

14. EQUAL EMPLOYMENT OPPORTUNITY (EEO) – ENHANCED REVIEW MODULE

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.

USE OF THIS MODULE

This enhanced review module (ERM) questionnaire presents recommended questions for an EEO enhanced review. Based on the scope of the approved ERM, all or a selection of the questions of this module will be conducted. The actual questions asked and the items sampled and observations made will be determined during the scoping meeting. The FTA regional civil rights officer (RCRO) and/or headquarters may ask the reviewer to develop a unique scope of work for the ERM. Additional questions may be asked and additional sampling and observations may be performed as directed by FTA. The scope, questionnaire, sampling, and observations will be subject to final review and approval by the respective regional FTA office, Office of Civil Rights, and the Office of Transit Safety and Oversight.

QUESTIONS TO BE EXAMINED

1. Has the recipient implemented the corrective actions from the final report of the EEO review?
2. Does the recipient ensure the independence and integrity of the EEO functions?
3. Does the recipient have a procedure for EEO Officer concurrence in the hiring and promotion process?
4. Did the recipient correctly calculate the components of the Utilization Analysis?
5. Did the recipient include the required components of the detailed narrative and statistical Employment Practices Analysis?
6. Did the recipient meet previous Goals and Timetables?
7. Did the recipient implement an effective monitoring system for the EEO program?

INFORMATION NEEDED FROM RECIPIENT

Pre-site Visit Request

- Most recent EEO program, if not uploaded to FTA's Transit Award Management System (TrAMS)
- Organizational chart identifying the EEO officer
- Designated employee and EEO officer job descriptions
- EEO and Human Resources policies and procedures
- EEO-4 Report
- "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 or promoted in areas of underutilization
- List of all recipient job titles by job categories

Recipient Follow-up

- Determined based upon initial response to pre-site visit request

EEOERM1. Has the recipient implemented the corrective actions from the final report of the EEO review?

BASIC REQUIREMENT

At the discretion of FTA, specialized compliance reviews in addition to Triennial or State Management reviews can be conducted that may cover all or a portion of a recipient's compliance with EEO.

APPLICABILITY

All recipients of FTA funds

DETAILED EXPLANATION FOR REVIEWER

As part of its project oversight functions, FTA periodically conducts EEO reviews of selected recipients. If a review has been conducted, confer with the FTA regional office and the FTA headquarters Subject Matter Expert (SME) on what follow-up activities are appropriate during this ERM. The reviewer may be requested to validate the implementation of corrective actions for closed deficiencies, follow up on deficiencies that remain open, or a combination of both.

INDICATORS OF COMPLIANCE

- a. *If an EEO review was conducted since the last comprehensive review, note the date of the final report. If no review was conducted, move to the next question.*

Review Response

- b. *What is the status of any corrective actions from the final report of the EEO review(s)?*

Review Response

Corrective Action	Status

Review Response

INSTRUCTIONS FOR REVIEWER

Review OTrak and information from the FTA regional office for issued reports on EEO reviews. Obtain direction from the RCRO as to the level of follow-up to be done as a part of this review. Once directed, request and review correspondence between FTA and the recipient related to its responses submitted to address corrective actions. Compare information obtained from the regional office to the recipient responses to the Comprehensive Review to determine if the corrective actions taken are still being implemented.

POTENTIAL DEFICIENCY DETERMINATION

If there were deficiencies in the EEO reviews that relate to baseline review questions of the Comprehensive Review, the deficiencies will be made under the appropriate deficiency code of the Comprehensive Review. If there are outstanding or ongoing EEO review deficiencies that are beyond the scope of the baseline Comprehensive Review, confer with the FTA regional office and the FTA Office of Civil Rights to make the following deficiency.

DEFICIENCY CODE EEOERM1-1: Outstanding EEO specialty review deficiencies

SUGGESTED CORRECTIVE ACTION: The recipient must provide the FTA Office of Civil Rights with documentation to address outstanding or ongoing specialty review deficiencies along with evidence of implementation.

