

FTA

FEDERAL TRANSIT ADMINISTRATION

California Department of Transportation EEO Compliance Review

Final Report
September 2017



U.S. Department of Transportation
Federal Transit Administration

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Executive Summary

This report details the findings of a Compliance Review of California Department of Transportation's (Caltrans) EEO Program implementation. The Compliance Review examined this agency's EEO Program procedures, management structures, actions, and documentation. Documents and information were collected from the Federal Transit Administration (FTA) and Caltrans. In addition, the following entities were interviewed as part of this review: Caltrans officials, employees, and other stakeholders. The three-day review included interviews, assessments of data collection systems, and review of program and contract documents.

Caltrans' EEO Program includes the following positive program elements:

Positive Program Elements

- Complaint process and resources are available to investigate and resolve complaints in a timely manner.
- EEO training for Caltrans staff occurs regularly.
- Sub-recipient monitoring processes and documentation at the district level appears to be thorough.

The Program has the following administrative deficiencies:

Administrative Deficiencies

- Caltrans has not sufficiently informed the general public of its current EEO policy.
- Utilization Analysis does not address transit-related employees.

The Program has the following substantive deficiencies:

Substantive Deficiencies

- The EEO Officer has not been assigned full responsibility for the EEO Program.
- Caltrans did not set short-term or long-range goals with timetables.
- Caltrans did not demonstrate that it has a process in place to assess employment barriers.
- Caltrans has not established a system to evaluate the effectiveness of its EEO Program.

I. General Information

This chapter provides basic information concerning this Compliance Review of the California Department of Transportation (Caltrans). Information on Caltrans, the review team, and the dates of the review are presented below.

Grant Recipient:	California Department of Transportation
City/State:	Sacramento, California
Grantee Number:	1622
Executive Official:	Malcolm Dougherty
On-site Liaison:	Michael Lange
Report Prepared By:	Milligan & Company, LLC
Dates of On-site Visit:	June 6-8, 2017
Compliance Review Team Members:	Kristin Tighe, Valerie Piper, Sandra Swiacki

2. 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 sub-recipients 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.”

Caltrans 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 Caltrans EEO Program and were the basis for the selection of compliance elements that were reviewed in this document.

3. Purpose and Objectives

3.1 Purpose

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

The Office of Civil Rights authorized Milligan & Company to conduct this EEO Compliance Review of Caltrans. The primary purpose of the EEO Compliance Review was to determine the extent to which Caltrans has met its EEO Program goals and objectives in its EEO Program, as represented to FTA. This Compliance Review was intended to be a fact-finding process to (1) examine Caltrans' EEO Program 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 sub-recipients, nor did it adjudicate these issues on behalf of any party.

3.2 Objectives

The objectives of FTA's EEO requirements, as specified in FTA Circular 4704.1, are:

- To ensure that FTA applicants, recipients, sub-recipients, contractors and/or subcontractors will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, age, or disability.
- To ensure that FTA applicants, recipients, sub-recipients, contractors and/or subcontractors will take affirmative action to ensure that applicants and employees are treated without regard to race, color, religion, 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, sub-recipients, 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 Caltrans 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 Caltrans’ EEO Program 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 Caltrans’ employment practices, including recruitment, hiring, training, promotion, compensation, retention, and discipline from a variety of sources, including Human Resources Division staff and other Caltrans management and staff.

4. Background Information

The California Department of Transportation (Caltrans) has been designated by the Governor of California to administer the Federal Transit Administration funded Section 5304, 5310, 5311, and 5339 programs in California. Caltrans has six primary Programs: Aeronautics, Highway Transportation, Rail and Mass Transportation, Transportation Planning, Administration, and the Equipment Service Center. Caltrans' EEO Program, dated October 2016, indicated Caltrans employs over 19,000 full and non-full time persons. Caltrans serves a population of 38.4 million California residents over an area of 163,696 square miles.

4.1 Introduction to Services and Organizational Structure

Responsibility for administering the FTA public transportation programs is assigned to the Division of Rail and Mass Transportation (DRMT) located in the Caltrans Headquarters Office in Sacramento. Prior to the on-site review, Division of Rail and Mass Transportation's (DRMT) Transit Grants and Contracts Department identified 132 Caltrans employees assigned to transit-related responsibilities.

DRMT is responsible for the administration of the FTA programs for the state. DRMT provides technical and state financial assistance to agencies responsible for public transportation services, which includes buses, demand-responsive accessible services for the elderly and disabled, rural transit, commuter and urban rail services. Within DRMT, responsibility for the Section 5311 program is in the Rural and Small Transit Branch. Rural and Small Transit staff also work with Caltrans District transit staff in 11 of the 12 Department's district offices. The responsibility of the District transit staff is to provide technical assistance to local transit agencies and operators, transportation planning agencies (TPAs), and other stakeholders as well as monitoring projects funded with FTA grant funds. There are currently 100 active Section 5311 sub-recipients including 95 public agencies, 2 private for-profit agencies, and 1 private non-profit entity. The services provided are fixed-route, deviated fixed-route, demand response, ADA Complementary Paratransit, Commuter, and Blended ADA Complementary Paratransit services.

The Specialized Transit Grants Branch is the unit within DRMT responsible for administering the Section 5310 program. Caltrans currently has 274 active Section 5310 sub-recipients. On average, Caltrans funds approximately 207 vehicles a year, and currently 2,540 vehicles have a remaining federal interest in operation. California state law, Assembly Bill 772 (Chapter 669, Statutes of 1996), has limited the state's administrative costs to five percent of the Section 5310 appropriation. The Special Programs Branch is responsible for administering the Section 5339 program. There are currently 20 active Section 5339 sub-recipients and Caltrans has funded approximately 19 vehicles and 1 facility repair project. The 5304 program is managed outside of DRMT by the Division of Transportation Planning. There are 12 active sub-recipients of Section 5304 funding. Caltrans has 132 transit-related employees, many of which are located in DRMT and the Division of Transportation Planning.

