

# 13. EQUAL EMPLOYMENT OPPORTUNITY (EEO)

## PURPOSE OF THIS REVIEW AREA

The recipient must ensure that no person in the United States shall on the grounds of race, color, religion, national origin, sex, age, or disability be excluded from participating in, or denied the benefits of, or be subject to discrimination in employment under any project, program, or activity receiving Federal financial assistance under the Federal transit laws. (Note: Equal Employment Opportunity Commission's regulation only identifies/recognizes religion and not creed as one of the protected groups.)

## QUESTIONS TO BE EXAMINED

1. Has the recipient developed the appropriate EEO program?
2. Does the recipient's abbreviated EEO Program contain the required elements?
3. Does the recipient ensure proper personnel assignments are made to ensure EEO Program implementation?
4. Does the recipient ensure the required elements of its EEO Program are properly implemented?
5. Does the recipient provide oversight of subrecipients and/or contractors who meet the EEO Program threshold?

## INFORMATION NEEDED FROM RECIPIENT

### Recipient Information Request

- Number of employees working on/in the Federal Transit Administration (FTA)-funded program
- Most recent EEO program, if not uploaded to FTA's Transit Award Management System (TrAMS)
- Sample documents used for internal dissemination of EEO program
- Organizational chart identifying EEO officer
- Designated employee and EEO officer job descriptions
- Standard performance evaluation for managers/supervisors
- "Employment Practices Chart" (or alternate documentation containing the same information) See FTA Circular 4704.1A Attachment 4 for the listed information
- Number of persons hired in areas of underutilization
- EEO complaint logs
- List of subrecipients that meet the threshold to develop an EEO program

### Recipient Follow-up

- Agendas, sign-in sheets for meetings conducted when the EEO policy and its implementation are explained
- Sample of recruitment entities and ads for job positions
- Agendas and sign-in sheets for EEO training or meetings with management
- Log of recruitment locations and recruitment dates for the review period
- Documentation of review and oversight of EEO plans of sample subrecipient(s)

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## EEO1. Has the recipient developed the appropriate EEO program?

### BASIC REQUIREMENT

A recipient is required to submit a full or abbreviated EEO Program based on the number of its transit-related employees and whether it reaches a monetary threshold.

## **APPLICABILITY**

All recipients of FTA funds

## **EXPLANATION**

A full EEO program is required of any recipient that both employs 100 or more transit-related employees (including temporary, full-time, or part-time employees) and 1) requests or receives in excess of \$1 million in capital and/or operating assistance in the previous Federal fiscal year or 2) requests or receives in excess of \$250,000 in planning assistance in the previous Federal fiscal year. The program requirements detail what must be included, such as designation of personnel responsibilities, a workforce analysis (including an identification of areas of underutilization), goals and timetables, an assessment of past employment practices, proposed remedies for problem areas, and a monitoring and reporting system. Program updates are required every four years. Formal communication mechanisms should be established to publicize and disseminate appropriate elements of the program, such as the EEO policy statement. The policy statement should be posted, for example, on bulletin boards, near time clocks, or in the employee's cafeteria. All civil rights programs must be uploaded to TrAMS.

Recipients that employ between 50-99 transit-related employees and 1) request or receive capital or operating assistance in excess of \$1 million in the previous Federal fiscal year, or 2) request or receive planning assistance in excess of \$250,000 in the previous Federal fiscal year must prepare and maintain an abbreviated EEO Program. Recipients that must prepare an abbreviated program are not required to conduct a utilization analysis with goals and timetables or to submit the EEO Program to FTA every four years. Instead, these programs are reviewed during FTA's oversight reviews.

## **INDICATORS OF COMPLIANCE**

- a. *If the recipient meets the following threshold requirements, did it develop and submit a full EEO Program?*
  - *Employs 100 or more transit-related employees, and*
  - *Requests or receives capital or operating assistance in excess of \$1 million in the previous Federal fiscal year, or requests or receives planning assistance in excess of \$250,000 in the previous Federal fiscal year.*
- b. *If the recipient meets the following threshold requirements, did it prepare and maintain an abbreviated EEO Program?*
  - *Employs between 50-99 transit-related employees, and*
  - *Requests or receives capital or operating assistance in excess of \$1 million in the previous Federal fiscal year, or requests or receives planning assistance in excess of \$250,000 in the previous Federal fiscal year.*
- c. *If the recipient submitted an EEO program and FTA has issued correspondence indicating required revisions, has the recipient made those revisions?*

## **DETERMINING COMPLIANCE**

Request and review the recipient's listing of transit-related employees to confirm the appropriate threshold based on number of employees. A transit-related employee refers to an employee of an FTA applicant, recipient, subrecipient, or contractor who is involved in any aspect of an agency's public transit operation funded by FTA. For example, a city planner involved in planning bus routes would be counted as part of the recipient's workforce, but a city planner involved only in land use would not be counted.

Review the recipient's applications and awards in TrAMS to verify if the recipient requested or received capital or operating assistance in excess of \$1 million in the previous Federal fiscal year, or requested or received planning assistance in excess of \$250,000 in the previous Federal fiscal year.

For required full EEO Programs:

Review in TrAMS the recipient documents section to confirm that the recipient's EEO Program was uploaded. Review in TrAMS the related action tab to ensure the EEO Program was submitted every four years.

For abbreviated EEO Programs:

In accordance with the Circular, unless requested by FTA, recipients within this threshold are not required to routinely submit their program to FTA unless requested. Request and review the most recent version of the recipient's EEO program.

