**EQUAL EMPLOYMENT OPPORTUNITY**

 **COMPLIANCE REVIEW**

**Of**

**San Francisco Municipal Transportation Agency**

**(SFMTA)**

**San Francisco, CA**

**Final Report**

**July 2011**

**Prepared For**

**U.S. DEPARTMENT OF TRANSPORATION**

**FEDERAL TRANSIT ADMINISTRATION**

**OFFICE OF CIVIL RIGHTS**

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i. General Information

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City/State: San Francisco, CA

Grantee Number: 1697

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 Executive Director/CEO

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Site Visit Dates: June 2-4, 2009

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II. Jurisdiction and authorities

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

The San Francisco Municipal Transportation Agency (SFMTA) is a recipient of FTA funding assistance and is therefore subject to the EEO compliance conditions associated with the use of these funds pursuant to 49 U.S.C. Section 5332, FTA Circular 4704.1 and 49 CFR Part 27. These regulations define the components that must be addressed and incorporated in SFMTA’s EEO program and were the basis for the selection of compliance elements that were reviewed in this document.

## III. PURPOSE AND OBJECTIVES

**PURPOSE**

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

The Office of Civil Rights authorized The DMP Group to conduct this EEO Compliance Review of SFMTA. The primary purpose of the EEO Compliance Review was to determine the extent to which SFMTA has met its EEO program goals and objectives, as represented to FTA, in its EEO Program Plan. This Compliance Review was intended to be a fact-finding process to: (1) examine SFMTA’s EEO Program Plan and its implementation, (2) provide technical assistance, and (3) make recommendations regarding corrective actions deemed necessary and appropriate.

This Compliance Review did not directly investigate any individual complaints of discrimination in employment activities by the grant recipient or its subrecipients, nor did it adjudicate these issues on behalf of any party.

**OBJECTIVES**

The objectives of FTA’s EEO regulations, as specified in FTA Circular 4704.1, are:

* To ensure that FTA applicants, recipients, subrecipients, contractors and/or subcontractors will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability;
* To ensure that FTA applicants, recipients, subrecipients, contractors and/or subcontractors will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to race, color, creed, national origin, sex, age or disability. Such action shall include, but not be limited to, hiring, promotion or upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, disciplinary actions, rates of pay or other forms of compensation, and selection for training, including apprenticeship. It shall also include a written affirmative action plan designed to achieve full utilization of minorities and women in all parts of the work force; and
* To ensure that FTA applicants, recipients, subrecipients, contractors and/or subcontractors will post in conspicuous places and make available to employees and applicants for employment, notices setting forth the recipient’s EEO policy. In addition, applicants/employees will be notified of the recipient’s procedures for filing complaints of discrimination internally, as well as externally with the Federal Equal Employment Opportunity Commission, the local human rights commission, and/or the U.S. Department of Transportation (DOT).

The objectives of this EEO Compliance Review were:

* To determine whether SFMTA is honoring its commitment represented by the certification to FTA that it is complying with its responsibilities under 49 U.S.C. Section 5332, “Non-Discrimination.”
* To examine the required components of SFMTA’s EEO Program Plan against the compliance standards set forth in the regulations and to document the compliance status of each component.
* To gather information and data regarding all aspects of SFMTA’s employment practices, including recruitment, hiring, training, promotion, compensation, retention and discipline from a variety of sources: Human Resources Department staff, other SFMTA management and staff, and community representatives.

iv. Background information

The **San Francisco Municipal Transportation Agency (SFMTA)** is governed by the SFMTA Board of Directors. It is composed of the San Francisco Municipal Railway, the Division of Parking and Traffic (DPT), and the Division of Taxis and Accessible Services (DTAS). Proposition E passed by the San Francisco voters in November 1999 amended the City Charter, calling for the creation of the SFMTA by consolidating Muni and DPT by July 1, 2002. The incorporations are intended to support the City’s TransitFirst Policy.

SFMTA’s **Muni** is one of America’s oldest public transit agencies, the largest in the Bay Area and seventh largest system in the United States. It currently carries more than 200 million riders annually.  Operating historic streetcars, modern light rail vehicles, diesel buses, alternative fuel vehicles, electric trolley coaches and the world famous **cable cars,** Muni’s fleet is among the most diverse in the world. Muni provides transit service within the city and county of San Francisco **24 hours a day, seven days a week.** Muni operates 80 routes throughout San Francisco with stops within two blocks of 90 percent of all residences in the city. **Muni** strives to provide a convenient, reliable, accessible and safe transit system that meets the needs of all transit users within the City and County of San Francisco.

