6,833 | 1.9% |
| Hispanic Origin[[1]](#footnote-1) | 2,791 | 6.5% | 24,858 | 12.6% | 106,787 | 11.9% | 4,214 | 10.3% | 25,791 | 7.0% |
| **Total** | **42,745** | **100%** | **196,533** | **100%** | **898,387** | **100%** | **40,735** | **100%** | **368,536** | **100%** |

**Table 2 – Demographics of the UTA Service Area**

**Racial/ Ethnic Breakdown Source: 2010 U.S. Census**

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Racial/ Ethnic Group** | **Box Elder County** | | **Weber County** | | **Salt Lake County** | | **Tooele County** | | **Utah County** | |
| **Num.** | **%** | **Num.** | **%** | **Num.** | **%** | **Num.** | **%** | **Num.** | **%** |
| White | 45,861 | 1.8% | 197,101 | 85.2% | 836,074 | 81.2% | 52,804 | 90.7% | 461,775 | 89.4% |
| Black | 172 | 0.3% | 3,136 | 1.4% | 16,404 | 1.6% | 406 | 0.7% | 2,799 | 0.5% |
| American Indian and Alaska Native | 412 | 0.8% | 1,902 | 0.8% | 9,157 | 0.9% | 563 | 1.0% | 3,074 | 0.6% |
| Asian | 443 | 0.9% | 2,911 | 1.3% | 33,987 | 3.3% | 374 | 0.6% | 7,032 | 1.4% |
| Hawaiian/ Pacific Islander | 84 | 0.2% | 614 | 0.3% | 15,781 | 1.5% | 220 | 0.4% | 3,905 | 0.8% |
| Other Race | 1,886 | 3.8% | 18,680 | 8.1% | 85,958 | 8.3% | 2,232 | 3.8% | 23,943 | 4.6% |
| Two or More | 1,117 | 2.2% | 6,892 | 3.0% | 32,294 | 3.1% | 1,619 | 2.8% | 14,036 | 2.7 |
| Hispanic Origin1 | 4,152 | 8.3% | 38,711 | 16.7% | 176,015 | 17.1% | 6,661 | 11.4% | 55,973 | 10.8% |
| **Total** | **49,975** | **100%** | **231,236** | **100%** | **1,029,655** | **100%** | **58,218** | **100%** | **516,564** | **100%** |

**Table 3 –Changes in the Demographics**

**of the UTA Service Area From 2000 to 2010**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Racial/ Ethnic Group** | **UTA Total Service Area 2000** | | **UTA Total Service Area 2010** | | **Change in UTA’s Service Area** | | |
| **Number** | **Percent** | **Number** | **Percent** | **Number** | **Percent change ethnic group** | **Percent change total population** |
| White | 1,364,422 | 88.2% | 1,593,615 | 84.5% | 229,193 | 16.8% | (3.7)% |
| Black | 13,931 | 0.9% | 22,917 | 1.2% | 8,986 | 64.5% | 0.3% |
| American Indian and Alaska Native | 12,677 | 0.8% | 15,108 | 0.8% | 2,431 | 19.2% | 0.0% |
| Asian | 30,069 | 1.9% | 44,747 | 2.4% | 14,678 | 48.8% | 0.4% |
| Hawaiian/Pacific Islander | 13,622 | 0.9% | 20,604 | 1.1% | 6,982 | 51.3% | 0.2% |
| Other Race | 76,391 | 4.9% | 132,699 | 7.0% | 56,308 | 73.7% | 2.1% |
| Two or More | 35,824 | 2.3% | 55,958 | 3.0% | 20,134 | 56.2% | 0.7% |
| Hispanic Origin[[2]](#footnote-2) | 164,441 | 10.6% | 281,332 | 14.9% | 116,891 | 71.1% | 4.3% |
| **Total** | **1,546,936** | **100%** | **1,885,648** | **100%** | **338,712** | **21.9%** |  |