For programs submitted to FTA:

Review the Civil Rights Status screen in TrAMS to determine if the recipient has submitted an EEO program. Request and review any correspondence from FTA to the recipient on its submission. If FTA provided the recipient with comments on the submission, review the recipient's current program to verify that noted revisions or additions were made.

**POTENTIAL DEFICIENCY DETERMINATIONS**

The recipient is deficient if it meets the threshold to submit a full EEO Program and has not developed and/or submitted a program and/or if the current EEO program has expired and it has not submitted a program update or requested and received an extension for submitting a program update.

DEFICIENCY CODE EEO1-1: Full EEO program not prepared, maintained, and/or submitted

SUGGESTED CORRECTIVE ACTION: The recipient must develop and/or upload the required EEO program or program update to TrAMS and notify the FTA regional civil rights officer (RCRO) that the program has been uploaded.

The recipient is deficient if it meets the threshold to prepare and maintain an abbreviated EEO Program and has not prepared or maintained a program.

DEFICIENCY CODE EEO1-2: Abbreviated EEO program not prepared, and/or maintained

SUGGESTED CORRECTIVE ACTION: The recipient must develop the appropriate EEO Program, upload it to TrAMS, and notify the FTA RCRO once completed.

The recipient is deficient if it received comments from FTA on its EEO program submission but has not made revisions. If the recipient revised its program, but it does not appear that those revisions met the intent of FTA's comments, do not make a deficiency, however, but make the RCRO aware of this for their follow-up.

DEFICIENCY CODE EEO1-3: Revisions to EEO program not made

SUGGESTED CORRECTIVE ACTION: The recipient must revise and submit its EEO program to TrAMS and notify the FTA RCRO once completed.

**GOVERNING DIRECTIVE**

FTA Circular 4704.1A Ch. 1.4 Applicability

"...Any FTA applicant, recipient, subrecipient, and contractor who meet both of the following threshold requirements must implement all of the EEO Program elements:

- Employs 100 or more transit-related employees, and

- Requests or receives capital or operating assistance in excess of \$1 million in the previous Federal fiscal year, or requests or receives planning assistance in excess of \$250,000 in the previous Federal fiscal year...

Any FTA applicant, recipient, subrecipient, and contractor who meets both of the following threshold requirements must prepare and maintain an abbreviated EEO Program:

- Employs between 50-99 transit-related employees, and
- Requests or receives capital or operating assistance in excess of \$1 million in the previous Federal fiscal year, or requests or receives planning assistance in excess of \$250,000 in the previous Federal fiscal year...

...These smaller agencies are not required to conduct a utilization analysis with goals and timetables or to submit the EEO Program to FTA every four years. Instead, these agencies will be required to provide the EEO Program to FTA if requested by the Office of Civil Rights or for any State Management Review or Triennial Review.

...Only direct recipients and State DOTs who cross the EEO Program threshold above are required to submit an EEO Program to FTA every four years..."

## **EEO2. Does the recipient's abbreviated EEO Program contain the required elements?**

### **BASIC REQUIREMENT**

A recipient's abbreviated EEO Program must include the Statement of Policy, dissemination plan, designation of personnel, assessment of employment practices, and a monitoring and reporting system.

### **APPLICABILITY**

All recipients that meet the abbreviated EEO program threshold

### **EXPLANATION**

Recipients must prepare and maintain an abbreviated EEO Program if they employ between 50-99 transit-related employees and, in the previous fiscal year, either:

- 1) requested or received capital or operating assistance in excess of \$1 million, or
- 2) requested or received planning assistance in excess of \$250,000.

An abbreviated EEO Program includes the Statement of Policy, dissemination plan, designation of personnel, assessment of employment practices, and a monitoring and reporting system. (See FTA Circular 4704.1A Attachment 5 for an EEO Program Format Checklist.) Agencies that meet the thresholds for an abbreviated program are not required to conduct a utilization analysis with goals and timetables or to submit the EEO Program to FTA every four years.

### **INDICATOR OF COMPLIANCE**

- a. *Does the abbreviated EEO Program include the required attributes?*

### **DETERMINING COMPLIANCE**

Request and review the recipient's EEO Program to ensure the five attributes listed below are included in the current abbreviated EEO Program. For any items that appear to be incomplete, discuss with the RCRO prior to making a deficiency.

<b>Statement Elements</b>	<b>Addressed</b>	<b>Not Addressed</b>	<b>Incomplete</b>	<b>Reviewer Comments</b>
<b>1. Statement of Policy that:</b>				
<ul style="list-style-type: none"> <li>Expresses a commitment that all employment actions will be administered without regard to race, color, religion, national origin, sex (including gender identity, sexual orientation, and pregnancy), age, genetic information, disability, veteran status, or other protected class</li> </ul>				
<ul style="list-style-type: none"> <li>Commits to developing a written nondiscrimination program to which the agency is committed and which is available for inspection upon request</li> </ul>				
<ul style="list-style-type: none"> <li>Explains that the responsibility for implementing the EEO Program is assigned to an agency executive who reports directly to the Chief Executive Officer (CEO)/General Manager (GM)</li> </ul>				
<ul style="list-style-type: none"> <li>States that applicants and employees have the right to file complaints alleging discrimination</li> </ul>				
<ul style="list-style-type: none"> <li>States that retaliation is strictly prohibited and will not be tolerated</li> </ul>				
<ul style="list-style-type: none"> <li>States the commitment to provide reasonable accommodations to applicants and employees</li> </ul>				
<ul style="list-style-type: none"> <li>States that all management and supervisory personnel share in this responsibility and are assigned specific tasks to ensure and achieve compliance</li> </ul>				
<ul style="list-style-type: none"> <li>States 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</li> </ul>				
<b>2. Policy Dissemination Plan</b>				
<b>3. Designation of Personnel Responsibility</b>				
<b>4. Assessment of Employees Practices</b>				
<b>5. Monitoring and Reporting Plan</b>				

**POTENTIAL DEFICIENCY DETERMINATION**

The recipient is deficient if its abbreviated EEO Program does not include all the required attributes.