GOVERNING DIRECTIVE

FTA Circular 4704.1A Chapter III 1. Compliance Oversight

“Each recipient annually signs FTA’s Master Agreement, thus agreeing it will comply with Federal law, including Equal Employment Opportunity statutes and regulations. In addition, each recipient annually signs FTA’s certifications and assurances, self-certifying that it is complying with Federal law. FTA assesses compliance through recipient self-certification, as well as grant reviews, complaint investigations, and site visits such as:

- Triennial Reviews of recipients receiving § 5307 Urbanized Area Formula Grants
- State Management Reviews of recipients receiving § 5311 Non-Urbanized Area Formula Grants and § 5310 Enhanced Mobility for Seniors and Individuals with Disabilities Grants
- Civil Rights Specialized Reviews of recipients’ EEO program implementation

49 CFR § 21.11(a) requires FTA to conduct compliance reviews of its recipients. The review may cover all or a portion of the recipient’s compliance with EEO. FTA conducts Triennial or State Management Reviews of all § 5307, § 5310, and § 5311 funding recipients on a rotating basis.”

EEOERM2. Does the recipient ensure the independence and integrity of the EEO functions?

BASIC

A recipient must ensure that the EEO Officer performs duties independent of conflicts of interest and with impartiality in EEO investigations.

REQUIREMENT

APPLICABILITY

Recipients that meet the EEO program threshold

DETAILED EXPLANATION FOR REVIEWER

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 Resources Department. To maintain the integrity of the EEO Officer's role, the agency must have a narrative plan to eliminate conflicts of interest during the EEO investigative and decision-making process.

INDICATORS OF COMPLIANCE

- a. *What collateral duties does the EEO Officer have?*

Review Response

- b. *Does the EEO Officer investigate complaints of EEO discrimination?*

Review Response

- c. *If the EEO Officer is within the Human Resources Department, does the agency have a detailed narrative process for eliminating conflicts of interest with the Human Resources Department, particularly in the investigation and resolution of EEO complaints?*

Review Response

INSTRUCTIONS FOR REVIEWER

Prior to the site visit, review the EEO Officer's job description and the agency's organizational chart identifying the EEO Officer. Determine if the EEO Officer has direct and independent access to the agency's CEO/GM. Determine if the EEO Officer has collateral duties including human resource functions and if the EEO Officer's job description includes responsibility for EEO complaint investigations. Obtain and review documentation of EEO and Human Resources policies, procedures, or processes regarding EEO complaints. Determine if the EEO Officer has a conflict of position or a conflict of interest with human resources functions that would impact the EEO Officer's impartiality in performing EEO complaint investigations.

POTENTIAL DEFICIENCY DETERMINATION

The recipient is deficient if the EEO Officer has a conflict of interest with the Human Resources Department duties and responsibilities, including the absence of a narrative process to eliminate conflict of interest, or the EEO Officer does not have the authority to independently investigate and determine the outcome of EEO complaint investigations.

DEFICIENCY CODE EEO2-1: EEO Officer independence and impartiality deficiencies

SUGGESTED CORRECTIVE ACTION: The recipient must prepare and submit to the FTA RCRO a written narrative of the process detailing how the independence and integrity of the EEO process in complaint investigations will be achieved and maintained by the agency.

GOVERNING DIRECTIVE

FTA Circular 4704.1A Chapter II 2.3. Designation of Personnel Responsibility

"Independence and impartiality are hallmarks of a strong EEO function; therefore, FTA requires agencies to ensure that no conflicts of position or conflicts of interest occur, or appear to occur, with respect to the EEO Officer's role. This means agencies may need to separate the EEO Officer from human resources (HR) official(s) and HR functions in order to maintain the integrity of the EEO investigative and decision-making process. If the EEO Officer is a part of HR, the agency then must include in its EEO program a detailed method for eliminating conflicts of interests in complaint investigations, including a narrative describing how independence and integrity of the EEO process will be achieved and maintained. To avoid

conflicts of interests, it is an optional good practice to hire a contractor or designate someone outside of HR to investigate complaints.

Maintaining distance between the fact-finding and defensive functions of an agency enhances the EEO Officer's credibility and the integrity of the EEO complaint process. FTA requires that the attorney who provides legal expertise to the EEO Officer in the investigation of a case cannot be the same attorney who represents the agency in an EEO complaint arising from the same case. Impartiality and the appearance of impartiality are important to the credibility of the EEO program."

EEO Officer's Program Responsibilities

"FTA requires the EEO Officer's program responsibilities to include, at a minimum...

- Investigating complaints of EEO discrimination...