Caltrans' Deputy Director, Administration is responsible for administration of both the FHWA and the FTA EEO Programs and is the designated EEO Officer for the Department. The Deputy Director, Administration reports to and has direct access to the Caltrans Director on all administrative matters including EEO. In addition to overseeing EEO, the Deputy Director, Administration is responsible for the following Caltrans' divisions: Human Resources; Procurement and Contracts; Safety and Management Services; and Business, Facilities, and Security.

The day to day administrative requirements of Caltrans' EEO Program (EEOP) is overseen by the Equal Employment Opportunity and Discrimination Complaint Investigation Unit (EEOP) Manager. The EEOP is comprised of two offices, the Equal Employment Opportunity (EEO) Office and the Discrimination Complaint Investigation Unit (DCIU). The EEOP prepares the quadrennial EEO program submission to FTA, Caltrans' annual Affirmative Action Plan submitted to FHWA, sets policies and procedures related to EEO, and investigates EEO complaints. Through DCIU, the EEOP investigates 95 percent of Caltrans' EEO complaints. The remaining five percent are sent to the legal department. At least 15 other staff in the EEOP directly support the implementation of the EEO Program at Caltrans.

Table 1 – California Demographic Comparison 2000 and 2010

Racial/ Ethnic Group	Population 2000		Population 2010		Change	
	#	%	#	%	#	%
White	20,170,059	59.9%	21,453,934	57.6%	1,283,875	6.0%
Black	2,263,882	6.7%	2,299,072	6.2%	35,190	1.5%
American Indian/Alaska Native	333,346	1.0%	362,801	1.0%	29,455	8.1%
Asian	3,697,513	10.9	4,861,007	13.0%	1,163,494	23.9%
Hawaiian/Pacific Islander	116,961	0.3%	144,386	0.4%	27,425	19.0%
Other Race	5,682,241	16.8%	6,317,372	17.0%	635,131	10.1%
Two or More	1,607,646	4.7%	1,815,384	4.9%	207,738	11.4%
Hispanic Origin*	10,966,556	32.4%	14,013,719	37.6%	3,047,163	21.7%
Total by Racial/ Ethnic Group	33,871,648	100%	37,253,956	100%	3,382,308	9.1%
Gender						
Male	16,874,892	49.8%	18,517,830	49.7%	1,642,938	8.9%
Female	16,996,756	50.2%	18,736,126	50.3%	1,739,370	9.3%
Total by Gender	33,871,648	100%	37,253,956	100%	3,382,308	9.1%

*Persons of Hispanic origin are counted in two or more race categories; therefore, the total population is the total as stated in the U.S. Census data and not the sum of each ethnic group.

Source: U.S. Census Summary File 1: DEC_00_SF1_DP1 and DEC_10_SF1_SF1DP1

5. Scope and Methodology

5.1 Scope

The following EEO Program components required by FTA are reviewed in this report:

1. Program Submission – A formal EEO Program is required of any recipient that employs 50 or more transit-related employees (including temporary, full-time or part-time employees) and that 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 – 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.
7. Assessment of Employment Practices – Recipients, sub-recipients, 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 internal monitoring and reporting system should enable the agency to assess EEO accomplishments, evaluate the EEO Program during the year, identify those units that have failed to achieve a goal, and provide a precise and factual database for future projections.

5.2 Methodology

The initial step of this EEO Compliance Review consisted of consultation with the FTA Civil Rights Headquarters staff and the Region IX Civil Rights Officer regarding the decision to conduct a Compliance Review of Caltrans. Relevant documents from FTA's files were reviewed as background. Next, an agenda letter was prepared and sent to Caltrans by FTA's Office of Civil Rights. The agenda letter notified Caltrans of the planned Compliance Review, requested preliminary documents, and informed Caltrans of additional documents needed and areas that would be covered during the on-site portion of the review. It also informed Caltrans 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 Site Visit
0. Background
a) Summary Listing of EEO complaints and lawsuits against Caltrans during the period from January 2014 through December 2016, 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, and comments describing the resolution or active status of the complaint.
b) Collective Bargaining Agreements for each bargaining unit.
c) Caltrans Employment Application
1. Program Submission (FTA C. 4704.1.II,3.)
A copy of the EEO Program
2. Statement of Policy (FTA C. 4704.1.III, 2.a.)
A copy of the Policy Statement
3. Dissemination (FTA C. 4704.1.III, 2.b.)
a) Documentation of Internal Dissemination of EEO policy, such as annual memo to all employees, new employee acknowledgement form, EEO training materials, etc.
b) Documentation of External Dissemination of EEO policy, such as EEO policies and procedures included in all contract bid documents, sample employment ads, sample outreach efforts to minority media and/or organizations.
4. Designation of Personnel Responsibility for EEO (FTA C. 4704.1.III, 2.c.)
a) Position descriptions for EEO Officer and EEO Counselors.
b) List of local minority, women and disability organizations Caltrans is involved with.
5. Utilization Analysis (FTA C. 4704.1.III, 2.d.)
a) A copy of Workforce Availability/Utilization Analysis for Caltrans.
6. Goals and Timetables (FTA C. 4704.1.III, 2.e.)
a) A copy of Caltrans goals and the time tables which may be a part of the Utilization Analysis.
7. Assessment of Employment Practices (FTA C. 4704.1.III, 2.f.)
a) A copy of personnel policy guides, handbooks, regulations, or other material that govern employment practices.
b) A list of all recruitment sources used during the last year, including the name and telephone numbers of contact persons.
c) A listing of all job titles for which written examinations are conducted.