DEFICIENCY CODE EEO2-1: Abbreviated EEO Program elements missing or incomplete

SUGGESTED CORRECTIVE ACTION: The recipient must submit to the FTA RCRO an EEO Program that includes all the required elements.

## **GOVERNING DIRECTIVES**

### FTA Circular 4704.1A Ch. 1.4 Applicability

“...An abbreviated EEO Program includes the Statement of Policy, dissemination plan, designation of personnel, assessment of employment practices, and a monitoring and reporting system. (See Attachment 5 for an EEO Program Format Checklist.) These smaller agencies are not required to conduct a utilization analysis with goals and timetables or to submit the EEO Program to FTA every four years. Instead, these agencies will be required to provide the EEO Program to FTA if requested by the Office of Civil Rights or for any State Management Review or Triennial Review.”

### FTA Circular 4704.1A Ch. 2.2.1 Statement of Policy

“FTA requires an agency’s EEO Program to include a signed and dated EEO policy statement issued by the agency’s CEO/GM covering all employment and personnel practices, including recruitment, hiring, promotions, terminations, transfers, layoffs, classification, compensation, training, benefits, and other terms and conditions of employment. (See Attachment 1 for a Sample EEO Policy Statement.)

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## **EEO3. Does the recipient ensure proper personnel assignments are made to ensure EEO Program implementation?**

### **BASIC REQUIREMENT**

A recipient must ensure that appropriate personnel designations are made and responsibilities assigned for EEO Program implementation.

### **APPLICABILITY**

All recipients that meet the threshold for developing a full or abbreviated EEO Program

### **EXPLANATION**

The importance of an EEO program is indicated by the individual named to manage the program and the authority he or she possesses. The EEO Officer should be identified in the recipient’s policy statement. The EEO Officer should be an executive and must report directly to the CEO or have dotted line access, meaning they can bypass managers and go directly to the CEO. The EEO Officer should be identified by name in all internal and external communications regarding the recipient’s EEO program.

Care should be taken to avoid conflicts of interest when assigning responsibility for administering the EEO program as a collateral duty assignment. Collateral duty means the person has other responsibilities rather than being a full time EEO Officer. The EEO Officer should serve as a check and balance on employment practices. Since one of the EEO Officer’s minimum responsibilities includes reporting periodically to the CEO on the progress of each unit in relation to the agency’s EEO goals, conflicts of interest could arise if the EEO Officer is in the human resources or administrative office. For example, many of the employment practices may be, in large part, the responsibility of the human resource department.

Additionally, the EEO Officer is responsible for processing employment discrimination complaints.

Since managing the EEO Program requires a commitment of time and resources, FTA requires agencies and their senior managers to give the EEO Officer support and assign sufficient staff to successfully carry out the EEO Program, as appropriate.

### **INDICATORS OF COMPLIANCE**

- a. *Has the recipient appropriately designated an EEO Officer with direct reporting relationship to the CEO and publicized its contact information?*

b. Are designated personnel implementing the EEO Program?

**DETERMINING COMPLIANCE**

Request and review the recipient’s organizational chart and job description of the EEO Officer. Request and review the recipient’s EEO Program to ensure the EEO Officer is named and the EEO Officer’s responsibilities are included in the EEO Program and included in the EEO Officer’s job description. Review the agency’s organization chart to verify the EEO Officer has a direct reporting relationship to the CEO. Review internal and external communications regarding the recipient’s EEO Program to verify that the EEO Officer’s contact information is included.

Review information on responsibilities of personnel implementing the EEO program. Request and review manager/supervisor’s annual performance assessment tools to verify that EEO responsibilities are included as part of the performance evaluation. Review that the attributes listed below are implemented:

<i>Designation of Personnel</i>	<i>Implemented</i>	<i>Not Implemented</i>	<i>Reviewer Comments</i>
<b>EEO Officer responsibilities:</b>			
Assist management in collecting and analyzing employment data, identifying problem areas, setting goals and time tables, and developing programs to achieve goals			
Design, implement, and monitor internal audit and reporting systems to measure program effectiveness progress and required action			
Review the agency’s nondiscrimination plan with managers and supervisors			
Concur in the hiring and promotion process			
Periodically review employment and EEO policies, procedures, performance evaluations, and union agreements			
Report at least semiannually to the CEO/GM on each department’s progress in relation to the agency’s goals			
Serve as liaison between the agency, government, regulatory agencies, minority, women, disability organizations, and other community groups			
Maintain awareness of current EEO laws, and ensure dissemination to responsible officials			
Investigate complaints of EEO discrimination			
Provide EEO training for employees and managers			
Advise employees and applicants of training programs and professional development opportunities			
Audit postings of the EEO policy statement to ensure compliance information is posted and up to date			
<b>Agency officials, supervisors and managers’ responsibilities:</b>			

