

**2014
City of Key West
Department of Transportation**

**EEOC Program Plan Document
(Appendix to Title VI / Civil Rights)**

U.S. Equal Employment Opportunity Commission

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Section 1: Policy Statement

1. City of Key West Department of Transportation (KWDoT) affirms its commitment to treat all applicants for employment and employees equally without regard to race, religion, creed, color, national origin, sex, age, and disability, veteran's status, marital status or other class prohibited by local, state or federal law. KWDoT is an Equal Employment Opportunity employer. It is prohibited for KWDoT or any of its employees to discriminate against an applicant for employment or another employee on the basis of race, color, and religious creed, sex, age, national origin, or any other basis prohibited by local, state or Federal law, or to be excluded from participation in, or denied the benefits of, or be subject to discrimination under any project, program, or activity funded in whole or in part through Federal financial assistance.
2. City of Key West Department of Transportation (KWDoT) supports the concept of an active affirmative action program consistent with Federal laws, court decisions, Executive Orders, and regulations, including goals and timetables, in order to overcome the effects of past discrimination on minorities and women.
3. The responsibility for the implementation of the EEO Program is assigned to the department Director, as EEO Director. The management of the daily operations of the EEO program shall be the responsibility of staff member designated as the EEO Coordinator. All KWDoT managers and supervisors share in the responsibility of ensuring compliance is achieved through understanding, communicating, and active involvement in the support of this policy. Performance evaluations of managers and supervisors shall include evaluating the success of the EEO program in the same manner as performance on other goals.
4. Applicants and employees have the right to file complaints alleging discrimination with the EEO Director and Federal or State Civil Rights Commissions, and EEOC.
5. This policy extends to all areas of employment including recruitment, selection and placement, compensation, promotion, transfer, discipline, demotion, lay-off, termination, training, daily working conditions, benefits and all other terms and conditions of employment

Authorities

- Equal Pay Act of 1963, 29 U.S.C. 201
- Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d
- Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e
- FTA Act of 1964, as amended, 49 U.S.C. 1601
- Age Discrimination in Employment Act of 1967, 29 U.S.C. 633a
- Title IX of the Education Amendments of 1972, Public Law 92-318
- Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794
- 28 CFR Part 42, Subpart F, "Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs"
- 29 CFR Part 1605, "Guidelines on Discrimination Because of Religion:
- 29 CFR Part 1606, "Guidelines on Discrimination Because of National Origin.
- 29 CFR Part 1607, "Uniform Guidelines on Employee Selection Procedures:
- 29 CFR Part 1620, "The Equal Pay Act"
- 29 CFR Part 1625, "Age Discrimination in Employment Act"
- 49 CFR Part 21, "Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964"
- 49 CFR Part 27, "Nondiscrimination on the Basis of Handicap in Financial Assistance Programs"
- DOT Order 1000.12, "Implementation of the Department of Transportation Title VI Program," dated 1/19/77
- Part II, Section 110(a) of the FTA Standard Grant Contract, dated 9-87

This policy will be updated a minimum of every 3 years. Supervisors & Management will meet at least twice a year to discuss the compliance of this program & any implementations. KWDoT will meet yearly with minority and female employees to obtain suggestions on the program. All new hires will receive training on EEOC during their new hire orientation. A copy of this policy is in the employee personnel policies & procedures manual, on employee notice boards, included in union contract, recruiting application package, and posted on KWDoT's website.

Approved by: _____
Norman Whitaker, Transit Director

Date: _____

Chapter I – Background

Section I – Purpose

General – No person in the United States shall on the grounds of race, color, creed, national origin, sex, disability, or age be excluded from participation in, or denied the benefits of, or be subject to discrimination under any project, program, or activity funded in whole or in part through Federal assistance under Section 19 of the FTA Act. Affirmative Action – The Executive Director shall take affirmative action to assure compliance with the “General” purpose of this policy.

Section II – Objectives

This program will ensure that KWDOT will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability.

This program will ensure that KWDOT takes affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to race, color, creed, national origin, sex, disability, or age. 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.

KWDOT shall also include a written, affirmative action plan designed to achieve full utilization of minorities and women in all parts of the work force. To ensure that KWDOT makes available to employees and applicants for employment, notices setting forth the KWDOT’s EEO policy. In addition applicants/employees will be notified of the KWDOT’s procedures for filing complaints of discrimination internally, as well as externally with the EEOC, a local Human Rights Commission, and/or the U.S. Department of Transportation (DOT).