FTA Circular 4704.1 Requirement Documentation to Be Provided Prior to Site Visit
d) Statistics on separations, disciplinary actions, promotions, and new hires for Caltrans during the period of January 2014 through December 2016.
e) Data on average salaries or wages paid to all employees as of December 2016, by EEO job category, as well as the average salaries or wages paid to minority and female employees.
f) Summary report of exit interview findings for the past three years.
8. Monitoring and Reporting System (FTA C. 4704.1.III, 2.g.)
a) A list of all sub recipients who meet the EEO threshold outlined in FTA C. 4704.1 II.2.
b) Agendas from meetings with management.
c) A copy of Caltrans' complaint procedures.

Caltrans assembled the documents prior to the site visit and provided them to the Compliance Review team for advance review. Additional documents were provided during the site visit.

The Caltrans site visit occurred from June 6 to 8, 2017 at Caltrans Headquarters in Sacramento. The Entrance Conference was conducted at the beginning of the Compliance Review with Caltrans' senior management staff, the FTA Headquarters Equal Opportunity Specialist, the FTA Regional 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. Attending the conference were:

California Department of Transportation

- Malcolm Dougherty, Director
- Cristiana Rojas, Deputy Director, Administration serves as EEO Officer
- Michael Campos, EEOP Manager
- Matt Sedlak, EEO Manager
- James Ogbonna, Branch Chief/Senior Transportation Planner
- Michael Lange, Senior Transportation Planner
- Mark Codey, Chief Federal Programs
- Lea Simpson, Senior Transportation Planner
- Coco Briseno, Deputy Director Planning and Modal Programs
- Susan Jimenez, Assistant Division Chief Human Resources
- Tracy Harrison, Federal Office of Grants Management/ Branch Chief
- Mary Guajardo, Division of Rail and Mass Transit
- Yesenia Ochoa, Associate Government Program Analyst

Federal Transit Administration

- Anita Heard, FTA Equal Opportunity Specialist (via telephone)
- Mark Stojak, FTA Regional Civil Rights Officer (via telephone)

Milligan and Company, LLC

- Kristin Szwajkowski Tighe, Lead Reviewer
- Valerie Piper, Reviewer
- Sandra Swiacki, Reviewer

Following the Entrance Conference, the review team conducted a detailed examination of documents submitted by Caltrans' EEO Officer and EEOP Manager on behalf of the Department. The review team also held discussions with the EEO Officer and the EEOP Manager regarding the implementation of the EEO Program and with the respective EEO and DCIU Staff Managers. Interviews were also conducted with selected employees and managers from the Caltrans Administration Program and Division of Rail and Mass Transportation in the Caltrans Headquarters.

On the second day, an interview was conducted with members of Caltrans' Human Resources staff to learn about Caltrans' employment practices, including recruitment, testing, hiring, promotions, transfers, disciplines, and terminations. Files and records of employment actions, such as new hires, promotions, disciplines, demotions, and terminations, were reviewed. The files did not reveal any disparate treatment of women and minority candidates or employees. Throughout the three-day site visit, interviews were also conducted with randomly selected employees and managers.

At the end of the site visit, an Exit Conference was held with Caltrans' senior management staff, FTA EEO Equal Opportunity Specialist, FTA Regional Civil Rights staff, and the contractor review team. At the Exit Conference, initial findings and corrective actions were discussed with Caltrans. Attending the conference were:

California Department of Transportation

- Michael Campos, EEOP Manager
- Shannon Flynn, Discrimination Complaint Investigation Unit (DCIU) Manager
- Matt Sedlak, EEO Manager
- James Ogbonna, Branch Chief/Senior Transportation Planner
- Michael Lange, Senior Transportation Planner
- Mark Codey, Chief Federal Programs
- Lea Simpson, Senior Transportation Planner

Federal Transit Administration

- Anita Heard, FTA Equal Opportunity Specialist (via telephone)
- Marisa Appleton, FTA Regional Civil Rights Officer (via telephone)

Milligan and Company, LLC

- Kristin Szwajkowski Tighe, Lead Reviewer

- Valerie Piper, Reviewer
- Sandra Swiacki, Reviewer

5.3 Stakeholder Interviews

The review team contacted recruitment sources from a list provided by Caltrans and other resources. The purpose of this activity was to verify that Caltrans is publicly posting job announcements, examine the frequency of use of these sources to determine external knowledge of Caltrans' EEO policy, and identify practices that would require further attention and analysis during the review.

The following seven organizations were contacted to participate in the stakeholder interviews:

- Consumnes River College
- University of California at Davis
- California State University at Sacramento
- Chana High School: California Model Continuation High School in Placer County
- Downtown Streets Team: provides services to homeless or at-risk homeless or previously incarcerated and low income individuals
- Goodwill Industries (statewide offices): programs assisting veterans and anyone disadvantaged (disability, income, etc.)
- Honor a Hero, Hire a Vet: veteran's hiring initiative of the California Development Department

The representatives were asked questions regarding:

- The organization's role
- Frequency of contact with Caltrans
- Knowledge of the Caltrans' Equal Employment Opportunity policy

Three of the seven organizations responded to the review team's request for interviews. The three organizations stated they had a working relationship with Caltrans. The organizations indicated that Caltrans provides job postings to their agency and requests their assistance in identifying potential applicants for referral. The agency representatives were not aware of Caltrans' EEO policy, but indicated they were aware the agency is an EEO employer due to the statement that appears at the top of the agency's job postings.