<i>Designation of Personnel</i>	<i>Implemented</i>	<i>Not Implemented</i>	<i>Reviewer Comments</i>
Participate actively in periodic audits to identify and to remove employment barriers obstructing the achievement of specified goals and objectives			
Have regular discussions with managers, supervisors, employees, and affinity groups to ensure agency policies and procedures are being followed			
Maintain and update the personnel database for generating reports required for the nondiscrimination program			
Cooperate with the EEO Officer in review of information and investigation of complaints			
Encourage employee participation to support the advancement of the EEO Program			

**POTENTIAL DEFICIENCY DETERMINATIONS**

The recipient is deficient if its EEO officer does not have a direct reporting relationship to the CEO or the contact information of the EEO officer has not been publicized.

DEFICIENCY CODE EEO3-1: Inadequate designation of EEO Officer

SUGGESTED CORRECTIVE ACTION: The recipient must submit to the FTA RCRO evidence that the EEO Officer reports and is directly responsible to the CEO, and/or that contact information for the EEO Officer is included in internal and external information on the agency’s EEO Program.

The recipient is deficient if it has not designated appropriate personnel responsible for assisting the EEO Officer in carrying out the requirements of the EEO Program or if personnel are not performing responsibilities as described in the EEO Program.

DEFICIENCY CODE EEO3-2: Inadequate designation of EEO officials, supervisors and managers

SUGGESTED CORRECTIVE ACTION: The recipient must submit to the FTA RCRO evidence of corrective actions taken to implement the EEO Program with appropriately designated personnel.

**GOVERNING DIRECTIVE**

FTA Circular 4704.1A Ch. 2.2.3 Designation of Personnel Responsibility

“The designation of an agency’s EEO Officer responsible for EEO Program management and oversight reflects the agency’s EEO commitment. As such, FTA requires agencies to designate an executive as EEO Officer who will report to and is directly responsible to the agency’s CEO/GM... FTA requires agencies to name the EEO Officer and publicize the individual’s contact information in all internal and external communications regarding the agency’s EEO Program. This will include publishing the EEO Officer’s contact information prominently in both print and electronic communications, such as the agency’s website.

Since managing the EEO Program requires a commitment of time and resources, FTA requires agencies and their senior managers to give the EEO Officer support and assign sufficient staff to successfully carry out the EEO Program, as appropriate... FTA requires the EEO Officer’s Program responsibilities to include, at a minimum: Developing the EEO policy statement and a written EEO Program; Assisting management in collecting and analyzing employment data, identifying problem areas, setting goals and



timetables, and developing programs to achieve goals; Designing, implementing, and monitoring internal audit and reporting systems to measure program effectiveness and to determine where progress has been made and where proactive action is needed; Reviewing the agency's nondiscrimination plan with all managers and supervisors to ensure that the policy is understood; Concurring in the hiring and promotion process; In conjunction with human resources, periodically reviewing employment practices policies (e.g., hiring, promotions, training), complaint policies, reasonable accommodation policies, performance evaluations, grievance procedures, and union agreements; Reporting at least semiannually to the CEO/GM on each department's progress in relation to the agency's goals and on contractor and vendor compliance; Serving as liaison between the agency, Federal, state, county, and local governments, regulatory agencies, and community groups representing minorities, women, and persons with disabilities, and others; Maintaining awareness of current EEO laws and regulations, and ensuring the laws and regulations affecting nondiscrimination are disseminated to responsible officials; Investigating complaints of EEO discrimination; Providing EEO training for employees and managers; In conjunction with human resources, advising employees and applicants of available training programs and professional development opportunities and the entrance requirements; Auditing postings of the EEO policy statement to ensure compliance information is posted and up to date... Although the EEO Officer is primarily responsible for implementing an agency's EEO Program, all officials, managers, and supervisors are responsible for ensuring EEO and must not discriminate based on a protected class. All managers—from the supervisor of the smallest unit to the Board Chair or CEO/GM—bear responsibility for ensuring that agency EEO Program policies and programs are carried out. EEO responsibilities for agency officials, supervisors and managers include: Participating actively in periodic audits of all aspects of employment to identify and remove barriers obstructing the achievement of specified goals and objectives; Holding regular discussions with other managers, supervisors, employees, and affinity groups to ensure agency policies and procedures are being followed; In conjunction with the EEO Officer, maintaining and updating the personnel database for generating reports required for the nondiscrimination program; Cooperating with the EEO Officer in review of information and investigation of complaints; Encouraging employee participation to support the advancement of the EEO Program (e.g., professional development and career growth opportunities, posting promotional opportunities, shadowing, mentoring)..."

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#### **EEO4. Does the recipient ensure the required elements of its EEO Program are properly implemented?**

##### **BASIC REQUIREMENT**

A recipient must be able to demonstrate implementation of its EEO Program which includes the EEO Policy dissemination plan; assessment of employment practices; a monitoring and reporting system; and as applicable, utilization analysis, goals, and timetables.

##### **APPLICABILITY**

All recipients that meets the threshold for developing an EEO Program

##### **EXPLANATION**

A recipient must be able to demonstrate implementation of its EEO Program which includes the EEO Policy dissemination plan; assessment of employment practices; a monitoring and reporting system; and as applicable, utilization analysis, and goals and timetables for those recipients required to submit a full EEO Program.