SFMTA’s **Division of Parking and Traffic** operation manages **40 City-owned garages and metered parking lots.** It also manages all **traffic engineering functions** within San Francisco, including the placement of signs, signals, traffic striping, curb markings, and parking meters. It promotes the **safe and efficient movement** of people and goods throughout the City.

The mission of **the DPT** is to facilitate the safe and efficient use of City streets by motorists, public transit vehicles, bicyclists and pedestrians, and to develop solutions to parking issues that affect the viability of residential and commercial neighborhoods.

As of March 1, 2009, the former Taxicab Commission has been merged with SFMTA as the Division of Taxis & Accessible Services.  The Board of Supervisors enacted Section 1075.1 of the Police Code, which provides that SFMTA now has the power to regulate the taxi industry and other motor vehicles for hire in San Francisco.

SFMTA’s Executive Director/CEO was responsible for implementing the policies of the SFMTA Board of Directors. As of 2/19/2009, SFMTA was organized under the following management structure that reported directly to the Executive Director/CEO:

* Chief Operating Officer/Director of Muni Operations
* Chief of Staff/Director of Administration
* Senior Director of Transportation Planning and Development
* Chief Financial Officer/Director of Finance & Information Technology
* Director of Parking & Traffic
* Director of Taxi and Accessible Services
* Director of Security & Enforcement
* Chief Safety Officer/Director of Transportation Safety
* Director of Off-Street Parking

The Equal Employment Opportunity function was in the Equal Opportunity Office. The Senior Manager of the Equal Opportunity Office reported to the Chief of Staff with a dotted line reporting relationship to the Executive Director/CEO. The Senior Manager of the Equal Opportunity Office was responsible for EEO, ADA, and DBE. Within the Equal Opportunity Office, there were two units and 17 positions. There were five positions in the EEO/ADA/Training unit, and ten positions in the Compliance (DBE) unit. Two persons provided administrative support for the Office.

According to SFMTA’s *2009-2010 Equal Employment Opportunity Affirmative Action Plan*, and its *2008 Utilization Analysis*, SFMTA had over 5,100 employees (in over 200 position classifications). Females represented 27 percent of the workforce. Minorities represented more than 80 percent of the total SFMTA workforce, as follows:

* Asians – 36 percent
* African Americans - 33 percent
* Hispanics - 13 percent
* American Indians - less than one percent

SFMTA recruits from the San Francisco Labor Market Availability (SFLMA), which is comprised of eleven counties in the San Francisco Bay Area. The SFLMA was compiled from workforce data from the following counties: Alameda, Contra Costa, Marin, Napa, San Francisco, San Joaquin, Santa Clara, Solano, Sonoma, San Mateo and Tuolumne. As shown on Table 1, SFMTA’s workforce was comprised of a higher representation of minorities and a lower representation of women that are in the labor market.

**Table 1**

Overall SFMTA Workforce Compared to SF Labor Market

|  |  |  |
| --- | --- | --- |
| **Category** | **SFMTA** | **SF Labor Market** |
| Female  | 27.0% | 45.6% |
| Male | 73.0% | 53.5% |
| White | 17.0% | 54.4% |
| Asian/ Pacific Islander | 35.7% | 23.4% |
| African American | 33.4% | 6.0% |
| Hispanic | 13.4% | 14.7% |
| American Indian and Alaska Native | 0.4% | 0.3% |

v. scope and methodology

**SCOPE**

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

1. Program Submission – A formal EEO program is required of any recipient that both employs 50 or more transit-related employees (including temporary, full-time or part-time employees either directly employed and/or through contractors) *and* received in excess of $1 million in capital or operating assistance or in excess of $250,000 in planning assistance in the previous federal fiscal year. Program updates are required every three years.

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

3. Dissemination – Formal communication mechanisms should be established to publicize and disseminate the recipient’s EEO policy, as well as appropriate elements of the program, to its employees, applicants and the general public.

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

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

6. Goals and Timetables – Goals and timetables are an excellent management tool to assist in the optimum utilization of human resources.