Section III – Definitions

For purposes of this policy, the following definitions will be used:

- a. **Affirmative Action Plan** – means a written, detailed, results oriented set of procedures designed to achieve prompt and full utilization of minorities and women at all levels and in all parts of the recipients' work force.
- b. **Compliance** – refers to a condition in which FTA will find KWDOT has met the requirements in circular FTA C 4704.1, and there is no indication or evidence of discrimination on the basis of race, color, creed, national origin, sex, age, or disability.
- c. **Concentration** – means a higher representation of a particular group (e.g., Blacks, Hispanics, women, etc.) in a job category or department as compared to their representation in the relevant labor market.
- d. **Contractor** – means any entity or organization that has entered into a Federally funded contract with KWDOT.
- e. **Discrimination** – refers to any act, or any failure to act, that has the purpose or effect of limiting, excluding, or denying a person employment opportunity because of race, color, creed, national origin, sex, age, or disability.
- f. **Good Faith Efforts** – refers to those actions taken to achieve the objectives of the EEO Program. These actions may include, but are not limited to, the establishment and conduct of processes to implement specific provisions of this policy.

g. Minority or Minority Group Persons includes the following:

- 1) Black (not of Hispanic origin): All persons having origins in any of the Black racial groups of Africa;
- 2) Hispanic: All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;
- 3) Asian or Pacific Islander: All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This are includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa; and
- 4) American Indian or Alaskan Native: All persons having origins in any of the original people of North America, and who maintain cultural identification through tribal affiliation or community recognition.

h. National Origin – means the particular Nation where a person was born or where the person's parents or ancestors were born.

i. Noncompliance – means a failure to meet the requirements of circular FTA C 4704.1 and guidance issued pursuant to the circular or failure to implement an approved EEO program.

j. Probable Noncompliance – refers to a condition in which FTA has found that KWDoT does not fully satisfy these requirements and has requested KWDoT to take remedial or corrective actions to achieve compliance or has initiated an enforcement action against KWDoT.

k. Subcontractor – means any entity or organization that has entered into a subcontract relating to a Federally funded contract with a contractor to provide a service in connection with a program or activity initiated by KWDoT.

l. Transit-related employee – is an employee of KWDoT who is involved in any aspect of an agency's mass transit operation funded by FTA.

m. FTA Activity – means any program of assistance authorized by sections of the FTA Act; the Federal Aid Urban Systems Program, 23 U.S.C. 142(a)(2); and the Interstate Transfer Program 23 U.S.C. 103 (4)(e).

n. Underutilization – refers to a condition where there are fewer minorities and/or women in a particular job category or department than would reasonably be expected based on their presence in the relevant labor force.

Section II – Coverage

- 1. General** – All programs administered by FTA are subject to Section 19 of the FTA Act. These include the assistance programs authorized by the FTA Act, 23 U.S.C. 142(a) (2), and 23 U.S.C. 103(e) (4). These programs are also covered by the implementing regulations 28 CFR Part 42, Subpart F and 49 CFR Part 21. In addition, all recipients are required to comply with Part II, Section 110(a) of the FTA Standard Grant Contract. These obligations are to be re-delegated to any contractor/subcontractor in a Federally funded contract.

2. Threshold Requirements - KWDOT is required to comply with program requirements in as outlined in this policy if it meets the following thresholds:

- a. Employs 50 or more transit-related employees; and
- b. Requests and receives capital or operating assistance under Sections 2, 4(i), or 9 of the FTA Act; assistance under 23 U.S.C. 142(a) (2) or 23 U.S.C. 103(e) (4), or any combination thereof, in excess of \$1 million in the previous Federal fiscal year; or requests or receives planning assistance under Sections 8 and/or 9 in excess of \$250,000 in the previous Federal fiscal year.

3. State-Administered Programs

- a. The FTA EEO objectives apply to those programs that are administered by designated State agencies. Generally, these programs include the FTA elderly and handicapped and rural assistance programs funded under Sections 16(b) (2) and 18 of the FTA Act, respectively. In addition, some States administer the FTA planning and formula capital/operating assistance programs funded under Sections 8 and /or 9 of the FTA Act for urbanized areas under 200,000 population.
- b. Pursuant to a Memorandum of Understanding, the Federal Highway Administration (FHWA) has been delegated the lead responsibility to review and approve EEO programs submitted by State DOT's. In coordination with FHWA, FTA reviews these programs and those of other State agencies to assure that EEO is provided to the work force related to mass transportation. In the Memorandum of Understanding, FTA has the lead responsibility for reviewing EEO programs submitted by Metropolitan Planning Organizations (MPO's) that meet the thresholds as listed above.
- c. State agencies must administer their EEO programs in the following manner:
 - i. All designated State agencies will have the responsibility for assuring that their subrecipients are in compliance with the FTA EEO objectives.
 - ii. All designated State Agencies will maintain and provide data and report to FTA as required or at the discretion of the FTA Area Civil Rights Officer. Data may be requested, especially in those cases where the designated State agency or subrecipient is the subject of an "onsite" compliance review by FTA.
 - iii. KWDOT will be responsible for complying with the EEO objectives contained in this policy. FTA recommends that designated State agencies request EEO programs from their subrecipients. This will enable designated State Agencies to determine if subrecipients are in compliance with FTA EEO objectives.
 - iv. During the triennial review or at the discretion of the FTA Area Civil Rights Officer, FTA may request from designated State agencies the procedures and criteria used to determine the EEO compliance of subrecipients. FTA may conduct independent onsite

EEO compliance reviews of subrecipients to examine their records and to determine compliance with the FTA EEO objectives and requirements.