**Internal and External Dissemination:** FTA requires each agency to state they will communicate the existence of its EEO policy and program internally and externally to employees, applicants, and potential applicants.

**Assessment of Employment Practices:** Recipients must conduct a detailed narrative and statistical assessment of present employment practices to identify those practices that operate as employment

barriers and unjustifiably contribute to underutilization. For example, the narrative assessment of the employment practices may include the agency's current practices in recruitment, testing, selection, promotion, termination, transfers, layoffs, disciplinary actions, compensation, benefits, and training.

The analyses must contain statistical data to document the impact of employment practices. All problem areas must be identified and a proposed program of remedial, affirmative actions enumerated in the recipient's EEO plan.

**Monitoring and Reporting:** The recipient's EEO Program must contain an effective and workable internal monitoring and reporting system. FTA requires recipients to conduct such evaluations semiannually, at a minimum; produce documentation that supports actions to implement the plan for minority and female job applicants or employees; and informs management of the program's effectiveness.

**Utilization Analysis:** The purpose of the utilization analysis is to identify those job categories where underutilization and/or concentration of women or minorities exist in relation to their availability in the relevant labor market. It is also to establish the framework for goals and timetables and other affirmative actions to correct employment practices that contributed to any underutilization or concentration. Specific percentage and numerical goals with timetables must be set to correct any underutilization of specific affected classes of persons identified in a workforce utilization analysis.

**Goals and Timelines:** Recipients are required to set both short-term and long-range goals. Usually long-range goals, to be obtained in four to five years, are stated as percentages. Short-term goals should be set and pursued in order to ensure accomplishment of long-range goals. Short-term goals represent the net increase in minority and/or women's employment in a particular job category within the next 12 months. Short-term goals should be stated as both actual numbers and percentages and should be based on anticipated job openings, job group availability, and the long-range goals. If the goals that were set in the previous submission were not met, there is an obligation to explain what efforts were taken to meet the goal and fully explain and justify why the goal was not met.

#### **INDICATORS OF COMPLIANCE**

- a. *Does the recipient disseminate its EEO policy internally and externally as required and as detailed in its EEO Program?*
- b. *Does the recipient have a detailed narrative and statistical assessment of employment practices to identify employment barriers that contain the following elements listed below?*
- c. *Does the recipient's monitoring and reporting system contain the elements listed below?*
- d. *How does the recipient monitor its utilization analysis? If the recipient is only required to develop an abbreviated EEO Program, move to the next question.*
- e. *Is the agency implementing strategies to achieve short and long-term goals established to address any underutilization identified?*

#### **DETERMINING COMPLIANCE**

**Dissemination:** Request and review the recipient's EEO Program for information on how dissemination of its EEO policy would be accomplished. Request and review documentation (i.e. agendas, sign-in sheets for meetings/trainings conducted when the EEO policy and its implementation are explained) to verify that the EEO policy and program have been brought to the attention of employees and managers. Request and review a listing of recruitment entities (i.e. employment agencies, minority and women's organizations, etc.) used by the agency; select a sample and verify the recipient's EEO policy was provided. Request and review a listing of recruitment ads published during the review period; select a sample and verify the recipient included the phrase "is an equal employment opportunity employer" or "is

an EEO employer.” On-site verify that the EEO policy is posted in the recipient’s office and has been publicized. Document if the following attributes have been implemented:

<i>Dissemination</i>	<i>Implemented</i>	<i>Not Implemented</i>	<i>Reviewer Comments</i>
<b>Internal Dissemination</b>			
Providing written communications from the CEO/GM (i.e., policy statement)			
Posting official EEO materials and policy statement on bulletin boards, near time clocks, in employees’ break rooms, and in the employment/personnel office			
Including the EEO policy statement in the agency’s personnel and operations manual, employee handbooks, reports, and manuals			
Meeting with top management officials at a minimum semiannually to discuss the EEO Program and its implementation			
Meeting with all employees and affinity groups to seek input on the program implementation			
Conducting periodic EEO training for all employees and for managers			
Conducting EEO training for all new supervisors or managers within 90 days of their appointment			
<b>External Dissemination</b>			
When there is outreach or advertising to recruitment entities (e.g., employment agencies, educational institutions, minority, and women organizations), disseminating the policy to recruitment entities			
Including in all recruitment ads a statement that the agency “is an equal employment opportunity employer”			

**Assessment of Employment Practices:** Request and review the recipient’s EEO Program to obtain an understanding of how the below requirements are implemented. Review the plan for the recipient’s identified problem areas and program of corrective actions. Obtain documentation to verify corrective actions are being performed. Request and review the recipient’s Employment Practices Chart (or alternate documentation containing the same information), see FTA Circular 4704.1A Attachment 4 for the listed information. Ensure the “Employment Practices Chart” provides current and relevant data with a narrative explaining the source of the data and the results of the analysis.

**Note:** FTA expects all agencies to do this each year and attach the sheets for the separate years. FTA has identified that rolling the numbers up into one four-year analysis is incorrect and the numbers are inaccurate.