7. Assessment of Employment Practices – Recipients, subrecipients, contractors and subcontractors must conduct a detailed assessment of present employment practices to identify those practices that operate as employment barriers and unjustifiably contribute to underutilization.

1. Monitoring and Reporting System – An important part of any successful EEO program is the establishment of an effective and workable internal monitoring and reporting system.

9. Title I – ADA – All recipients of federal financial assistance are required to prohibit employment discrimination on the basis of disability, and whenever a complaint is made, to have a process to make a prompt investigation whenever a Compliance Review, report, complaint, or any other information indicates a possible failure to comply with the ADA.

**METHODOLOGY**

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

1. A copy of personnel policy guides, handbooks, regulations, or other material, that governs employment practices.

2. A copy of each complaint or lawsuit filed against SFMTA, internally or externally, during the last three years (January 2006-December 2008) alleging discrimination towards an employee or job applicant.

3. SFMTA’s most recent Affirmative Action Plan to include the following:

* Statement of Policy issued by the CEO
* Description of Policy dissemination mechanisms
* Designation of EEO Officer and responsibilities
* Utilization analysis (to include a workforce and availability analyses)
* Goals and timetables
* Assessment of employment practices
* Description of EEO monitoring and reporting system

4. A copy of notices utilized by SFMTA to inform employees of their right to obtain reasonable accommodation and any formal procedures to make such accommodation. Also, please provide a listing of requests for reasonable accommodations from applicants and employees for the past three years; please note if SFMTA granted the requests.

5. A list of all recruitment sources used during the last year, including the name and telephone numbers of contact persons.

6. A list of organizations in the community representing minorities, women and persons with disabilities, including the name and telephone numbers of contact persons.

7. A copy of the information given to employees regarding employer-sponsored on-the-job training or educational programs.

8. A copy of SFMTA’s current organization chart.

9. Copies of current job descriptions for SFMTA’s Chief of Staff/Director of Administration, EEO Officer, and other EEO staff.

10. Collective Bargaining Agreements covering the past three years for each bargaining unit, if applicable.

11. A listing of all job titles for which written examinations are conducted.

12. A listing of all job titles for which medical or physical examinations are conducted.

13. Process Flow Charts and Operating Procedures of the EEO Monitoring and Reporting Systems.

14. A report on the results of SFMTA’s goals for the 2008 affirmative action plan (AAP) year. For goals not attained, a description of the specific good faith efforts made to achieve them.

15. Data on applicants/hires for the past three years for each job title or job group. Provide the total number of applicants and the total number of hires, as well as the number of minority group and female applicants and hires.

16. Data on competitive promotions for the past three years for each job title or job group. Provide the total number of promotions, as well as the number of minority group and female employee promotions. Indicate the departments from which and to which the employees were promoted.

17. Data on terminations for the past three years for each job title or job group. Provide the total number of employee terminations, as well as the number of minority group and female employee terminations. Indicate if the terminations were voluntary or involuntary.

18. Data on all demotions, suspensions, and disciplinary actions above the level of oral warning for the past three years for each job title or job group. Provide the total number of demotions, suspensions, and disciplinary actions, as well as the number of minority group and female employee demotions, suspensions, and disciplinary actions. Indicate the departments in which these employees worked when they were demoted, suspended or disciplined.

19. Data on applicants/hires, promotions, terminations, demotions, suspensions and disciplinary actions for the past three years for persons with disabilities.

20. Utilization Analysis for the past two years prepared in accordance with FTA Circular 4704.1 Chapter III 2 d.

21. Goals and Timetables for the past two years prepared in accordance with FTA Circular 4704.1 Chapter III 2 e.

22. A description of the procedures and criteria used by SFMTA to monitor its subrecipients and contractors to determine compliance with FTA EEO requirements, including FTA Section 5307, 5310, 5311, 5316, and 5317 subrecipients.

23. Copies of EEO Programs from subrecipients and contractors that employ 50 or more transit related employees, including FTA Section 5307, 5310, 5311, 5316, and 5317 subrecipients.

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

The site visit to SFMTA occurred June 2-4, 2009. An Entrance Conference was conducted at the beginning of the Compliance Reviews with SFMTA senior management staff, FTA Headquarters staff (via teleconference), FTA’s Region IX Civil Rights Officer, and the contractor Review team. During the Entrance Conference, the Review team explained the goals of the Review and the needed cooperation of staff members. The detailed schedule for conducting the on-site visit was discussed.