4. Contracting Out & Privatization/Competitiveness Programs

In the planning and development of KWDOT's contracting out and privatization/competitiveness programs, full consideration must be given to the EEO ramifications of such program planning and development. Such decisions must be justified on the basis of sound business planning. Disparate impact on minority and female employees must be considered and appropriate steps taken to mitigate any hardships which might result from such decisions.

5. Frequency of Update

KWDoT shall submit to FTA an updated EEO submission on a triennial basis or as major changes occur in the work force or employment conditions. At the discretion of the FTA Office of Civil Rights, less information may be requested where KWDoT's previously submitted EEO program has not changed significantly.

6. Other Information

The FTA Area Civil Rights Officer may request information, in addition to that required by this policy, from KWDoT or its subrecipients to resolve questions concerning EEO compliance. In certain instances, less information will suffice. In cases in which additional information is needed, this request will be made in writing to KWDoT. Failure to submit information requested by FTA may delay completion of a compliance review or delay the further consideration of a pending grant application(s). Failure by KWDoT to comply with the terms of this policy may result in the finding by FTA of noncompliance with Section 19 and Section 110(a) of the FTA Standard Grant Contract and the imposition of appropriate sanctions.

Chapter III – EEO Program Components

1. Overview

While Section 19 prohibits discrimination on the basis of "race, color, creed, national origin, sex, or age, this program primarily addresses and prescribes specific affirmative programmatic components to assure nondiscrimination by KWDoT and its contractors on the basis of race, national origin, and sex. Circular FTA C 4704.1 requires recipients and contractors to comply with prohibitions against discrimination on the basis of age established in the Age Discrimination in Employment Act of 1967, as amended, and prohibitions against discrimination on the basis of creed, as set out in EEOC guidelines interpreting Title VI of the Civil Rights Act of 1964. It also incorporates by reference requirements for compliance with prohibitions against discrimination on the basis of disability established in DOT regulations implementing the Rehabilitation Act of 1973, as amended, 49 CFR Part 27.

2. Program Requirements

A. Policy Statement

City of Key West Department of Transportation (KWDoT) affirms its commitment to treat all applicants for employment and employees equally without regard to race, religion, creed, color, national origin, sex, age, disability, veteran's status, marital status or other class prohibited by local, state or federal law. KWDoT is an Equal Employment Opportunity employer. It is prohibited for KWDoT or any of its employees to discriminate against an applicant for employment or another employee on the basis of race, color, and religious creed, sex, age, national origin, or any other basis prohibited by local, state or Federal law, or to be excluded from participation in, or denied the benefits of, or be subject to discrimination under any project, program, or activity funded in whole or in part through Federal financial assistance.

- a. City of Key West Department of Transportation (KWDoT) affirms its commitment to treat all applicants for employment and employees equally without regard to race, religion, creed, color, national origin, sex, age, disability, veteran's status, marital status or other class prohibited by local, state or federal law. KWDoT is an Equal Employment Opportunity Employer. It is prohibited for KWDoT or any of its employees to discriminate against an applicant for employment or another employee on the basis of race, color, and religious creed, sex, age, national origin, or any other basis prohibited by local, state or Federal law, or to be excluded from participation in, or denied the benefits of, or be subject to discrimination under any project, program, or activity funded in whole or in part through Federal financial assistance.

- b. City of Key West Department of Transportation (KWDoT) supports the concept of an active affirmative action program consistent with Federal laws, court decisions, Executive Orders, and regulations, including goals and timetables, in order to overcome the effects of past discrimination on minorities and women.
- c. The responsibility for the implementation of the EEO Program is assigned to the Executive Director, as EEO Director. The management of the EEO Program shall be the responsibility of the Manager of Finance and Administration, as EEO Officer. The day-to-day responsibilities of the EEO Program shall be the responsibility of the Human Resources Technician as the EEO Coordinator. All KWDOT managers and supervisors share in the responsibility of ensuring compliance is achieved through understanding, communicating, and active involvement in the support of this policy. Performance evaluations of managers and supervisors shall include evaluating the success of the EEO program in the same manner as performance on other goals.
- d. Applicants and employees have the right to file complaints alleging discrimination with the Executive Director or the Manager of Finance and Administration, and Federal or State Civil Rights Commissions, and EEOC.
- e. This policy extends to all areas of employment including recruitment, selection and placement, compensation, promotion, transfer, discipline, demotion, lay-off, termination, training, daily working conditions, benefits and all other terms and conditions of employment

B. Dissemination

- 1. Managers and Supervisors shall be fully informed of the agency's policy through:
 - a. Written communication from the Executive Director.
 - b. Inclusion of the EEO program and policy in KWDOT's personnel and operations manual; and
 - c. Meeting held (e.g., at a minimum semiannually) to discuss the EEO program and its implementation.
- 2. Non-supervisory staff shall be informed of the agency's EEO policy and program through:
 - a. Posting official EEO posters and the policy statement on bulletin boards, in the lunch room, and in the HR office.
 - b. Including the EEO policy in the employee handbooks, reports, manuals, and union contracts.
 - c. Meeting with minority and female employees to get their suggestions in implementing and refining the EEO program; and
 - d. Presentation and discussion of the EEO program as part of the employee orientation and in all training programs.