<i>Employment Practices</i>	<i>Addressed</i>	<i>Not Addressed</i>	<i>Reviewer Comments</i>
Detailed narrative assessment of present employment practices			
Statistical data to document the impact of the employment practices by sex and race			

<i>Employment Practices</i>	<i>Addressed</i>	<i>Not Addressed</i>	<i>Reviewer Comments</i>
<b>Does the statistical analysis contain:</b>			
Number of applicants for employment in each job category and the number hired, cross-referenced by sex and race			
Number of employees in each job category who applied for promotion or transfer and the number promoted or transferred, cross-referenced by sex and race			
Number and types of disciplinary actions			
Number of voluntary/involuntary terminations, cross-referenced by sex and race			
Job category training that fosters promotion potential, cross-referenced by sex and race			
Individuals with Disabilities and Veterans, the number of applicants for employment and promotions in each job category, and the number hired and promoted, cross-referenced by sex and race			

**Monitoring and Reporting:** Request and review the recipient's EEO Program to evaluate how the requirements above will be implemented. Request a sampling of the following items to verify the monitoring and reporting attributes listed above are implemented: employment practices analysis, agendas and sign-in sheets for EEO training or meetings with management, job postings published, advertisements placed, a log of recruitment locations and dates, the recipient's complaint logs with status of complaints. If the recipient indicates in its program that there are subrecipients and/or contractors, review the materials obtained above to determine if there is any discussion of monitoring these third-party programs. If the recipient indicates in its program that there are union agreements, obtain documentation that contracts have been reviewed to ensure there are no disparate impact.

Determine if the recipient is evaluating their EEO Program implementation throughout the year, at least semi-annually, and produces documentation that supports actions to implement the plan for minority and female job applicants or employees and informs management of the program's effectiveness.

Evaluate the recipient's monitoring system to determine how it implements the following attributes:

<i>Monitoring and Reporting</i>	<i>Implemented</i>	<i>Not Implemented</i>	<i>Reviewer Comments</i>
<b>Monitoring</b>			
Monitoring the implementation of dissemination, utilization analysis, statistical employment practices, goal timeframes, and all identified barriers and the progress			
Determining EEO compliance of subrecipients and contractors			
Reviewing union contracts to ensure there is not a disparate impact			
Monitoring complaints			
<b>Reporting</b>			

<i>Monitoring and Reporting</i>	<i>Implemented</i>	<i>Not Implemented</i>	<i>Reviewer Comments</i>
Meetings between the CEO/GM and the EEO Officer to discuss EEO Program progress and results of monitoring			
EEO-related meetings held between the EEO Officer and management			
Meetings between the EEO Officer, human resources, and hiring officials to review current EEO goals, statistics, policies			

**Utilization Analysis:** Request and review the recipient's utilization chart in its EEO Program. Compare the recipient's recent EEO utilization chart with the number of persons hired in the areas of underutilization. On-site, discuss how new hires have impacted the agency's areas of underutilization. Request and review employment materials (i.e. sample job postings, recruitment activities, etc.) to identify if opportunities are available for the positions underutilized.

<i>Utilization Analysis</i>	<i>Addressed</i>	<i>Not Addressed</i>	<i>Reviewer Comments</i>
Work force analysis includes a statistical breakdown of the recipients' workforce by each department job category			
Work force analysis is cross-referenced by sex and race			
Current percent of employees for each category is cross-referenced by group			
Availability percentage is identified for each category is cross-referenced by group			
Percentage of underutilization for each category is cross-referenced by group			

**Goals and Timetables:** Request and review the recipient's EEO Program and compare the utilization chart in the EEO Program to the recipient's most recent EEO utilization chart, along with examining the number of persons hired in the areas of underutilization. Compare the most recent workforce utilization analysis and other employment materials to show progress toward meeting EEO goals within timetables set. Request and review employment materials (i.e. sample job postings, recruitment activities, etc.) to identify if opportunities are available for the positions that are underutilized.

On site discuss the how new hires affected the underutilization.

<i>Designation of Personnel</i>	<i>Addressed</i>	<i>Not Addressed</i>	<i>Inadequate</i>	<i>Reviewer Comments</i>
Specific and detailed percentage and numerical goals with timetables to correct underutilization of persons identified in the utilization analysis				
Discussion of previous goals not met and a justification for not meeting those goals				

**POTENTIAL DEFICIENCY DETERMINATIONS**

The recipient is deficient if it does not publicize and disseminate its EEO policy internally and externally, as required under FTA Circular 4704.1A, Ch. 2.2.2 and/or in accordance with its EEO Program.

DEFICIENCY CODE EEO4-1: Deficiencies in publicizing and disseminating the EEO Policy Statement

**SUGGESTED CORRECTIVE ACTION:** The recipient must submit to the FTA RCRO evidence of corrective actions taken to publicize and/or disseminate [whatever is missing] as required under FTA Circular 4704.1A, Ch. 2.2.2 and/or in accordance with its EEO Program.

**Note to Reviewers:** Ensure “[whatever is missing]” is properly listed in the Summary of Preliminary Deficiencies (SOPF) and draft/final report.

The recipient is deficient if it did not document their employment practices in both narrative and statistical formats with sufficient detail to identify trends and any practices that may operate as employment barriers.

DEFICIENCY CODE EEO4-2: Employment practices analyses deficiencies

**SUGGESTED CORRECTIVE ACTION:** The recipient must submit to the FTA RCRO a detailed narrative and/or statistical assessment of present employment practices to identify those practices that operate as employment barriers and unjustifiably contribute to underutilization. The recipient must submit to the FTA RCRO a plan to routinely conduct this assessment in conjunction with evaluating short-term and long-range goals. The recipient must submit to the FTA RCRO an employment practices chart that provides all the statistical data in FTA Circular 4704.1A Attachment 4.