During the three-day site visit, 10 transit-related employees, both supervisory and non-supervisory, were interviewed individually. Of the 10 transit-related employees interviewed, 40 percent were minority and 70 percent were female. Interviews were conducted at Caltrans' Headquarters in Sacramento.

Managers – Summary of Individual Interviews

Three managers were individually interviewed by the review team. Managers were aware of the EEO policy through Caltrans' website. All of the managers indicated that they are not aware of Caltrans setting EEO/affirmative action goals nor are they held accountable for the attainment of goals. Two managers indicated they had received the mandatory diversity training, while the third manager could not recall attending any EEO and/or diversity training.

Two of the managers reported they meet with staff members yearly to review the EEO policy and obtain an executed statement of expectations for the personnel files. None of the managers indicated they were involved with minority organizations designed to promote EEO. One manager stated he has provided career counseling for employees under his supervision.

Non-Supervisory Employees – Summary of Individual Interviews

Six non-supervisory employees were individually interviewed by the review team. All employees were aware of Caltrans' EEO policy, primarily through the EEO policy located on the Department's intranet and through EEO training. Four of the six employees interviewed were aware of Caltrans' EEO complaint procedure. One of the employees interviewed had filed a discrimination complaint with Caltrans. The employee indicated the complaint could not be substantiated by the DCIU.

Employees were aware of the Caltrans vacant positions that are posted internally and externally. All qualified candidates need to apply to be considered. Candidates are considered qualified based on their performance on the state civil service exam. State civil service exams are offered periodically by the California Department of Human Resources (CalHR) when hiring needs may be greater than the available pool of tested candidates. Candidate selection preference is given to individuals that rank in the top third on the exam. The majority of employees indicated that they are notified of promotional opportunities via e-mail announcements. Employees stated that Caltrans encourages employees to seek training opportunities, but career growth is dictated by the availability and performance on the state civil service tests.

6. Findings and Recommendations

6.1 Program Submission

Requirement

A formal EEO Program is required of any recipient that employs 50 or more transit-related employees (including temporary, full-time or part-time employees either directly employed and/or through contractors) and that 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.

Discussion

During this compliance review, no deficiencies were found with Program Submission. Caltrans prepared and submitted an EEO Program to FTA on September 2, 2016. FTA is currently reviewing the Program. The current Program expires on April 30, 2018 and the next EEO Program submission update is due to FTA by March 1, 2018.

6.2 Statement of Policy

Requirement

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

1. Express the agency's commitment to EEO regardless of race, color, religion, national origin, sex or age
2. Commit to develop a written affirmative action program that include goals and timetables
3. Explain that the responsibility for implementing the EEO Program is assigned to an agency executive who reports directly to the CEO/GM
4. State that all management and supervisory personnel share in this responsibility and are assigned specific tasks to ensure and achieve compliance
5. State that applicants and employees have the right to file complaints alleging discrimination with the EEO Officer or office
6. State that the agency evaluates the performance of managers, supervisors, and others based on the success of the EEO Program in the same manner that the agency evaluates their performance in other agency programs
7. State that the successful achievement of goals will benefit the recipient through the development of previously underutilized human resources

Discussion

During this compliance review, deficiencies were found with the Statement of Policy. The Caltrans EEO Program submission included the Policy Statement, dated October 1, 2016, signed by Caltrans' Director identifying the EEO Officer.

The Policy Statement reviewed failed to meet the required elements of a Statement of Policy as described in FTA Circular 4704.1, III.2.a, as indicated in the table below.

FTA Circular 4704.1, III.2.a Policy Statement Requirements	Caltrans Policy Statement
Is issued by CEO	Included
States commitment to EEO	Included
States commitment to undertake an Affirmative Action Program	Not included
Assigns EEO Program implementation to agency executive	Included
Affirms shared responsibility by management personnel	Included
States applicants' and employees' right to file complaints	Included
States performance by managers/supervisors will be evaluated	Not included
Affirms successful achievement of EEO goals will provide benefits to the recipient	Not included

Specifically, the Policy Statement does not include:

- A commitment to undertake an Affirmative Action program, including goals and timetables, in order to overcome the effects of past discrimination
- A statement that the performance of managers and supervisor will be evaluated on the success of the EEO Program the same way as their performance on other agency's goals
- A statement that the successful achievement of EEO goals will provide benefits to the recipient through fuller utilization and development of previously underutilized human resources.

Corrective Actions and Schedules: Within 60 days of the issuance of the Final Report, submit to the FTA Office of Civil Rights an updated EEO Policy Statement in accordance with FTA Circular 4704.1A, Section 2.2.1.

6.3 Dissemination

Requirement

Formal communication mechanisms should be established to publicize and disseminate the Caltrans' EEO policy as well as appropriate elements of the program, to its employees, applicants and the general public by:

1. Posting of the EEO Policy Statement in conspicuous work locations and in the employment/personnel office

2. Providing written communication from the CEO
3. Including the EEO Program and policy in departmental manuals, employee handbooks, and union contracts
4. Meeting with managers to discuss the EEO Program and its implementation
5. Meeting with minority and female employees to gather suggestions on implementing and refining the EEO Program
6. Presenting and discussing the EEO Program during orientation and training programs

The policy should be disseminated externally to regular recruitment sources and include a statement on all advertisements for personnel that Caltrans is an “EEO employer”.

Discussion

During this compliance review, deficiencies were found with the requirement for Dissemination. At the time of the site visit, an EEO Policy Statement signed by the Director was found on Caltrans intranet and the employee handbook dated January 2016 that names the EEO Officer. The EEO Policy Statement was posted in public areas of the office.