C. Responsibilities

- 1. The Department Manager / Director shall be the **EEO Director** and the ultimate authority and responsibility for the implementation of the EEO Program. The EEO Director shall delegate duties to achieve the policy goals as necessary.
- 2. The Department Supervisor shall be delegated as the **EEO Officer**. In that capacity, this Supervisor is responsible for managing and implementing all aspects of the EEO Program.
- 3. The Human Resources representative shall be the **EEO Coordinator** and shall be delegated to perform the administrative, day-to-day, functions of the EEO Program.

- **Administration**

- **EEO Director duties:**

- a. The Department Manager / Director shall be the EEO Director.
 - b. The EEO Director shall have the final authority and responsibility for compliance with the EEO Program.
 - c. The EEO Director shall delegate to the Manager of Finance and Administration the responsibility for coordinating the overall administration of the EEO Program.

- **EEO Officer duties:**

- a. The Department Supervisor shall be the EEO Officer.
 - b. Shall develop and recommend an EEO policy and program, including internal and external communication procedures, setting goals and timetables.
 - c. Supervise the EEO Coordinator who is charged with the responsibility of implementing, monitoring, and ensuring KWDOT's compliance with EEO regulations in the day-to-day administration and reporting requirements of KWDOT's EEO Program.
 - d. Shall be responsible for checking and signing all related reports.
 - e. Ensure that all department managers and supervisors are aware of the details of the EEO Program.
 - f. Shall concur in all hires and promotions for compliance with policy.
 - g. Develop long range plans with KWDOT's Transportation Coordination Team (TCT) and Monroe County's TDC that are consistent with EEO requirements.
 - h. Incorporate into the Transportation Improvement Plan (TIP) any corrective actions taken in response to deficiencies found by FTA audit.
 - i. Disseminate to the EEO compliance issues that must be taken into consideration during the planning process.
 - j. Ensure that the planning process is conducted with equal access public participation via an under 200,000 population or the designated Community Transportation Coordinator / Local Coordination Board designee agent.
 - k. Report to the EEO Director on a minimum of once a year, on the progress of the program.
 - l. Advise the KWDOT Board of Directors and Citizen's Advisory Committee (CAC) on EEO compliance issues.
 - m. Ensure equal participation on KWDOT's CAC. This will involve evaluating the CAC membership selection criteria and make-up of the committee in regards to race, gender and position within the committee.
 - n. Ensure that CAC and other public meetings are periodically held in predominately minority communities.
 - o. Visit CAC meetings as well as other public meetings to assess and verify the level of participation of the EEO group members.

- **EEO Coordinator duties:**

- a. Assist management in collecting and analyzing employment data, identifying problem areas, setting goals and timetables and developing programs to achieve goals.
- b. Assist management in designing, implementing, and monitoring internal audit and reporting systems to measure program effectiveness and to determine where progress has been made and where further action is needed.
- c. Gather information necessary for reporting requirements and submit completed reports to the EEO Officer for signature.
- d. Conduct an annual utilization analysis to identify job categories where there is an underutilization and/or concentration of minorities and women in relation to their availability in the relevant labor market.
- e. Process, record and disseminate EEO complaints received by KWDoT.
- f. Monitor and ensure public information is available for KWDoT's EEO Program.
- g. Develop EEO information for dissemination to the general public and, where appropriate, in languages other than English.
- h. Develop and disseminate public information posters and other items as necessary.
- i. Assist the EEO Officer in compiling the annual report to the EEO Director covering program accomplishments and goals for the new year.
- j. Conduct EEO reviews of consultant contractors, suppliers, and other recipients of Federal assistance.
- k. Conduct training programs on the EEO program and related statutes for KWDoT employees.
- l. Identify and propose ways to eliminate discrimination when found to exist.
- m. Establish procedures for promptly resolving deficiency status and reducing to writing the remedial action agreed to be neck wear, all within a period not to exceed 90 days.
- n. Serves as liaison between KWDoT, Federal State, and local governments, regulatory agencies, minority, handicapped and women's organizations, and other community groups as required.
- o. Assuring that current legal information affecting affirmative action is disseminated to responsible officials.
- p. Assists in recruiting minority, handicapped and women applicants and establishing outreach sources for use the hiring process.
- q. Monitor changes in EEO law and rules and suggest changes to KWDoT's EEO policy as necessary to maintain compliance.
- r. Process employment discrimination complaints.