1. scope and methodology

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

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

**METHODOLOGY**

The initial step of this EEO Compliance Review consisted of consultation with the FTA Region 8 Civil Rights Officer and Civil Rights Headquarters staff regarding the decision to conduct a Compliance Review of UTA. Relevant documents from FTA’s files were reviewed as background. Next, an agenda letter was prepared and sent to UTA by FTA’s Office of Civil Rights. The agenda letter notified UTA of the planned Compliance Review, requested preliminary documents, and informed UTA of additional documents needed and areas that would be covered during the on-site portion of the Review. It also informed UTA of the staff and other organizations and individuals that would be interviewed. The following documents were requested:

| FTA Circular 4704.1 Requirement/Documentation to Be Provided Prior to the Site Visit |
| --- |
| **0. Background** |
| 1. Description of UTA’s Services and Organization |
| 1. Summary Listing of EEO Complaints and Lawsuits against UTA during the last three years (October 1, 2008 – September 30, 2011) alleging discrimination towards an employee or job applicant. The summary shall indicate the date of the complaint, if the complaint was filed internally or externally, the basis for discrimination, the date the complaint was resolved or if the complaint is still open. |
| 1. Collective Bargaining Agreements for each bargaining unit, if applicable. |
| **1. Program Submission (FTA C. 4704.1.II, 5.)** |
| 1. Copy of Affirmative Action/ EEO Program most recently submitted to FTA |
| Copy of UTA’s Submittal Letter to FTA |
| 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. A copy of any analysis of employment practices performed by UTA in the past three years. |
| 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 non-mandatory employer sponsored training offered during the past three years. Provide the total number of employees participating in each training opportunity, as well as the number of minority group and female participants. Indicate if supervisors authorized employee participation on a case-by-case basis. |
| 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 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 UTA’s EEO Monitoring and Reporting System. |
| 1. A report on the results of UTA’s goals for the 2010 and 2011 affirmative action plan (AAP) years. 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 UTA 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. |

UTA assembled most of the documents prior to the site visit and provided them to the Compliance Review team for advance review. Other documents were provided during the site visit.

UTA’s site visit occurred December 6 – 8, 2011. The Entrance Conference was conducted at the beginning of the Compliance Review with UTA’s senior management staff and the contractor Review team as part of UTA’s Corporate Staff Meeting. 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 UTA’s EEO Officer on behalf of the agency. The Review team also held discussions with the EEO Officer regarding the implementation of the EEO Policy/Program.

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

Throughout the three-day site visit, interviews were also conducted with selected employees and managers in UTA’s Meadowbrook Division offices at 3600 South 700 West, and the Jordan River Service Center offices at 2234 South 900 West.

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

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

**Staff Interviews**

Twenty staff members employed by UTA from Bus and Rail Operations and Administration were independently selected by the Review team for interviews.  The staff members selected were an ethnically diverse group and included both males and female.  Staff members’ tenure with UTA ranged from between eight months to 17 years.  Many staff member said that UTA was a diverse organization. A small number of those interviewed had the perception that there may be preferential treatment to minorities and females, but overall, there was not an appearance of discrimination.

A majority of the Operations staff did not have an awareness of the EEO Program, the EEO Officer, or the Office of Civil Rights, while all Administration staff were aware of the position and its responsibilities. In addition, only a few Operations staff recalled seeing the EEO Policy Statement posted.

Only a few staff members, including some at the supervisory level, were aware of any internal complaints filed through the EEO Officer. Several staff thought that more could be done to enhance UTA’s EEO program, including having annual EEO presentations. Others suggested that the EEO Officer should increase his visibility by periodically attending departmental meetings.

1. Findings and recommendations

The EEO Compliance Review focused on UTA’s compliance with eight specific requirements of FTA Circular 4704.1. This section describes the requirements and findings at the time of the Compliance Review site visit. There were no deficiencies identified with FTA requirements in seven of the eight areas reviewed. Deficiencies were identified in one area: *Designation of Personnel*. Advisory Comments were made in two areas: *Statement of Policy* and *Assessment of Employment Practices*.

Following the site visit, on March 15, 2012, UTA submitted documentation of corrective action to close the deficiency in the areas of *Designation of Personnel.* UTA also described actions it will take to address the Advisory Comments in *Statement of Policy* and *Assessment of Employment Practices*. There are no outstanding 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 UTA, no deficiencies were found with FTA requirements for Program Submission. Prior to the site visit, UTA provided its most recent EEO Program Plan submission, entitled *Utah Transit Authority, Equal Employment Opportunity Program, 2010-2012*, (UTA EEO Program) to FTA on October 7, 2009. UTA’s EEO Program was comprised of the following areas:

* Reaffirmation of EEO Policy
* Internal/External Dissemination of EEO Policy
* Designation of Personnel Responsibility
* Organizational Chart
* Workforce Composition by Region/Business Unit
* Summary of Job Duties by Region/Business Unit
* Workforce Composition/Working Locations
* Analysis of UTA Job Categories
* Eight Factor Availability Analysis
* Workforce Analysis, Goals and Timetables by Job Group
* Summary of Goals and Timetables
* Hiring Information
* Promotions Transfers and Compensation
* Assessment of Employment Practices to Identify Causes of Underutilization
* Exit Interview Process
* Internal Monitoring and Reporting Systems
* EEO Achievements (EEO-1 Reports) 2007-2009
* Discrimination Complaint Procedures
* Sexual Harassment Standard Operating Procedure
* Summary of Employment Discrimination Complaints (2007-2009)