...To ensure complaints are investigated effectively, FTA requires all individuals investigating EEO complaints to have EEO investigative training. The training can be provided by any qualified instructor, and it can focus on the important aspects of a quality investigation, such as: issue spotting (including legal standards and key fact issues relevant to various types of EEO complaints); investigation planning; reviewing documents; interviewing witnesses; and analyzing the evidence, drawing conclusions, and making recommendations."

EEOERM3. Does the recipient have a procedure for EEO Officer concurrence in the hiring and promotion process?

BASIC REQUIREMENT

A recipient must have a procedure for the EEO Officer to review and concur on all hires and promotions to ensure non-discriminatory practices.

APPLICABILITY

Recipients that meet the EEO program threshold

DETAILED EXPLANATION FOR REVIEWER

The agency must have a process for the EEO Officer to conduct an impartial review of employment documents for all new hires and employees being considered for promotions, which ensures that the actions of the agency are non-discriminatory. Completed documentation, such as a concurrence checklist stating that the EEO Officer has conducted a review and concurs or rejects the Human Resources department decision, should be included in the personnel file.

INDICATORS OF COMPLIANCE

- a. Does the agency have a documented process for the EEO Officer's review of all hires and promotions, such as a concurrence procedure or concurrence checklist?*

Review Response

- b. Do personnel files contain documentation of the EEO Officer review and concurrence dated prior to the official hiring or promotion letter?*

Review Response

INSTRUCTIONS FOR REVIEWER

Prior to the site visit, request and review the agency's policies and procedures for hiring and promotions. Determine if the agency has a process for the EEO Officer to review and concur on all new hires and

employees considered for promotion. Determine what documentation was reviewed in the selection decision. The documentation may include a review of the following: the posting and advertisement of the job opening, the job description with the stated requirements and qualifications, recruitment sources, the applicant pool, the interview process, selection criteria, and the justification for the selected candidate and proposed compensation. During the site visit, request a sample of personnel files for newly hired and promoted employees and verify the EEO Officer's review and written concurrence prior to the date of the official offer letter.

POTENTIAL DEFICIENCY DETERMINATION

The recipient is deficient if the EEO Officer does not review and concur on all hires and promotions prior to the date of the hiring or promotion letter.

DEFICIENCY CODE EEO3-1: EEO Officer concurrence deficiencies

SUGGESTED CORRECTIVE ACTION: The recipient must prepare and submit to the FTA RCRO a written process ensuring non-discrimination in hiring and promotion procedures which includes EEO Officer review of employment documents and written concurrence.

GOVERNING DIRECTIVE

FTA Circular 4704.1A Chapter II 2.3. Designation of Personnel Responsibility

EEO Officer's Program Responsibilities

"FTA requires the EEO Officer's program responsibilities to include, at a minimum...

- Concurring in the hiring and promotion process ...

... Concurring in the hiring and promotion process means the EEO Officer has reviewed employment documents to ensure the actions of the agency are not discriminatory (i.e., do not result in disparate treatment or disparate impact). A good practice is to factor in additional time for the EEO Officer to review documents and provide the concurrence. (See Attachment 2 for a sample concurrence checklist.)"

EEOERM4. Did the recipient correctly calculate the components of the Utilization Analysis?

BASIC REQUIREMENT

Primary recipients are responsible for providing current, accurate, and relevant data and an accompanying narrative explaining the data source and outcomes of the analyses as prescribed in FTA Circular 4704.1A Attachment 4.

APPLICABILITY

Recipients that meet the EEO program threshold for a full program

DETAILED EXPLANATION FOR REVIEWER

The recipient is responsible for ensuring that workforce, availability and utilization data is accurately reported and analyzed on an annual basis. The utilization analysis identifies those job categories where underutilization and/or concentration of women or minorities exist in relation to their availability in the relevant labor market. It also establishes 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. Data inaccuracies and job category misclassification will affect the statistical assessment and outcome of the utilization and employment practices analysis that is used to determine disparate impact, goals, and timetables.