- **All Managers, Supervisors, Board Members duties:**

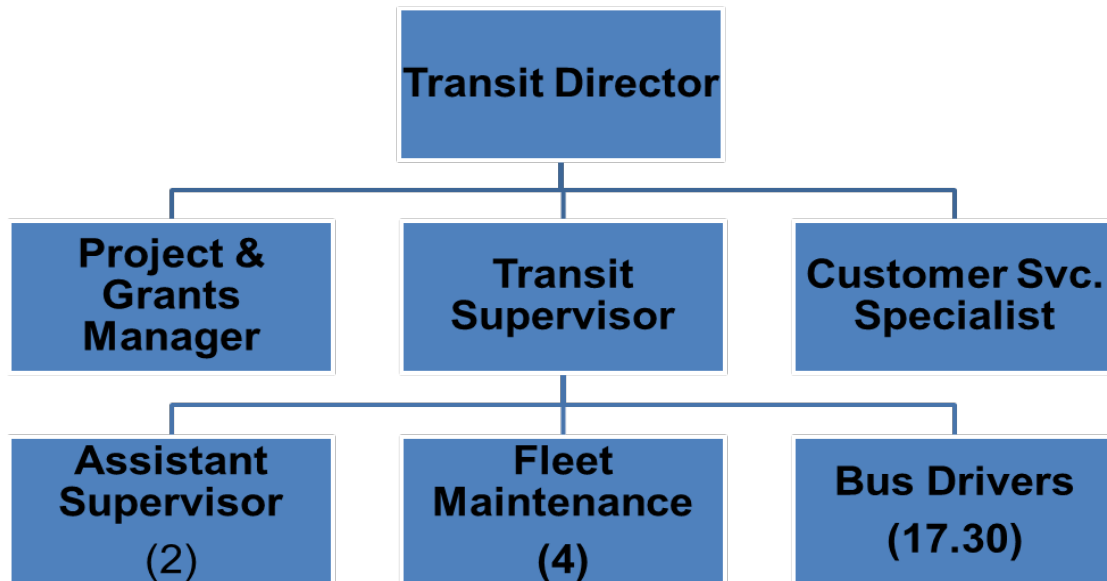
- a. Shall have the responsibility of ensuring that KWDoT's EEO policies and program, as outlined in this EEO Program Policy are carried out.

- **All Managers duties:**

- a. Assist in identifying problem areas and establishing KWDOT goals and objectives.
- b. Being actively involved with local minority organizations, women's and disability groups, community action organizations and community service programs designed to promote EEO.
- c. Participating actively in periodic audits of all aspects of employment in order to identify and to remove barriers obstructing the achievement of specified goals and objectives.
- d. Holding regular discussions with other managers, supervisors, and employees to assure KWDOT's policies and procedures are being followed.
- e. Reviewing the qualifications of all employees to assure that minorities, disabled persons, and women are given full opportunities for transfers, promotions, training, salary increases, and other forms of compensation.
- f. Participate in the review and/or investigation of complaints alleging discrimination.
- g. Conduct and support career counseling for all employees; and
- h. Participate in periodic audits to ensure that each department is in compliance (e.g., EEO posters are properly displayed on all employee bulletin boards).

- **Organizational Chart**

The City Commission, Mayor and City Manager, along with the administrative representatives of the KWDOT department will work as the board / oversight team to manage this program plan.



D. 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. It is also to establish the framework for goals and timetables and other affirmative actions to correct employment practices that contributed to any identified absence, underutilization, or concentration.