The FTA Headquarters Civil Rights Program Analyst approved the UTA EEO Program submittal on December 17, 2010. The approval expires on November 5, 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 UTA, no deficiencies were found with FTA requirements for Statement of Policy. Prior to the site visit, UTA provided the Review team with its *Reaffirmation of Utah Transit Authority’s Equal Employment Opportunity Policy Statement*, dated November 22, 2011, that was signed by UTA’s CEO and the Chair of UTA’s Board of Trustees. The Policy Statement contained all of the required elements of a Statement of Policy as described in FTA Circular 4704.1 as indicated in the table below.

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

The Policy Statement included the following statement:

*Any complaints of employment discrimination by applicants, employees or other should be brought to the attention of the Manager of Civil Rights Compliance at 3600 South West, Salt Lake City, Utah or General Counsel at 669 West 200 South, Salt Lake City, City or by calling (801) 262-5626.*

While the Policy Statement did make reference to the EEO Officer by position title, it did not specifically name the executive was responsible for UTA’s EEO Program. According to FTA C 4704.1.III.2.c, the EEO program manager should be identified by name in all internal and external communications regarding the agency’s EEO Program. While this is not a requirement, FTA encourages grantees to include the name of the EEO Officer on the Policy. Furthermore, the reference to contacting the General Counsel is a conflict of interest as discussed further in Designation of Personnel section. UTA was advised to include the name and contact information for the EEO Officer in the Policy Statement and remove the reference to the General Counsel.

Following the issuance of the Draft Report, on March 15, 2012, UTA submitted documentation that it had updated its policy statement to include the name of the EEO Officer. The revised policy was subsequently placed on UTA’s intranet and distributed to staff via email and posted throughout UTA’s facilities.

1. Dissemination

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

**Finding**: During this Compliance Review of UTA, no deficiencies were found with FTA requirements for Dissemination. Included in the Dissemination of Policy sections of UTA’s EEO Program was the following list of methods used to disseminate its EEO Policy internally and externally:

*Internal Communications*

* *UTA’s EEO Policy is posted in each department*
* *Policy Statement is prominently posted on official company bulletin boards accessible in each building*
* *Meetings are held quarterly with UTA executives and annually with managers and supervisors to discuss the EEO Program and progress being made to achieve EEO goals, timetables and other objectives.*
* *Current status of UTA’s EEO Program will be reported to the UTA organizations on an annual basis by publicizing t in internal publications*
* *UTA will continue the practice of thoroughly discussing the EEO Policy Statement and the EEO Program in the New Employee Orientations.*
* *Meetings with minority and female employee’s representatives of the Conference of Minority Transportation Officials (COMPTO) will be held on a semiannual basis to get their suggestions in implementing and refining UTA’s EEO Program.*

*External Communications*

*UTA will continue to disseminate its EEO Policy and programs to regular recruitment sources as they are added to the recruitment source list, then annually thereafter. The list includes:*

* *Employment agencies, unions, educational institutions, minority, disability and women’s organizations, civil right organizations, community action groups, training organizations and others who refer applicants.*
* *Public media sources, including radio and television stations, newspapers, magazines and other journals (especially those oriented to the disabled and minority populations). All advertisements for personnel will include a statement that the “UTA is an Equal Employment Opportunity Employer M/F/D/V”.*

UTA’s EEO Program included sample job announcements that included the statement that *UTA is an Equal Opportunity Employer M/F/D/V.*

Prior to the site visit, UTA provided documentation of the dissemination of its Policy Statement to external agencies and its list of recruitment resources.

During the site visit, the Review team observed that the EEO Policy Statement was posted throughout its facilities and was available on its website. UTA demonstrated the Civil Rights module of “Robo Tutor”, a computerized training course for employees that contained the EEO Policy Statement and a substantial description of non discrimination in the workplace. The EEO Policy Statement was also distributed as part of the new employee orientation, and at the new supervisor orientation.

1. Designation of Personnel Responsibility

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

**Finding**: During this Compliance Review of AC Transit, deficiencies were found with FTA requirements for Designation of Personnel Responsibilities. The Program Guidelines of FTA Circular 4704.1 Chapter III, 2c state:

*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*.