Caltrans’ EEO Program indicates employees are required annually to review the agency’s EEO Policy Statement and sign an expectation statement affirming the review that is placed in each employee’s personnel file. Ten transit-related employee personnel files were randomly selected for onsite review. One of the ten employees had terminated his position with Caltrans to relocate to another position within the State. The contents of the employee’s file, with the exception of the Caltrans exit interview, were transferred to the hiring State department. Only three out of the nine remaining personnel files reviewed contained signed statement(s) that the employee had reviewed the EEO policy. The nine personnel files did contain other required human resources personnel documentation, such as position descriptions, performance reviews, and benefits information set forth by Caltrans’ Division of Human Resources (DHR).

The EEO policy, as written, was located on Caltrans’ employee intranet site but was not located on the Caltrans external website that is available to the general public. Caltrans’ job postings each contain a brief statement at the top that identifies the agency as an EEO employer. Neither this statement nor a tagline such as “Equal Opportunity Employer” appears on the job fair and recruiting flyers provided during the site visit nor does it appear on the Caltrans’ job application.

Corrective Action and Schedules: Within 60 days of the issuance of the Final Report, submit to the FTA Office of Civil Rights evidence that the updated EEO Policy Statement has been placed on Caltrans’ website and fully disseminated both internally and externally in accordance with FTA Circular 4704.1A, Section 2.2.2.

6.4 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. The essential requirements for the EEO Officer include sensitivity and awareness of the ways discrimination occurs; total commitment to EEO Program and goals; knowledge of civil rights policies, regulations, and guidelines; and sufficient authority and ability to work with managers to achieve EEO goals and objectives.

The EEO Officer's responsibilities include:

1. Developing the EEO Policy Statement and a written EEO Program
2. Assisting management in collecting and analyzing employment data, identifying problem areas, setting goals and timetables, and developing programs to achieve goals
3. Designing, implementing, and monitoring internal audit and reporting systems to measure program effectiveness and to determine where progress has been made and where further action is needed
4. Reporting periodically to the CEO/GM on each department's progress in relation to the agency's goals
5. Serving as liaison between the agency, Federal, state, county, and local governments, regulatory agencies, minority, women, disability organizations, and other community groups
6. Assuring that current legal information affecting affirmative action are disseminated to responsible officials
7. Assisting in recruiting minority, disabled and women applicants
8. Concurring in all hires and promotions; and
9. Processing complaints of discrimination

Discussion

During this compliance review, deficiencies were found with the requirement for Designation of Personnel Responsibility. The Deputy Director, Administration is the designated EEO Officer and as the Deputy Director also oversees Caltrans' EEOP. This is an executive level position that reports directly to the Director of Caltrans.

Job descriptions with EEO duties listed were provided for the Deputy Director, Administration, EEOP Manager, and the EEO Program Staff Services Manager I. EEO duties held by the Discrimination Complaint Investigation Unit Branch Manager were identified during the review, but a job description was not provided. Per the Caltrans EEO organization chart, a total of 17 Caltrans staff directly support the EEO Officer and the EEO Program Office.

The following table compares Caltrans' EEO Officer's responsibilities listed in the position descriptions for the Deputy Director, Administration, EEOP Manager, and the EEO Program Staff Services Manager I with the responsibilities in the EEO Circular.

EEO Officer Program Responsibilities in Circular	Deputy Director, Administration Duties in Job Description	EEOP Manager, Duties in Job Description	EEO Program Staff Services Manager I Duties in Job Description
Develop EEO policy/program	Included	Included	Not included
Assist management in data needs, setting goals and timetables, etc.	Not included	Not included	Not included
Internal monitoring and reporting system	Not included	Not included	Included
Reporting periodically to CEO on EEO progress	Included	Not included	Not included
Liaison to outside organizations/groups	Included	Included	Included
Current information dissemination	Included	Not included	Included
Recruitment assistance/establish outreach sources	Not included	Not included	Not included
Concur in all hires/promotions	Not included	Not included	Not included
Process employment discrimination complaints	Not included	Included	Included

Per the job description for the Deputy Director, Administration, this position has responsibility for developing and implementing policies, guidelines and standards for the Administration program and Divisions, which includes EEO. However, three of the nine required EEO responsibilities were not identified in the job descriptions reviewed:

- Assisting management in collecting and analyzing employment data, identifying problem areas, setting goals and timetables, and developing programs to achieve goals
- Assisting with recruiting minority and women applicants and establishing outreach sources for use by hiring officials
- Concurring in all hires and promotions

Corrective Action and Schedules: Within 60 days of the issuance of the Final Report, submit to the FTA Office of Civil Rights documentation that Caltrans' EEO Officer and staff are assigned to carry out the nine program requirements in accordance with FTA Circular 4704.1A, Section 2.2.3.

6.5 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. A utilization analysis consists of workforce analysis and availability analysis. The workforce analysis requires a statistical breakdown of the recipient's workforce by each department, job category, and job title. Each of the above should be cross-referenced by race,

national origin, and sex. This analysis should be structured in lines of progression by departmental units to ensure that promotional opportunities will be considered. An availability analysis compares the participation rates of minorities and women at the various levels in the workforce with their availability in relevant labor markets.

Discussion

During this compliance review, deficiencies were found with the requirement for Utilization Analysis. Caltrans is comprised of 40 programming districts. Twelve of the 40 districts are the Caltrans regional offices and the remaining 28 districts are programming areas such as research and innovation, accounting, budgets, and design, which are located in or near the Sacramento Headquarters. Each division annually submits to Caltrans' Division of Human Resources (DHR) its workforce data. DHR compiles the workforce data to track and report on Caltrans' over 19,000-person workforce. The Caltrans Administration's Equal Employment Opportunity Program (EEOP) receives all of Caltrans' workforce data from DHR. The EEOP enters DHR's workforce data into worksheets developed by the California Department of Human Resources (CalHR). The formatted data is used by the EEOP to generate its annual Workforce Analysis Report, EEO Program Annual Self-Assessment Elements Report, and the Utilization Analysis.