1. A utilization analysis consists of a work force analysis and an availability analysis. The work force analysis requires a statistical breakdown of KWDOT's work force by each department, job category (e.g. Road Supervisor, Mechanic I or II, etc.), and job title. Each of the above should be cross-referenced by race, national origin, and sex. This analysis should be structured in lines of progression by departmental units to ensure that promotional opportunities will be considered. A table or chart is recommended for formulating this analysis. (See Affirmative Action Plan for all analysis reports.) Also, principal duties and rates of pay must be indicated for each job category, grade/rank of employee, and job title for each employee. Where auxiliary duties are assigned, or where more than one rate of pay applies because of length of time in the job or other factors, a special notation should be made. Where KWDOT or its contractors operate more than one shift or assigns employees within each shift to varying locations, indicate the number by race, national origin, and sex on each shift and in each location.
2. An availability analysis is a comparison of the participation rates of minorities and women at various levels in the work force with their availability in relevant labor markets. A labor market has both geographic and occupational components. Different geographic areas and labor force data should be used for different job categories. As an example, professional positions would likely have a regional or national recruiting area as opposed to a local recruiting area as would be the case for less skilled jobs. Moreover, recruiting areas should reflect nearby concentrations of minority-group persons who may have been historically excluded from consideration.
3. Occupational data (in addition to general population and unemployment information), along with training and promotional opportunities, should be considered in determining the availability of persons for those employment opportunities from which minorities and women have traditionally been excluded. In determining availability for job categories not requiring special skills or abilities, general population or work force age data may be suitable. Community and area labor statistics by race, national origin, and sex can be obtained from the U.S. Department of Commerce, Bureau of the Census, and its publications; U.S. Department of Labor, Bureau of Labor Statistics, and the Women's Bureau; State and local governments, especially State employment services and MPO's or LCB/CTC agent. Detailed occupational data by race, national origin and sex in categories required for EEO reports (E.g., Professionals, Officials, Managers, Technicians, etc.) is available in special affirmative action data packages from many State employment services. Similar data is available from the Research and Analytical Services staff of the EEOC.
4. KWDOT and its contractors should present this data in a table or chart form for the job categories and job titles being analyzed (See AAP). Data used should be the most recent, accurate, and relevant. Also, in assessing availability and projecting goals from such availability, the program should also indicate the data given the greatest weight and reasons underlying the decision.
5. In performing the work force and availability analyses, KWDOT or contractors should have racial data cross-classified by sex to ascertain the extent to which minority-group women or minority-group men may be underutilized. Likewise, minority-group data should be broken down by specific racial groups (i.e., Black, Hispanics, Asian, Pacific Islander, and American Indian or Alaskan Native.)

E. Goals & Timetables

1. 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. Usually, long-range goals will be designed to eliminate underutilization in job categories where it has been identified. Based on the utilization analysis, KWDOT and its contractors will establish goals and timetables designed to correct any identified deficiencies. The goals and timetables should be attainable, in terms of the analysis and the entire program of affirmative action, to remedy existing employment practices that may unjustifiably be contributing to underutilization. In establishing the size of goals and the length of the timetables, KWDOT should consider results which can

reasonably be expected from putting forth every good faith effort to make the overall affirmative action program work. If goals and timetables are not met, there is an obligation to justify this failure following KWDoT's annual evaluation of the EEO Program. The justification for failing to meet a goal(s) should address such factors as: whether the anticipated job openings materialized, the availability of persons whose employment could have resulted in the goal(s) being achieved, and the adequacy of recruitment and other affirmative actions to change existing employment practices so that the goal(s) could be achieved.

2. Long-range goals are usually stated as percentages, although numerical projections are recommended where feasible. Such goals should consider the fact that availability of traditionally underutilized or underemployed groups is not constant. Future projections should be taken into consideration. Generally, an EEO Program will be formulated with long-range goals to be attained within a period of 4 to 5 years.
3. Short-term or intermediate numerical goals should be set and pursued in order to assure 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, both as actual numbers and percentages, and should be based on anticipated job openings, job group availability, and the long-range goals set for minorities and/or women in the particular job category. Projections of vacancies should also be established in terms of a job progression chart in order to determine which vacancies can be filled immediately by underutilized persons and the possibilities of these persons being promoted into upper-level positions in terms of long-range goals.
4. Short-term or intermediate goals should be weighted and established so that they are likely to produce the greatest results. As an example, if KWDoT has no members of a specific affected group in a particular job classification, initial short-term goals should be set higher to maximize the expectation of recruitment and selection from the affected group. On the other hand, if KWDoT has a good representation of traditionally underutilized groups in the lower steps of the job progressions, and members of each affected group are moving into higher steps of the job progressions with regularity, a lower allocation of openings at the upper level may be adequate.
5. In developing goals and timetables to correct underutilization, KWDoT should use the following guidelines for goal-setting:
 - a. Involve personnel staff and department managers in the process.
 - b. Set goals that are significant, measurable, and attainable.
 - c. Make goals with timetables specific for planned results.
 - d. Consider anticipated attrition, expansion, contraction (especially the impact on employment of projected contracting out and privatization/competitiveness activities), turnover in the work force, and availability of persons with required skills.
 - e. Consider effects of changes in existing employment practices that may contribute to underutilization in increasing availability of minorities and women.
 - f. Goals should not be rigid and inflexible, but must be targets reasonably attainable by applying every good faith effort to make all aspects of the affirmative action program work.

KWDoT will analyze in detail all employment practices relating to recruitment, selection, salaries, promotions, terminations, standards of discipline, seniority, maternity/paternity leave, height and weight requirements, etc. All problems will be noted and a proposed course of remedial action will be enumerated in KWDoT's EEO program.

**F. Assessment of Employment Practices to Identify Causes of Underutilization:
Affirmative Action to remedy problem areas.**

The detailed assessments of present employment practices to identify those practices that operate as employment barriers and unjustifiably contribute to underutilization are covered in KWDOT's Affirmative Action Plan.