The recipient is deficient if it does not have a monitoring and reporting system in place.

DEFICIENCY CODE EEO4-3: EEO reporting and/or monitoring system deficiencies

**SUGGESTED CORRECTIVE ACTION:** The recipient must develop and submit to the FTA RCRO a detailed monitoring and reporting system to include [whatever part is missing].

**Note to Reviewers:** Ensure “[whatever is missing]” is properly defined in the SOPF and draft/final report.

The recipient is deficient if it has not completed a utilization analysis that identifies job categories that have an underutilization or concentration of minorities and women in relation to their availability in the relevant labor market or has not updated the analysis based on current hiring trends.

DEFICIENCY CODE EEO4-4: Utilization incomplete or not completed

**SUGGESTED CORRECTIVE ACTION:** The recipient must complete and submit to the FTA RCRO the required or updated utilization analysis.

The recipient is deficient if it has/is not implementing strategies to achieve its utilization goals consistent with its timetables.

DEFICIENCY CODE EEO4-5: EEO goals deficiencies

**SUGGESTED CORRECTIVE ACTION:** The recipient must submit to the FTA RCRO implemented strategies for achieving goals within the timetables established.

## **GOVERNING DIRECTIVES**

### FTA Circular 4704.1A Ch. 2.2.2 Dissemination

Internal Dissemination. “FTA requires each agency to state they will communicate the existence of its EEO policy and program to employees, applicants, and potential applicants by: Providing written communications from the CEO/GM; Posting official EEO materials (e.g., Federal and state labor laws poster(s)) and the agency’s policy statement on bulletin boards, near time clocks, in employees’ break rooms, and in the employment/personnel office; Including the EEO policy statement in the agency’s personnel and operations manual, employee handbooks, reports, and manuals; Meeting with top

management officials (e.g., bus operations, human resources, planning, marketing, etc.) at a minimum semiannually to discuss the EEO Program and its implementation; Meeting with all employees and affinity groups to seek input on the program implementation; Conducting periodic EEO training for employees and for managers; Conducting EEO training for all new supervisors or managers within 90 days of their appointment”

External Dissemination. “When there is outreach or advertising to recruitment entities (e.g., employment agencies, educational institutions, and minority and women’s organizations), FTA requires agencies to disseminate their EEO policy to those entities. All recruitment ads (e.g., newspapers, magazines, websites, and social media) must state that the agency “is an equal employment opportunity employer.”

#### FTA Circular 4704.1A Ch. 2.2.6 Assessment of Employment Practices

“...Agencies can use self-analysis to ascertain whether their employment practices are contributing to underutilization or concentration. FTA requires agencies to document their employment practices in both narrative and statistical formats with sufficient detail to identify trends and any practices that may operate as employment barriers. FTA requires agencies to identify all problem areas and propose a program of corrective actions as part of their EEO Program. A proper assessment and identification of problem areas evaluates the impact of an agency’s evaluation of external factors (e.g., applicants not knowing where to apply for jobs or the unavailability of bilingual materials and information) and internal factors (e.g., recruitment, testing, hiring, promotions, transfers, seniority, training, compensation, benefits, disciplinary procedures, and terminations). These required assessment elements, along with requirements for individuals with disabilities and veterans, are discussed below. Proper analyses evaluate the impact of an agency’s practices on any identified underutilization or concentration...

...FTA requires agencies to provide statistical data that show any potential impact of employment practices on minorities and women since the last EEO Program submission. This includes: The number of applicants for employment in each job category and the number hired, cross-referenced by sex and race; The number of employees in each job category who applied for promotion or transfer and the number in each job category promoted or transferred, cross-referenced by sex and race; The number and types of disciplinary actions (e.g., indefinite suspension, loss of pay, demotion), tailored to the language used in union contracts and agency policies and procedures; the number of voluntary/involuntary terminations, cross-referenced by sex and race; Job category training that fosters promotion potential, cross-referenced by sex and race. FTA requires agencies to establish privacy protocols that protect self-identifying information, including self-identification for veterans and persons with disabilities, to keep this information separate from application materials, and to clearly explain such protocols to applicants and employees invited to self-identify. This includes having procedures that strictly limit access, such as using a separate sheet for self-identifying information. For online applications, this includes ensuring that the self-identifying section remains separate from the application. FTA has developed a sample four-fifths rule (or 80 percent) disparate impact analysis in a Microsoft Excel workbook available for download from FTA’s website. (See Attachment 4 for a Sample Employment Practices Chart.) FTA requires agencies to complete the spreadsheets (or alternate documentation containing the same information) by providing current, accurate, and relevant data accompanied by a narrative explaining the source of the data and the results of the analysis. Raw data is not acceptable. FTA notes that determining disparate impact is not a pure arithmetic exercise since other factors contribute to a proper analysis of employment practices. In addition, FTA does not require analysis for any groups constituting less than 2 percent of the applicable workforce.”

#### FTA Circular 4704.1A Ch. 2.2.7 Monitoring and Reporting

“An important part of any successful EEO Program is establishing an effective and workable internal monitoring and reporting system to: assess the results of action plans taken since the last program submission; enable agencies to evaluate their EEO Program during the year and to take any necessary corrective action regarding the development and execution of programs, goals, and timetables. FTA requires agencies to conduct such evaluations semiannually, at a minimum; produce documentation that

supports actions to implement the plan for minority and female job applicants or employees and informs management of the program's effectiveness...