Caltrans staff was unable to confirm or provide documentation of adherence to the yearly Workforce Analysis schedule during the review. Biennially, an EEO-4 Report is prepared and submitted to the California EEO Council, and triennially Caltrans' EEO Program is submitted to FTA. Caltrans' workforce data, which is presented in these reports, is reviewed by Caltrans Administration's Deputy Director and the Director of Caltrans before it is sent to CalHR. The EEOP and DHR request the internal and external workforce data and/or analyses that are needed to generate reports such as the utilization analysis, EEO Program, and Affirmative Action Plan from CalHR.

The Utilization Analysis is included in the October 2016 EEO Program Caltrans submitted to the FTA. Caltrans has a labor force of over 19,000 persons which is summarized in the Utilization Analysis. The analysis includes ethnicity and gender per the December 2013 Workforce Analysis Report and broken down further by job category and cross-references annual salary, gender, and race from the June 30, 2015 EEO-4 Report. A list of the Caltrans job titles included in the eight EEO-4 categories was requested to verify that Caltrans managerial and supervisory job titles were correctly grouped in the Officials and Administrators EEO category but was not provided during the onsite review. Information was not presented in the analysis or during the review regarding principal duties of the job categories and/or Caltrans job titles. Representatives of the Caltrans EEOP indicated it would be difficult to sort the over 19,000 Caltrans job titles into the relevant categories and summarize the principal duties. During the site visit, Caltrans was advised that preparation of the analysis to meet the requirements of FTA C. 4704.1.III, 2.d. is required for the 132 transit-related employees identified, which is a subset of the over 19,000 labor force analyzed in the analysis presented.

The Utilization Analysis includes an Availability Analysis that identifies the Caltrans relevant labor market as the State of California. The Availability Analysis presents a summary of the US Census

2010 state and county population data and the EEO-1 detailed state occupation data by gender and race for residents age 16 and over from the American Community Survey data, dated 2006-2010, which is the most recent relevant employment data available from the US Census. The EEO tabulation data provides only a total of “all occupations” by race/ethnicity and gender. The information does not provide labor market information at the more detailed job category level.

The Workforce Analysis summarizes Caltrans’ labor force by gender and race, which is cross-referenced by districts: 12 regional districts and the 28 administrative districts are combined and identified as Headquarters (HQ). The table below summarizes the data presented in the Workforce Analysis for the period ending December 31, 2013.

Total workforce was 20,310 employees (2013)
 Total Asian representation was 17.7 percent
 Total Hispanic representation was 17.2 percent
 Total Black representation was 7.8 percent
 Total Filipino representation was 4.7 percent
 Total American Indian representation was 0.7 percent
 Total Pacific Islander representation was 0.6 percent
 Total Female representation was 25.4 percent

Underutilization of Asian/Filipino/Pacific Islander, Black/African American, and Women were identified and statewide hiring goals were set for certain occupations groups as shown in the table below.

Occupational Group	Race/Ethnicity with Underutilization	Hiring Goal
Electrical Engineering Technicians	Asian/Filipino/Pacific Islander	8
Data Processing Managers	Asian/Filipino/Pacific Islander	6
Information Systems/Systems Software	Asian/Filipino/Pacific Islander	48
Rail Transportation Service	Asian/Filipino/Pacific Islander	7
Land Surveyors	Black/African American	17
Land Surveyors	Women	47
Engineering Geologist/Geologist	Women	16

At the Caltrans District level, underutilization was identified for Asian/Filipino/Pacific Islander and Women in the Highway/Land Maintenance Workers group and for Asian/Filipino/Pacific Islander, Hispanic, and Women in the Highway/Landscape Maintenance Workers group. Hiring goals for these occupational groups were set for each of the 12 Districts as needed.

The review team requested but was not provided the backup data used by Caltrans to:

- Identify these underutilizations
- Identify the Caltrans job titles included in the occupational groups

- Identify the transit-related positions with underutilization
- Set the hiring goals

Representatives from Caltrans DHR reported that CalHR used the statistical Z-test identified in the EEO Program to identify the labor force underutilizations. The results of the statistical tests that CalHR computes were forwarded to the Caltrans' EEOP for preparation of the Workforce Analysis, Underutilization Analysis, and to set the relevant hiring goals. During the site visit, Caltrans was not able to identify the CalHR and/or Caltrans employees that prepared the Utilization Analysis used to present employment underutilizations nor present the data and methodology used for the Availability Analysis in the October 2016 EEO Program.

Corrective Actions and Schedules: Within 60 days of issuance of the Final Report, submit to the FTA Office of Civil Rights a revised utilization analysis to include a statistical breakdown of all transit-related employees by correct EEO category cross-referenced by race, national origin, age, and sex in accordance with the requirements of the FTA Circular 4704.1A, Section 2.2.4.

6.6 Goals and Timetables

Requirement

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. If goals and timetables are not met, there is an obligation to justify this failure following the recipient's annual evaluation of the EEO Program.

Discussion

During this compliance review, deficiencies were found with the requirement for Goals and Timetables. The October 2016 EEO Program summarizes the results of Caltrans' Utilization, Workforce, and Availability Analyses and identifies statewide underutilization of the following affected classes of persons: Asian/Filipino/Pacific Islander, Black/African American, and Women as summarized in section 6.5 of this report. Caltrans' EEOP set hiring goals for each of the underutilized occupational groups identified. The backup data used to determine underutilization and set the hiring goals was requested by the review team but not provided.