Following the Entrance Conference, the EEO Compliance Review team conducted a detailed examination of documents submitted by SFMTA’s Equal Opportunity Office on behalf of the agency.

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

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

At the end of the site visit, an Exit Conference was held with SFMTA senior managementstaff, FTA’s Region IX Civil Rights Officer, and the contractor Review team. At the Exit Conference, initial findings and corrective actions were discussed with SFMTA. The Review identified two deficiencies and SFMTA worked with the Review team to implement corrective actions. This Draft Report incorporates the corrective actions taken by SFMTA following the site visit.

1. Findings and recommendations

The EEO Compliance Review focused on SFMTA’s compliance with nine specific requirements of FTA Circular 4704.1 and Title I of the ADA. At the time of the Compliance Review site visit in June 2009, deficiencies were identified in two areas: *Program Submission* and *Designation of Personnel Responsibility*. Advisory Comments were made in the area of *Assessment of Employment Practices*. In July 2009, SFMTA submitted documentation to adequately correct the deficiencies and address the advisory comments.

1. Program Submission

**Requirement**: A formal EEO program is required of any recipient that both employs 50 or more transit-related employees (including temporary, full-time or part-time employees either directly employed and/or through contractors) *and* received in excess of $1 million in capital or operating assistance or in excess of $250,000 in planning assistance in the previous federal fiscal year. Program updates are required every three years.

**Finding**: At the time of the Compliance Review of SFMTA, deficiencies were found with FTA requirements for Program Submission. SFMTA did not have on file an EEO Plan from its paratransit contractor, Veolia Transportation. SFMTA submitted its most recent EEO Program Update, in a timely manner to FTA. The EEO Update was submitted on September 10, 2007 and included a series of documents that were attached to the transmittal letter. These documents included:

* Responses to Triennial Review questions in the area of EEO
* 2006 Workforce Utilization Analysis Report
* EEO Policy dated August 30, 2007
* Three year summary of EEO and ADA complaints
* Civil Service Commission Rule 403: EEO
* Civil Service Commission Rule 415: Rules Related to the Employment of Persons with Disabilities
* Sexual Harassment Brochure
* ADA Brochure
* Request for Reasonable Accommodation Packet
* How to File a Discrimination Complaint
* Department of Human Rights Policy on Language Diversity
* Three year summary of EEO Training

These documents were accepted by the Region IX Civil Rights Officer as the EEO Program submittal. SFMTA also submitted the *2009-2010 Equal Employment Opportunity Affirmative Action Plan*, and *2008 Utilization Analysis* to FTA in 2009.

At the time of the site visit, SFMTA had a May, 2009 Draft EEO Compliance Plan for its paratransit contractor, Veolia Transportation. However, the plan did not meet FTA requirements, including elements such as a workforce utilization analysis or short or long-term goals. Following the site visit, SFMTA requested and obtained an EEO Program, dated 2009, from Veolia Transportation which met FTA requirements.

There are no outstanding deficiencies in this area.

1. Statement of Policy

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

**Finding**: At the time of the Compliance Review of SFMTA, no deficiencies were found with FTA requirements for Statement of Policy. Prior to the site visit, SFMTA provided the Review team with its *Equal Employment Opportunity Policy* dated January 20, 2009.

The Policy Statement included all the required elements of a Statement of Policy as described in FTA Circular C 4704.1, including the identification of the Equal Employment Opportunity (EEO) Officer, a statement of the right to file complaints, statement of commitment to overcome past discrimination, and use of goals.