...FTA requires EEO Programs to describe: Methods to monitor the EEO components identified in this chapter (e.g., dissemination, utilization analysis, statistical employment practices, timeframe to reach goals, all identified barriers and the progress of the action plan); Procedures used to determine EEO compliance of subrecipients and contractors such as collection and review of their EEO Programs, visits to facilities to ensure proper posting of the EEO Policy Statement, etc.; Procedures for reviewing union contracts, in conjunction with human resources, to ensure there is not a disparate impact; Process for monitoring complaints (e.g., describe the tracking system, monitoring of trends, timeliness of investigations, resolutions, reporting to management)."

#### FTA Circular 4704.1A Ch. 2.2.4 Utilization Analysis

"FTA requires agencies who meet the EEO Program threshold requirements (See Attachment 4 for a Sample Utilization Analysis Excel Chart.) to complete a utilization analysis as part of their EEO Program submission. A completed utilization analysis identifies job categories that have an underutilization or concentration of minorities and women in relation to their availability in the relevant labor market. The analysis also establishes the framework for goals and timetables to correct employment practices that contributed to any identified underutilization or concentration."

#### FTA Circular 4704.1A Ch. 2.2.5 Goals and timetables

"The completed utilization analysis will show where problems may exist in the agency. Based on this analysis, the agency will be able to set numerical goals within an established time frame. FTA requires agencies to provide percentage and numerical goals (using the whole-person rule), along with timetables for the next four-year period, for any categories of underutilization identified in the utilization table. (See Attachment 4 for a Sample Utilization Analysis Chart.)"

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### **EEO5. Does the recipient provide oversight of subrecipients and/or contractors who meet the EEO Program threshold described in Question 1?**

#### **BASIC REQUIREMENT**

Subrecipient and contractors are required to submit an abbreviated EEO program based on its number of transit-related employees and whether it reaches a monetary threshold.

#### **APPLICABILITY**

All recipients of FTA funds

#### **EXPLANATION**

For subrecipients or transit management/operations contractors that meet the threshold described in question 1, the recipient must ensure the development of an EEO program and review the adequacy of their EEO plans. That review should be documented through correspondence with the subrecipient or transit management contractor sufficient to demonstrate that the recipient determined compliance of their plan(s) with FTA C. 4704.1.

#### **INDICATOR OF COMPLIANCE**

- a. *Does the recipient receive and review EEO plans of subrecipients and/or contractors who meet EEO thresholds?*

#### **DETERMINING COMPLIANCE**

Review in TrAMS the recipient documents section to obtain the recipient's EEO Program. If not in TrAMS request and review the recipient's EEO Program. Review documentation of oversight to verify that the



recipient maintains a list of subrecipients or contractors that meet an EEO Program threshold, and has documentation of review of subrecipients' or contractors' EEO Program (e.g., letter or memo to the subrecipient).

Contractor refers to any entity or organization that has entered into a contract to perform work or provide services *relating to transit service delivery* with an applicant, recipient, or subrecipient.

#### **POTENTIAL DEFICIENCY DETERMINATION**

The recipient is deficient if it 1) does not have on file an EEO plan for subrecipients and contractors that meet the EEO Program requirements 2) has not documented its review of such plans.

DEFICIENCY CODE EEO5-1: Insufficient oversight of subrecipient/contractor EEO Program

SUGGESTED CORRECTIVE ACTION: The recipient must submit to the FTA RCRO documentation that it has received and reviewed EEO plans from subrecipients and contractors that meet threshold requirements, and provide copies of the plans, if requested by the FTA RCRO.

#### **GOVERNING DIRECTIVE**

FTA Circular 4704.1A Ch. 2.2.7 Monitoring and Reporting

"FTA requires that EEO Programs include the following attachments: List of subrecipients or contractors the recipient is monitoring and the services they provide; proof of review of subrecipients or contractors' EEO Program (e.g., letter or memo to the subrecipient) ..."

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#### **ISSUES/AREAS OF CONCERN FOR FTA AWARENESS**

1. Have any oversight reviews, audits, or investigations of the recipient conducted since the last Comprehensive Review (including EEO Reviews and the most recent Comprehensive Review) identified significant deficiencies, material weaknesses, and/or repeat deficiencies in EEO?
2. Are any such reviews scheduled during this Federal fiscal year?
3. Did the recipient experience difficulty resolving or closing any oversight review, investigation, or audit findings?
4. Are any oversight review, investigation, or audit findings currently open?
5. If an EEO compliance review is scheduled for the current fiscal year, what information prompted the review?
6. Have any EEO complaints been filed with the FTA against the recipient?
7. Have any EEO-related complaints been filed with the recipient or external agencies?
8. Is FTA aware of any EEO-related lawsuits filed against the recipient?
9. Are there any apparent or potential unresolved conflicts of interest with the role of the EEO Officer?
10. Does the recipient appear to lack sufficient staff to carry out the EEO program?
11. Did background research or site visit observations reveal any potential issues or concerns about the recipient's EEO program or its implementation not covered previously in this section?"

**REFERENCES**

1. 2 CFR Part 200 and 1201, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards"
2. FTA Circular 4704.1, "Equal Employment Opportunity Program Guidelines for Grant Recipients"

**USEFUL WEBLINKS**

1. FTA Equal Employment Opportunity web page
2. EEO Compliance Reviews