The Caltrans representatives involved in the goal setting process are not identified in the EEO Program, but were identified during the site visit to be the EEOP Manager, the EEO Manager, and EEO staff in the district offices. The numeric hiring goals presented do not include percentages or timetables to correct the underutilization of specific affected classes of persons identified. Only one of the underutilized occupational groups could be identified as transit-related: Rail Transportation Service. The transit-related job titles included in this occupational group were requested but not provided.

The goals and actions outlined in the 2016 EEO Program lack quantitative measures and timetables for Caltrans to periodically assess if its recruiting efforts and existing employment practices are

correcting the identified deficiencies. The EEO Program indicates that quarterly and monthly EEO meetings are held to monitor progress on the goals. Caltrans' EEO Annual Self-Assessment Elements report is designed to provide an update on its EEO Program accomplishments during the federal fiscal year and sets new goals and objectives for the next year. The 2016 Annual Self Assessment Elements report did not discuss if Caltrans' goals and planned actions to correct employment deficiencies were accomplished nor did it include a written justification for the goal(s) that did not correct deficiencies.

Corrective Actions and Schedules: Within 60 days of issuance of the Final Report, submit to the FTA Office of Civil Rights goals and timetables for any underutilization identified in accordance with the requirements of the FTA Circular 4704.1A, Section 2.2.5.

6.7 Assessment of Employment Practices

Requirement

Recipients, sub-recipients, 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. The assessment must include:

1. The number of people by race, national origin, and sex, applying for employment within the past year and the number hired;
2. The number of employees in each job category, by race, national origin, and sex, who have applied for promotion or transfer within the past year and the number promoted; and
3. The number of disciplinary actions and terminations, by race, national origin, and sex.

Discussion

During the compliance review, deficiencies were found with the requirement for Assessment of Employment Practices. The Assessment of Employment Practices in the 2016 EEO Program discusses in narrative detail Caltrans' hiring process and procedures, which is based on an exam-based merit system, employee training offered, employee development and career tools, reasonable accommodation policy, and employee personnel actions. However, a quantitative analysis was not conducted to determine whether any of the employment practices had an adverse impact on minorities and women.

Hiring procedures are governed by CalHR not by Caltrans. Caltrans is provided a variety of sources from which to recruit candidates, each of which have their own procedures set by CalHR. In order to be eligible for employment, all candidates must take an examination based upon the position requirements. Exams are validated by CalHR's Office of Examination Services using the following legal and professional standards and methods: Uniform Guidelines on Employee Selection Procedures, the Civil Rights Acts of 1964 and 1991, the Americans with Disabilities Act, the California Fair Employment and Housing Act, the Principles for the Validation and Use of Personnel Selection Procedures, the Standards for Educational and Psychological Testing, California Government Code and Regulations, State Personnel Board Rules, the Merit Selection Manual, relevant court decisions, and professional literature. The EEO Program states that "The Office of

Examination Services validates tests and reviews statistical data to ensure that underrepresented minority groups are not disadvantaged by the content of the examination.” No analysis was provided for review to document that the examinations do not serve as an employment barrier to minorities or women.

The FTA Circular requires, at a minimum, that these analyses contain the number of *applicants* who were offered employment and those actually hired and the number of those who *applied* for promotion or transfer and those actually promoted and or transferred. Included in the EEO Program is the EEO-4 Report for June 2015 which provides data on new hires by race/ethnicity and gender by job category. There was no analysis or discussion on applicant data compared to actual hires to ascertain if minorities and women are being adversely impacted. A supplemental employee practices chart provided to the review team provided data on separations but did not include complete data on hires, promotions, or disciplinary actions. Additional charts were provided for appointments and disciplinary services but no analysis of the data was evident from the review.

The Assessment of Employment Practices does not include a quantitative analysis or an assessment and identification of practices that may operate as employment barriers. Furthermore, Caltrans appears to collect data or have access to the required data from other departments but did not demonstrate that it currently has a process in place to implement the required analysis in this area.

Corrective Actions and Schedules: Within 60 days of issuance of the Final Report, submit to the FTA Office of Civil Rights quantitative and qualitative assessments of employment practices. This should include recruitment, results of testing validation, promotions, disciplinary actions, terminations, and compensation in accordance with FTA Circular 4704.1A, Section 2.2.6.

6.8 Monitoring and Reporting Systems

Requirement

An internal monitoring and reporting system should enable the agency to assess EEO accomplishments, evaluate the EEO Program during the year, identify those units which have failed to achieve a goal, and provide a precise and factual database for future projections.

Discussion

During this compliance review, deficiencies were found with the requirement for Monitoring and Reporting Systems. 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.

Caltrans' EEO Program covering the period 2014 through 2016 includes a section titled "Monitoring and Reporting" that indicates the Affirmative Action Plan (AAP) is prepared every five years and requires Caltrans to monitor and report annually on its compliance. Caltrans' EEOP generates the EEO Annual Self-Assessment Elements Report that is shared with the Caltrans Director, executive management, and regional district EEO staff. The October 2016 EEO Program states the EEO Manager of each Caltrans District provides their District's EEO related accomplishments annually (Oct 1-Sept 30) and creates goals for the next reporting year. The EEOP issues an annual Self-Assessment Elements Report to summarize the information submitted by the districts and prepares a corrective action plan. Caltrans' EEO Program states the EEOP uses the Self-Assessment Report to detail how and when it will achieve parity to the utilization data prepared by CalHR. The EEO Program further states that Caltrans must report regularly to CalHR on its progress.