• Non-Compliance & Remedial Action Procedures

In the event that KWDOT is found to be in non-compliance or probable non-compliance with Section 19 of the Urban Mass Transportation Act of 1964 (FTA Act) or where FTA has found evidence of discrimination prohibited under Section 19 and remedial action is required, the following procedures will be followed.

1. Upon receipt of a non-compliance, probable non-compliance, or discrimination finding, KWDOT will formulate and submit a Remedial Action Plan for correcting the deficiencies cited in the Letter of Finding.
2. Within 30 days of the receipt of the FTA Letter of Finding, KWDOT will submit a Remedial Action plan, and if necessary, sufficient reasons and justification for FTA to reconsider any of its findings or recommendations. The Remedial Action Plan shall:
 - a. List all corrective actions accepted by KWDOT or its contractors;
 - b. Describe how the corrective actions will be implemented;
 - c. Include a written assurance that KWDOT will implement the accepted corrective action(s) and has the capability to implement the accepted corrective actions(s) in the manner discussed in the plan; and
 - d. All requests for reconsideration shall:
 - i. State which of the findings or recommendations KWDOT requests FTA to reconsider;
 - ii. Provide a justification for the request to reconsider, including any evidence or information supporting such a request; and
 - iii. Include a written assurance that on the basis of the requested reconsideration, KWDOT will be in compliance.
3. Within an additional 30 days, FTA will review and submit the Final Remedial Action Plan to Skagit Transit.
 - a. KWDOT will review and consent or respond to this plan within 15 days of receipt.
 - b. If KWDOT does not agree with the Final Remedial Action Plan, it will submit a written statement of its reasons for not agreeing to the remedial action contained in the plan.

G. Monitoring and Reporting System

KWDOT will adhere to the following to establish an effective and workable internal monitoring and reporting system. This system will serve the following basic purposes:

- 1) Assessing EEO accomplishments;
- 2) Enabling KWDOT to evaluate the EEO program during the year and to take any necessary corrective action regarding the development and execution of programs or goals and timetables;
- 3) Identifying those units which have failed to achieve a goal or to implement affirmative action; and
- 4) Providing a precise and factual database for future projections.

The reporting system will provide documentation to support actions that affect minority and women job applicants or employees. Management will be kept informed of program effectiveness. The creation of an EEO advisory committee, reflective of all segments of the community and the agency's work force, can be an effective tool in this regard. KWDoT will analyze in detail all employment practices relating to recruitment, selection, salaries, promotions, terminations, standards of discipline, seniority, maternity/paternity leave, height and weight requirements, etc. All problems will be noted and a proposed course of remedial action must be enumerated in KWDoT's EEO program.

Chapter VI - Discrimination Complaints

1. General –Any person who believes that he or she, individually, or as a member of any specific class of persons, has been subjected to discrimination on the basis of race, color, creed, national origin, sex, age, or disability may file a written complaint with FTA or the Secretary of Transportation. A complaint must be filed within 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary. UTMA recommends that EEO complaints be initially filed with the KWDoT for resolution. In those cases where the complainant is dissatisfied with the resolution by the KWDoT, or the case is not being resolved in a timely manner, the same complaint may be submitted to FTA, the Secretary, EEOC, or a State agency for investigation. Unless otherwise permitted, the final determination of all EEO complaints affecting programs administered by FTA will be made by the Office of the Secretary, DOT.

2. SUBMISSION OF COMPLAINTS

A. Filing Complaints of Discrimination

1. Complainants may submit written complaints to Skagit Transit, Washington State Department of Transportation, the local EEOC office, FTA Director, Office of Civil Rights, the FTA Area Civil Rights Officers, and/or the Departmental Director of Civil Rights.
2. In cases where the complainant is unable or incapable of providing a written statement, but wished KWDoT to investigate alleged discrimination, a verbal complaint of discrimination may be made to the KWDoT Manager / Director. The complainant will be interviewed by a civil rights official authorized to receive complaints. If necessary, the civil rights official will assist the person in converting verbal complaints to writing. All complaints must, however, be signed by the complainant or his/her representative.

B. Complaint Format

1. All complaints must be in writing and signed by the complainant or his/her representative before action can be taken. Complaints shall state, as fully as possible, the facts and circumstances surrounding the alleged discrimination. KWDoT has developed a Discrimination Complaint Form for this purpose and assistance in the process. It can be obtained from our offices.
2. The EEOC Coordinator for KWDoT will provide the complainant or his/her representative with a written acknowledgement that KWDoT has received the complaint within 10 working days. Concurrently, KWDoT will transmit the complaint to FTA and the Departmental Office of Civil Rights.

3. Request for Additional Information from Complainant and/or Respondent.

1. In the event that the complainant or respondent has not submitted sufficient information to make a determination of jurisdiction or investigative merit, KWDoT may request additional information from either party.
2. This request shall be made by registered mail within 15 working days of the receipt of the complaint by KWDoT and will require that the party submit the information within 60 working days from the date of the original request.