Prior to the site visit, an agency Organization Chart and a job description for the Manager of Civil Rights Compliance were provided. In addition, UTA’s EEO Program included a section entitled *Designation of Personnel Responsibility*. According to these documents, UTA had a Manager of Civil Rights Compliance who was:

*“..responsible for its development planning, day to day management and reporting of all activities related to the EEO Program.”*

This individual reported directly to the General Counsel/President of Government Resources, who reported directly to the General Manager (GM). During the site visit, UTA provided a revised Organization Chart with the same reporting relationship for the Manager of Civil Rights Compliance; however, the General Counsel/President of Government Resources had a revised reporting relationship that included both the GM and the Board of Trustees.

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

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

The Manager of Civil Rights Compliance had a direct reporting relationship to the General Counsel/President of Government Resources, as depicted in the Organization Chart, UTA’s EEO Program, and the job description. This is a direct conflict of interest to his serving as EEO Officer. UTA’s General Counsel is responsible for representing UTA against any complainants. This function cannot represent both the agency and those who file complaints or lawsuits. Further, an attorney could intimidate employees who do not wish to or cannot afford to be represented by their own counsel. Also, while the *Designation of Personnel Responsibility* section of UTA’s EEO Program indicated that the Manager of Civil Rights Compliance reported directly to the CEO in all matters relating to civil rights compliance, there was no documentation that this had occurred in the past year.

Following the issuance of the Draft Report, on March 15, 2012, UTA submitted documentation of the measures it has taken to address the conflict of interest issue. UTA revised the reporting relationship for the Manager of Civil Rights Compliance and revised its Organizational Chart and its EEO Program to reflect this change in its organizational structure. The position of Manager of Civil Rights Compliance now has a direct reporting relationship to the General Manager for all matters related to civil rights compliance, effective February 29, 2012.

The deficiency in this area is now closed.

1. Utilization Analysis

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

**Finding**: During this Compliance Review of UTA, no deficiencies were found with FTA requirements for Utilization Analysis. UTA’s EEO Program contained its Utilization Analysis dated as of October 1, 2009. In the section entitled *Summary of Goals and Timetables* was a discussion of the areas identified as underutilized and UTA’s plan of approach for addressing the underutilization. UTA’s Utilization Analysis contained information on the number and percentage of employees by gender and ethnicity for ten job categories. The workforce analysis was categorized into the following job categories:

* Executive Officials and Managers
* First/Mid Level Officials and Managers
* Professionals
* Technicians
* Sales Workers
* Administrative
* Craft Workers
* Operators
* Laborers and Helpers
* Service Workers

The Utilization Analysis contained information on the number and percentages of employees in each job category by gender and ethnicity, the percentages for the available workforces, the resulting percentages of underutilization, and numerical goals.

Key findings of the workforce analysis showed:

* UTA’s 2011 Total Workforce was 2,120 employees
* Total Hispanic representation at UTA was 10.4 percent
* Total Black representation at UTA was 2.7 percent
* Total Female representation at UTA was 21.6 percent

1. **Goals and Timetables**

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

**Finding**: During this Compliance Review of UTA, 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 the site visit, UTA provided goals and timetables for 2010 to 2012. The worksheet contained 2010 short-term goals and timetables for long-range three-year goals. The following information was provided for the goals for each job category:

* Anticipated number of job opening
* Method for filling anticipated job opening
* Numerical goals for program year
* Percentage rate of additions for minorities and females
* The anticipated workforce as of December 2012
* Three year percentage goals

Long - range goals were established to correct the underutilization for the following areas as follows:

* Officials and Managers: Females – 17.2 percent, Minorities – 3 percent
* First/Mid Level Managers: Females – 12.7 percent
* Professionals: Females – 4.9percent
* Technicians: Females – 12.2 percent
* Craft Workers: Females – 8.2 percent
* Operators: Females – 16.2 percent
* Service Workers: Females – 4.23 percent

UTA also provided a document entitled *UTA Underutilization and Goal Report.* The document included detailed discussion of UTA’s annual evaluation on the performance of its 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 UTA, no deficiencies were found with FTA requirements for Assessment of Employment Practices. UTA provided documentation that it had regularly conducted qualitative and 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, as follows:

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

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

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

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

Prior to the site visit, UTA provided several detailed reports and analyses for the past three years of new hires, competitive promotions, terminations, and disciplinary actions. The table below summarizes the qualitative and quantitative analyses of employment practices required by FTA Circular 4704.1 found in the reports provided by UTA.