A review of the 2016 Self-Assessment Report found the overall assessment of accomplishments and goals do not:

- Reference planned actions Caltrans will take to attain the hiring goals set forth in the 2016 EEO Program nor the underutilizations identified by CalHR or the results of utilization analyses conducted by the EEOP appearing in the EEO Program and AAP
- Contain quantitative measures by which Caltrans can determine the impact of planned actions on its attainment of hiring goals
- Include reference(s) to an assessment of the salaries paid to minority and female employees conducted in September 2015
- Provide narrative as to whether Caltrans accomplished the goals set forth in the prior federal fiscal year and/or an explanation for a failed goal(s).

Additionally, the EEO Program does not address the procedures and results of sub-recipient monitoring. The Division of Rail and Mass Transportation (DRMT) provided the monitoring procedures for review while on site. Each of the 12 Caltrans Districts is responsible for an annual sub-recipient plan checklist. The checklist includes questions on the EEO Program and EEO Policy Statement. Districts conduct a sub-recipient site visit every three years. Sub-recipients meeting the threshold must submit their EEO Program for Caltrans review. Any EEO deficiencies identified in the sub-recipient EEO Program are sent to DRMT at Caltrans Headquarters for resolution.

The review team selected a random sample of 5311 program sub-recipient files for review. The files provided from the District offices included the annual sub-recipient plan checklist and documentation of site visits. EEO Programs were collected for sub-recipients meeting the threshold.

Corrective Action and Schedules: Within 60 days of issuance of the Final Report, submit to the FTA Office of Civil Rights evidence of a monitoring and reporting system in accordance with the requirements of the FTA Circular 4704.1A, Section 2.2.7.

7. Summary of Findings

Requirements of FTA Circular 4704.1	Site Review Finding	Deficiencies	Corrective Action(s)	Response Days/Date
1. Program	ND	-	-	-
2. Statement of Policy	D	<p>Policy does not include:</p> <ul style="list-style-type: none"> • Commitment to undertake an affirmative action program to overcome the effects of past discrimination • Successful achievement of goals will provide benefits to the grantee • Performance of managers and supervisors will be evaluated on the success of the EEO Program. 	Submit to the FTA Office of Civil Rights an updated EEO Policy Statement in accordance with FTA Circular 4704.1A, Section 2.2.1.	Within 60 days of the issuance of the Final Report.
3. Dissemination	D	<ul style="list-style-type: none"> • EEO policy not found on external website • EEO statement not included on job fair and recruiting flyers • EEO statement not included on the job application • Signed staff expectations forms not included in all the personnel files reviewed. 	Submit to the FTA Office of Civil Rights an updated EEO Policy Statement containing the seven requirements from the circular and evidence it has been placed on Caltrans' website and fully disseminated both internally and externally in accordance with FTA Circular 4704.1A, Section 2.2.2.	Within 60 days of the issuance of the Final Report.

Requirements of FTA Circular 4704.1	Site Review Finding	Deficiencies	Corrective Action(s)	Response Days/Date
4. Designation of Personnel Responsibility	D	EEO Officer does not concur on hires and promotions, assist in recruitment of minority, women or disabled applicants, or assist management in data needs, setting goals and timetables, etc.	Submit to the FTA Office of Civil Rights documentation that Caltrans' EEO Officer and staff are assigned to carry out the nine program requirements in accordance with FTA Circular 4704.1A, Section 2.2.3.	Within 60 days of the issuance of the Final Report.
5. Utilization Analysis	D	<p>Insufficient documentation was provided to validate:</p> <ul style="list-style-type: none"> • The statistical breakdown of the Caltrans' workforce by each department and job category • The availability analysis comparing the participation rates of minorities and women at the various levels in the work force with their availability statewide, which is identified as the relevant labor market • The underutilizations presented in the Caltrans AAP and EEO Program. 	Submit to the FTA Office of Civil Rights a revised utilization analysis to include a statistical breakdown of all transit-related employees by correct EEO category cross-referenced by race, national origin, age, and sex in accordance with the requirements of the FTA Circular 4704.1A, Section 2.2.4.	Within 60 days of the issuance of the Final Report.
6. Goals and Timetables	D	Specific and detailed percentage and numerical goals with timetables were not set to correct underutilizations identified in the Caltrans AAP and EEO Program.	Submit to the FTA Office of Civil Rights goals and timetables for any underutilization identified in accordance with the requirements of the FTA Circular 4704.1A, Section 2.2.5.	Within 60 days of the issuance of the Final Report.

Requirements of FTA Circular 4704.1	Site Review Finding	Deficiencies	Corrective Action(s)	Response Days/Date
7. Assessment of Employment Practices	D	Assessment does not include quantitative analysis or assessment of practices that may operate as employment barriers and contribute to underutilization.	Submit to the FTA Office of Civil Rights quantitative and qualitative assessments of employment practices. This should include recruitment, results of testing validation, promotions, disciplinary actions, terminations, and compensation in accordance with FTA Circular 4704.1A, Section 2.2.6.	Within 60 days of the issuance of the Final Report.
8. Monitoring and Reporting System	D	<p>An internal monitoring and reporting system has not been established to:</p> <ul style="list-style-type: none"> • Assess EEO accomplishments • Identify those units which have failed to achieve goal(s) • Provide a precise and factual database for future projections. 	Submit to the FTA Office of Civil Rights evidence of a monitoring and reporting system in accordance the requirements of the FTA Circular 4704.1A, Section 2.2.7.	Within 60 days of the issuance of the Final Report.

Findings at the time of the site visit: ND = No Deficiencies Found; D = Deficiency; NA = Not Applicable; AC = Advisory Comment