INDICATORS OF COMPLIANCE

- a. *Did the recipient correctly classify its workforce, including all managerial and supervisory job titles included in the EEO category: Officials and Managers, on the EEO-4 Form?*

Review Response

- b. *Did the recipient perform an availability analysis using the correct job categories and relevant labor market?*

Review Response

- c. *Did the recipient provide a separate utilization analysis for each year?*

Review Response

INSTRUCTIONS FOR REVIEWER

Prior to the site visit, request and review the list of all recipient job titles by job categories. Determine if job titles are classified into the correct EEO job category, specifically managerial and supervisory titles. Review the recipient's EEO program in TrAMS for the utilization analysis to verify that the analysis was performed for each year and that all requested data is included in the analysis. Review the recipient's definition of the relevant labor market for each job category and determine if the availability analysis was performed accurately and in accordance with the agency's defined recruitment area(s).

POTENTIAL DEFICIENCY DETERMINATIONS

The recipient is deficient if it did not complete the job classification and workforce analysis accurately.

DEFICIENCY CODE EEOERM4-1: Workforce analysis incomplete or inaccurate

SUGGESTED CORRECTIVE ACTION: The recipient must provide the FTA RCRO with a revised workforce analysis that correctly classifies each job title in the accurate EEO job category.

The recipient is deficient if it meets the threshold for a full EEO plan and did not complete the availability analysis accurately and in accordance with the defined labor market for each job category.

DEFICIENCY CODE EEO4-2: Availability analysis incomplete or inaccurate

SUGGESTED CORRECTIVE ACTION: The recipient must complete and submit to the FTA RCRO a corrected utilization analysis.

The recipient is deficient if it meets the threshold for a full EEO plan and has not completed a utilization analysis for each year 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 incorrectly calculated utilization.

DEFICIENCY CODE EEO4-3: Utilization analysis incomplete or inaccurate

SUGGESTED CORRECTIVE ACTION: The recipient must complete and submit to the FTA RCRO a corrected utilization analysis.

GOVERNING DIRECTIVES

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. This analysis, which is based on categories and data used in the EEO-4 report, consists of a workforce analysis and an availability analysis.”

Workforce Analysis

“The workforce analysis includes the number of employees and salary ranges for each job category in the EEO-4 report for the following subcategories for men and women:

- White (not Hispanic or Latino)
- American Indian/Alaska Native (not Hispanic or Latino)
- Black or African American (not Hispanic or Latino)
- Hispanic or Latino
- Asian (not Hispanic or Latino)
- Native Hawaiian and Other Pacific Islander (not Hispanic or Latino)
- Two or more races (not Hispanic or Latino)

Table 2-1 summarizes the EEO job categories for EEO-4 reports.

Number	Category
1	Officials and Administrators
2	Professionals
3	Technicians
4	Protective Service Workers
5	Paraprofessionals
6	Administrative Support Workers
7	Skilled Craft Workers
8	Service-Maintenance Workers

Table 2-1 EEO-4 Job Categories State and Local Governments

FTA has developed an example reporting table with completion instructions. The Microsoft Excel chart is available for download from the FTA website. (See Attachment 4 for a Sample Utilization Analysis Excel Chart.) Pursuant to an MOU with FTA and EEOC, agencies that submit EEO-4 reports to EEOC will be able to access their current utilization numbers and complete the rest of the analysis in FTA’s electronic database system. For agencies that use alternate formats for reporting the utilization analysis, FTA requires such reports to contain the information provided in Attachment 4 of this Circular.”

Availability Analysis

“The availability data is an input to the utilization analysis and is required for all of the job categories as well as the racial/ethnic subcategories for men and women. The results of the analysis will identify any underutilized subcategories in specific job categories. The analysis will also show the concentration of minorities and women in specific job categories. FTA requires agencies showing underutilization or concentration to quantify plans over the next four years by entering this information into the chart (either the downloaded spreadsheet or a separate chart) and providing an accompanying narrative.”

EEOERM5. Did the recipient include the required components of the detailed narrative and statistical Employment Practices Analysis?

BASIC REQUIREMENT

Recipients are responsible for both identifying and determining the causes of underutilization or concentration of minorities and women in the agency's workforce. Employment practices must be documented in detailed narrative and statistical formats that identify employment practices and external factors that may act as barriers to employment for minorities and women. The recipient must provide corrective actions for identified problem areas.