The following table lists the elements required to be in a Statement of Policy and shows that SFMTA’s Policy met FTA requirements:

|  |  |
| --- | --- |
| FTA C. 4704.1 Policy Statement Requirements | **SFMTA EEO Policy****(Jan. 20, 2009)** |
| Issued by CEO | Yes |
| Commitment to EEO | Yes |
| Undertake an Affirmative Action Program | Yes |
| EEO Program Assignment to Agency Executive | Yes |
| Management Personnel Share Responsibility | Yes |
| Applicants/Employees Right to File Complaints | Yes |
| Performance by Managers/Supervisors Evaluated | Yes |
| Successful Achievement Provides Benefits | Yes |

3. Dissemination

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

**Finding**: At the time of the Compliance Review of SFMTA, no deficiencies were found with FTA requirements for Dissemination. SFMTA documented that it had implemented adequate procedures for publishing and circulating its EEO Policy to it employees and the general public. SFMTA’s EEO Policy was distributed and presented as a part of the new employee orientation. It was also disseminated annually by the Executive Director/CEO to all staff through SFMTA managers and the EEO Policy was posted on bulletin boards at each SFMTA facility toured during the site visit. For external dissemination, SFMTA’s website contained an abbreviated EEO Policy Statement and SFMTA submitted documentation that it had disseminated its EEO Policy externally to recruitment sources, local minority and women’s organizations, community agencies, and community leaders.

4. Designation of Personnel Responsibility

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

**Finding**: At the time of the Compliance Review of SFMTA, deficiencies were found with FTA requirements for Designation of Personnel Responsibilities. A review of employment files revealed that the EEO Officer had not concurred on all hires and promotions. The Program Guidelines of FTA Circular 4704.1 Chapter III, 2c states:

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

The Senior Manager, Equal Opportunity Office, was designated in the SFMTA EEO Policy as the EEO Officer. This position had a dual reporting relationship to the Chief of Staff/Director of Administration and to the Executive Director/CEO.

The Program Guidelines of FTA Circular 4704.1 Chapter III, 2c provide for nine program responsibilities, summarized in the Table below that the EEO Officer should, at a minimum, have. Prior to and during the site visit, SFMTA provided information regarding the roles and responsibilities of the EEO Officer. In its initial submittal of responses to the Compliance Review agenda letter information request, SFMTA provided a job description and a discussion that summarized its hiring process. During the site visit, a number of employment files were reviewed, including several hiring and promotional actions. The review of the files revealed that the EEO Officer had signed off on some, but not all, hiring actions. Specifically, the EEO Officer did not concur in hiring or promotions for positions that were exempt from civil service requirements. During the site visit, other aspects of the responsibilities were discussed and are summarized in the table below.

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

On June 19, 2009, SFMTA’s Executive Director/CEO issued a memorandum and a policy directive describing a hiring procedure and forms for all appointments, including exempt, provisional and permanent positions. The procedure and forms involved the Equal Opportunity Office in all stages of hiring from the screening of candidates to approval prior to issuance of an employment offer.

There are no outstanding deficiencies in this area.

5. Utilization Analysis

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

**Finding**: At the time of the Compliance Review of SFMTA, no deficiencies were found with FTA requirements for Utilization Analysis. SFMTA provided workforce utilization analyses based on the 11 Bay Area County San Francisco Labor Market Availability (SFLMA) percentages supplied by the United States Bureau of the Census. The SFLMA was compiled from workforce data from the following counties: Alameda, Contra Costa, Marin, Napa, San Francisco, San Joaquin, Santa Clara, Solano, Sonoma, San Mateo and Tuolumne. The *2008 Utilization Analyses-SFMTA* showed the workforce by:

* EEO – 1 Categories/Job Groups
* Gender
* Ethnicity
* Availability
* Utilization Percentage
* Number of Employees in each Category/Job Group

6. Goals and Timetables

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

**Finding**: At the time of the Compliance Review of SFMTA, no deficiencies were found with FTA requirements for Goals and Timetables. The Program Guidelines of FTA Circular 4704.1 Chapter III, 2e state:

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

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

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

In SFMTA’s *2009-2010 Equal Employment Opportunity Affirmative Action Plan*, and its *2008 Utilization Analysis*, there were discussions of the identified number and percentages of underutilization and a general statement of the relevant short term and long term goals. SFMTA identified job classifications where there was underutilization and targeted positions for minority and women recruitment. The *Plan* noted that a current hiring freeze and other limitations, including union agreements and existing eligible lists, may limit the diversity of candidates. Nonetheless, SFMTA reported on 2007-2008 goal attainment and identified both

short term and long term goals for each identified area of underutilization for 2009-2010, in accordance with the requirements of FTA Circular 4704.1.

1. Assessment of Employment Practices

**Requirement**: Recipients, subrecipients, contractors and subcontractors must conduct a detailed assessment of present employment practices to identify those practices that operate as employment barriers and unjustifiably contribute to underutilization.