|  |  |
| --- | --- |
| **UTA’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. | Yes |
| Seniority practices and provisions, upgrading and promotion procedures, transfer procedures, and formal and informal training programs from the last EEO submission. | Yes |
| Procedures and practices regarding wages, salary levels, and other forms of compensation and benefits. | Yes |
| Disciplinary procedures and discharge and termination practices. | Yes |
| Assessment of the impact of external factors (not knowing where to apply for jobs, the availability of bilingual materials and information) | Yes |
| Proposed program of remedial, affirmative actions to address problem areas | Yes |
| **Statistical Data:** | |
| Number of job applicants and the number of individuals offered employment. | Yes |
| Number of employees in each job category that applied for a promotion or transfer, and the number of employees who were promoted or transferred in the past year. | Yes |
| Number of disciplinary actions and terminations (by type) in the past year. | Yes |

UTA’s summary reports on its 2008, 2009, 2010, and 2011 new hires, competitive promotions, terminations, disciplinary actions, and salaries contained a breakdown of the information by each year into the various job groups by gender and ethnicity. UTA new hire reports also included applicant data.

UTA provided several reports entitled *Reason for Turnover* that provided summary information and statistical analysis of terminations for each year broken down by job groups, gender, and ethnicity. The reports also included discussions of the various trends and factors related to underutilization and goals.

Prior to the site visit, UTA provide a list of 28 job titles for which written exams were conducted. During the site visit, UTA explained that several of the tests were developed in house and had not been validated. The Review team advised UTA that testing instruments needed validation to insure that there was no bias against females or minorities.

Following the issuance of the Draft Report, on March 15, 2012, UTA reported that it was currently in the process of identifying the organization’s non-validated testing instruments and assessing them to determine the steps necessary to insure that they are not biased against females and minorities.

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 UTA, no deficiencies were found with FTA requirements for a Monitoring and Reporting System. FTA Circular 4704.1, Chapter III, 2.g, states:

*An important part of any successful EEO program is the establishment of an effective and workable internal monitoring and reporting system. This system should serve the following basic purposes:*

* *Assessing EEO accomplishments*
* *Enabling the agency to evaluate the EEO program during the year and to take necessary corrective actions, as necessary*
* *Identifying those units which have failed to achieve a goal or implement affirmative action*
* *Providing precise and factual database for future projections.*

At the site visit, UTA was able to demonstrate that it had been consistently reviewing EEO accomplishments and reporting to management on a periodic basis. As noted previously, UTA’s Civil Rights Compliance Manager prepared and presented progress reports on its EEO Program. The reports were presented to UTA’s management team. The report entitled *Addressing Underutilization of Women and Minorities* contained an assessment of progress made in meeting goals in any areas of underutilization identified for fiscal year 2011. The report identified goals met or exceeded and those job categories where goals were not met. Finally, the report identified strategies used to accomplish goals during the prior year and those strategies that would be used during the upcoming year to meet EEO goals.

Following the issuance of the Draft Report, on March 15, 2012, UTA submitted documentation informing the Review team that its’ Human Resources Department was in the process of identifying the organization’s non-validated testing instruments and assessing the instruments to determine the steps necessary to insure that they are not biased against females and minorities.

1. SUMMARY OF FINDINGS

| **Requirements of**  **FTA Circular 4704.1** | **Site Review Finding** | **Description of Deficiencies** | **Corrective Actions** | **Response Days/ Closed Date** |
| --- | --- | --- | --- | --- |
| 1. Program Submission | ND |  |  |  |
| 1. Statement of Policy | AC | * Identify EEO Officer by name * Remove reference to General Counsel |  |  |
| 1. Dissemination |  |  |  |  |
| 1. Designation of Personnel Responsibility | D | * EEO Officer does not report to GM * Placement in Office of General Counsel creates a conflict of interest | UTA must submit to the FTA Office of Civil Rights its approach for separating the EEO Officer from the office of the General Counsel/President of Government Resources and establish a reporting relationship to the General Manager on EEO matters. | Closed |
| 1. Utilization Analysis | ND |  |  |  |
| 1. Goals and Timetables | ND |  |  |  |
| 1. Assessment of Employment Practices | AC | Testing instruments need validation to insure no bias against females or minorities |  |  |
| 1. Monitoring and Reporting System | ND |  |  |  |

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

1. attendees

| **NAME** | **TITLE/**  **ORGANIZATION** | **PHONE** | **E-MAIL** |
| --- | --- | --- | --- |
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1. Per the 2000 and the 2010 Census, people of Hispanic origin can be, and in most cases are, counted in two or more race categories. [↑](#footnote-ref-1)
2. Per the 2000 and the 2010 Census, people of Hispanic origin can be, and in most cases are, counted in two or more race categories. [↑](#footnote-ref-2)