APPLICABILITY

Recipients that meet the EEO program threshold

DETAILED EXPLANATION FOR REVIEWER

The recipient is responsible for determining the causes of minority and female underutilization or concentration identified in the utilization analysis. Recipients must provide a detailed narrative and statistical employment practices analysis that identifies any trends or practices that operate as employment barriers. The analysis must include a narrative description of the agency's recruitment and selection procedures including testing, promotions and transfers, seniority practices, training, compensation and benefits, disciplinary procedures and termination practices. Additionally the agency must provide statistical data showing the potential impact on minority and women job applicants and current employees. Using the four-fifths rule (80 percent), the recipient must perform a disparate impact analysis (for any groups constituting more than 2 percent of the applicable workforce) to determine the potential impact of employment practices on minorities and women.

INDICATORS OF COMPLIANCE

- a. *Does the EEO program describe and analyze current recruitment and selection policies and procedures including testing, promotions and transfers, seniority practices, training, compensation and benefits, disciplinary procedures and termination practices?*

Review Response

- b. *Did the recipient accurately perform a statistical analysis showing the disparate impact of employment practices on minorities and women using the four-fifths rule (or 80 percent rule)?*

Review Response

- c. *Did the recipient identify any problem areas? If so, did the recipient take corrective action?*

Review Response

- d. *Did the recipient collect and track employment data on individuals with disabilities and veterans?*

Review Response

INSTRUCTIONS FOR REVIEWER

Prior to the site visit, review the recipient's most recent EEO program in TrAMS for the employment practices analysis. Determine if the analysis contains a description of the agency's recruitment and selection policies and procedures for testing, promotions and transfers, seniority practices, training, compensation and benefits and disciplinary actions and termination. Determine if the statistical analysis contains data, cross-referenced by race and sex, on the number of applicants, the number of employees who applied for promotion or transfer, the number and types of disciplinary actions, the number of voluntary and involuntary terminations, and training that provides potential opportunity for promotion. Verify that the recipient collected employment data on persons with disabilities and veterans. Review the outcome of the

utilization analysis to determine if the recipient correctly and accurately calculated disparity impact using the four-fifths rule.

POTENTIAL DEFICIENCY DETERMINATIONS

The recipient is deficient if it did not document its employment practices in both narrative and statistical formats with sufficient detail to identify trends and any practices that may operate as employment barriers or if the recipient has not correctly calculated disparate impact using the four-fifths rule.

DEFICIENCY CODE EEO5-1: Employment practices analysis incorrect or insufficient

SUGGESTED CORRECTIVE ACTION: The recipient must submit to the FTA RCRO a revised detailed narrative and corrected statistical assessment of present employment practices that identifies those practices that operate as employment barriers and unjustifiably contribute to underutilization. The recipient must submit to the FTA RCRO a program of proposed corrective actions to remedy employment practices that contribute to underutilization.

The recipient is deficient if it did not collect or provide completed data, cross-referenced by race and sex, on the number of applicants, the number of employees who applied for promotion or transfer, the number and types of disciplinary actions, the number of voluntary and involuntary terminations, and job training. The recipient is deficient if it did not collect or provide the required employment data on persons with disabilities and veterans.

DEFICIENCY CODE EEO5-2 Insufficient employment data collection and reporting

SUGGESTED CORRECTIVE ACTION: The recipient must submit to the FTA RCRO a complete employment practices chart that provides all the statistical data required in FTA Circular 4704.1A, Attachment 4, including data on persons with disabilities and veterans.

The recipient is deficient if it did not take corrective actions to address employment practices that operate as employment barriers to minorities and women.

DEFICIENCY CODE EEO5-3 No EEO corrective action plan

SUGGESTED CORRECTIVE ACTION: The recipient must submit to the FTA RCRO an action plan to correct any disparate impact identified in the employment practices analysis.

GOVERNING DIRECTIVES

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.

Statistical Impact of Employment Practices on Minorities and Women

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.

Individuals with Disabilities and Veterans

FTA requires statistical data that show any potential impact of an agency's employment practices on persons with disabilities and veterans. This includes the number of applicants for employment and promotions in each job category and the number hired and promoted, cross-referenced by sex and race. Having this data will assist in measuring the effectiveness of outreach and recruitment efforts for persons with disabilities and veterans. Example summary tables are included in the sample Microsoft Excel workbook on the "Hires" and "Promotions" tabs. (See Attachment 4 for a Sample Employment Practices Chart.) As the sample chart shows, the agency is not required to conduct a four-fifths rule analysis. The agency can set its own specific aspirational goals, but FTA asks agencies to track raw numbers; for example, the number applied, number hired, number applied for promotion, and number promoted."