**Finding**: At the time of the Compliance Review of SFMTA, no deficiencies were found with FTA requirements for Assessment of Employment Practices. Advisory comments were made to strengthen SFMTA’s assessments in the areas of testing, the appointment process, and salary determinations.

FTA Circular 4704.1 requires grantees to undertake a qualitative and quantitative analysis of employment practices to identify those practices that operate as employment barriers and unjustifiably contribute to underutilization:

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

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

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

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

SFMTA’s *2009-2010 Equal Employment Opportunity Affirmative Action Plan* and its *2008 Utilization Analysis* included a section entitled, *Analysis of Recent Employment Actions: Charting Progress,* that provided an assessment of employment practices and the identification of barriers to goal achievement. The assessment provided data on hiring, promotions and terminations.

During the course of the Compliance Review, it was determined that certain SFMTA practices, including testing, selected appointment procedures, and salary determinations, could create barriers to goal achievement. Following the site visit, SFMTA noted that it would report and analyze data on these practices in the 2010 EEO Affirmative Action Plan.

1. Monitoring and Reporting System

**Requirement**: An important part of any successful EEO program is the establishment of an effective and workable internal monitoring and reporting system.

**Finding**: At the time of the Compliance Review of SFMTA, no deficiencies were found with FTA requirements for a Monitoring and Reporting System. FTA Circular 4704.1, Chapter III, 2.g, states:

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

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

SFMTA prepared EEO Quarterly Status Reports for submission to the Executive Director and senior staff. The most recent report for the period ending March 31, 2009, included the following information:

* Status of EEO Investigations
* Requests for Reasonable Accommodations
* Summary of EEO Training Workshops
* Presentation of a new EEO Tracking System

Additionally, SFMTA provided documentation of bi-monthly EEO staff Meetings and Monthly Reports of the Chief of Staff/Administration Division that included updates on EEO Complaints, Training, and Employment activities.

1. Title I of the Americans with Disabilities Act

**Requirement**: Title I of the Americans with Disabilities Act (ADA) requires all recipients of federal financial assistance to prohibit discrimination on the basis of disability, and whenever a complaint is made, to have a process to make a “prompt investigation whenever a Compliance Review, report, complaint, or any other information indicates a possible failure to comply” with the ADA.

**Finding**: At the time of the Compliance Review of SFMTA, no deficiencies were found with FTA requirements for Title I of the ADA. SFMTA had included persons with physical or mental disabilities as a protected class in its EEO Policy Statement. Further, SFMTA had policies and procedures in place for advising employees and applicants of their rights to obtain reasonable accommodations. SFMTA provided a brochure entitled *SFMTA Equal Opportunity Office, Your Rights under the Americans with Disabilities Act*. The brochure described who was protected, defined essential functions, explained how to request a reasonable accommodation and described the complaint procedure. SFMTA also provided a summary of reasonable accommodation requests and the determinations made in granting or denying the requests.

**VII. SUMMARY OF FINDINGS**

| **Requirements of** **FTA Circular 4704.1** | **Site Review Finding** | **Description of Deficiencies** | **Corrective Actions** | **Response Days/ Closed Date** |
| --- | --- | --- | --- | --- |
| 1. Program Submission | D | Paratransit contractor’s EEO Plan did not meet FTA requirements.  | SFMTA must documentation that it has obtained an EEO Policy/Program as described in FTA C. 4704.1 from its paratransit contractor. | July 6, 2009 |
| 2. Statement of Policy | ND |  |  |  |
| 3. Dissemination | ND |  |  |  |
| 4. Designation of Personnel Responsibility | D | EEO Officer did not concur on all hires and promotions. | SFMTA must submit documentation that the EEO Officer concurs on all hires and promotions as described in FTA C. 4704.1  | July 6, 2009 |
| 5. Utilization Analysis | ND |  |  |  |
| 6. Goals and Timetables | ND |  |  |  |
| 7. Assessment of Employment Practices | AC | No assessment of testing, appointments and salary determinations | SFMTA should consider strengthening its assessment of employment practices. | July 6, 2009 |
| 8. Monitoring and Reporting System | ND |  |  |  |
| 9. Title I of the ADA | ND |  |  |  |

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

1. attendees

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