EEOERM6. Did the recipient meet previous Goals and Timetables?

BASIC REQUIREMENT

Primary recipients are required to provide percentage and numerical goals along with timetables for meeting these goals. The goals and timetables should be based upon the underutilized labor categories identified in the utilization analysis.

APPLICABILITY

Recipients that meet the EEO program threshold for a full program

DETAILED EXPLANATION FOR REVIEWER

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. *If the recipient did not meet either the long-term or short-term goals from the previous EEO program submission, did the recipient provide an explanation of corrective actions taken and written justification as to why the goals were not met?*

Review Response

INSTRUCTIONS FOR REVIEWER

Prior to the site visit, request and review the recipient's EEO program and compare the goals and timetables in the EEO program to the recipient's most recent goals and timetables. If the goals from the previous submission were not met, determine if the recipient provided documentation on the actions taken to meet goals. Determine if the recipient prepared a written justification as to why the previous goals were not met for the stated timetable.

POTENTIAL DEFICIENCY DETERMINATION

The recipient is deficient if it meets the threshold for a full EEO plan and did not explain the actions taken to meet either the long-term or the short-term goals or did not provide a justification as to why previous goals were not met.

DEFICIENCY CODE EEOERM6-1: No justification for failure to meet goals

SUGGESTED CORRECTIVE ACTION: The recipient must provide the FTA RCRO with a written explanation of the steps and actions taken to meet the goals and timetables and a justification of why the goals in the previous EEO program submission were not met.

GOVERNING DIRECTIVES

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.)

Failure to Meet Previous Goals and Timetables

FTA requires agencies that fail to meet their goals from the previous program submission to justify the reasons for this failure. This justification will include efforts made by the agency to reach the goal and any new efforts based on the results of the utilization and employment practices analysis. FTA requires agencies to prescribe and revise short-term goals in a manner that will lead to meeting long-term goals."

EEOERM 7. Did the recipient implement an effective monitoring system for the EEO program?

BASIC REQUIREMENT

Recipients are responsible for developing and implementing an effective internal monitoring system that ensures regular assessment and evaluation of the required components of the EEO program and a process for informing management of the EEO program's effectiveness.

APPLICABILITY

Recipients that meet the EEO program threshold

DETAILED EXPLANATION FOR REVIEWER

The recipient is responsible for implementing an effective monitoring and reporting system that enables 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. 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; and providing a precise and factual database for future projections.

INDICATORS OF COMPLIANCE

- a. *Does the agency have a process and documentation that the EEO program is monitored and assessed during the year and that corrective actions are taken as necessary?*

Review Response

- b. *Does the EEO Officer provide updates to agency management on the EEO program's progress and effectiveness?*

Review Response

INSTRUCTIONS FOR REVIEWER

Prior to the site visit, request and review the recipient's EEO program to evaluate how the requirements will be implemented. Request documentation on internal systems for monitoring the EEO program. Determine if the monitoring system includes assessment on the effectiveness of actions taken and accomplishments since the previous EEO program submission, semiannual evaluation of the progress of programs, goals, and timetables, documentation to support the implementation of programs for minority and women job applicants and employees, and provides regular updates to management on the EEO program's progress and effectiveness. Request and review documentation on the implementation of the monitoring system and determine if the monitoring program is effective.

POTENTIAL DEFICIENCY DETERMINATION

The recipient is deficient if it did not implement an effective EEO program monitoring system that includes an assessment on the effectiveness of corrective actions taken, an evaluation of the EEO program semiannually to adjust the action required for the development and implementation of programs, goals, and timetables. The recipient is deficient if it does not inform management of the EEO program's effectiveness.

DEFICIENCY CODE EEOERM7-1: EEO program monitoring deficiencies

SUGGESTED CORRECTIVE ACTION: The recipient must submit to the FTA RCRO a revised internal process that ensures effective monitoring and updates to management on the progress of meeting the required EEO program components and corrective actions taken in the execution of programs, goals, and timetables.

GOVERNING DIRECTIVES

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

Agency Monitoring

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 requires agencies to maintain cumulative records on applicants, hires, transfers, promotions, trainings that foster promotion potential, and terminations. Such records provide current information needed to prepare yearly targets and to identify where the program isn't working or is working effectively enough to meet the goals."