3. Failure of the complainant to submit additional information within the designated timeframe may be considered good cause for a determination of no investigative merit.

4. Notification of Disposition

The Executive Director of KWDOT shall notify within 5 days, by registered letter the complainant, party charged and primary recipient (if not the respondent) of the disposition:

1. In the event of a decision not to investigate the complaint, the notification shall specifically state the reason for the decision.
2. In the event the complaint is to be investigated, the notification shall state the jurisdiction, inform the parties that an investigation will take place, and request any additional information needed to assist the investigator in preparing for the investigation.

5. Referral to Other Agencies

In the event that KWDOT lacks the jurisdiction, the complaint will be referred to other State or Federal agencies, informing the parties of the action.

6. Complaint Investigation

1. KWDOT Investigation - KWDOT may elect to conduct its own investigation of the complaint. The investigation may be conducted by "desk audit" or an "onsite" investigation.
2. Referral of Complaint to FTA- Cases determined by KWDOT to have investigative merit may be sent back to FTA to conduct an "onsite" investigation or may be recommended for a comprehensive EEO review of the recipient.
3. Priority Complaints - All incoming complaints shall be examined to determine if the discrimination alleged would be irremediable if not dealt with promptly. If such a determination is made, the complaint shall be given priority status. The processing, investigation, and determination of such complaints shall be accelerated to advance significantly the normal completion date of the process.
4. Investigator's Preparation - Before beginning the investigation, the investigator shall send a letter of introduction, establishing the times and dates for the investigation and interviews. This preparation shall be completed within 30 working days after the assignment has been given to the investigator, contingent upon the investigator's workload and resources.
5. Investigative Report - A written report will be prepared by the responsible investigator at the conclusion of the investigation. This report will be reviewed by the Executive Director for thoroughness. The investigative report will include the following:
 - A. Summary of the complaint, including a statement of the issues raised by the complainant and Skagit Transit's reply to each of the allegations;
 - B. Citations of relevant Federal, State, and local laws, rules, regulations, and guidelines, etc,
 - C. Description of the investigation, including a list of the persons contacted by the investigator and a summary of the interviews conducted; and
 - D. A statement of the investigator's findings and recommendations.

7. Disposition of Complaints

1. Approval and Notice of Disposition KWDoT will approve or disapprove the findings and recommendations made by the investigator in the investigative report. The consequent disposition of the complaint will be communicated to the complainant and recipient by letter. In addition, a rationale supporting the disposition made and any recommendations to any party will be included in the letter.
2. Informal Resolution If the Notice of Disposition is issued and finds KWDoT in noncompliance, KWDoT is required to initiate voluntary remedial actions agreeable to the Office of Civil Rights.
3. Enforcement Procedure In cases in which all required means of remedial action have failed to bring the recipient into compliance, enforcement procedures will be initiated by the Departmental Office of Civil Rights in conjunction with FTA.
4. Request for Reconsideration KWDoT may request reconsideration findings within 30 days of the Notice of Disposition. This request should include any additional information or analysis KWDoT considers relevant. The Office of Civil Rights will inform the recipient of its decision to accept or reject the request within 30 days after its receipt.

In cases in which a request for reconsideration is approved, the responsible investigator will reopen the investigation and proceed to process the complaint in the same manner described above. Any violations of this policy may result in disciplinary action, up to and including termination. All applicants and employees should follow the above procedures in dealing with possible discrimination. Applicants and employees also have other legal rights, established by law, for investigation of any discriminatory allegations through the Washington Human Rights Commission, the Federal Office of Equal Employment Opportunity, the U.S. Department of Transportation, and/or the Office of Federal Contract Compliance Programs.

Laws Enforced by the EEOC

- Title VII of the Civil Rights Act
- Equal Pay Act of 1963
- Age Discrimination in Employment Act of 1967 (ADEA)
- Rehabilitation Act of 1973, Sections 501 and 505
- Titles I and V of the Americans with Disabilities Act of 1990 (ADA)
- Civil Rights Act of 1991

Filing an Appeal with the EEOC

A dissatisfied complainant may appeal to EEOC KWDOT's final action within 30 days of receipt. KWDOT may appeal a decision by an EEOC administrative judge within 40 days of receiving the administrative judge's decision. On class complaints, a class agent may appeal KWDOT's final decision on the merits of the class complaint within 30 days from receipt, or a class member may appeal the final decision on his or her claim for individual relief within 30 days from receipt of the final decision. If the complaint is a "mixed case," the complainant may appeal KWDOT's final decision to the MSPB or ask the Board for a hearing. Once the Board issues its decision on the complaint, the complainant may petition EEOC for review of the Board decision concerning the claim(s) of discrimination.

Policy Format

Alternative accessible formats of this policy will be provided to applicants or employees upon request.

Directory of Contacts for filing complaints:

Department Director

KWDOT

627 Palm Avenue, PO Box 1078
Key West, FL 33040
305-809-3910
305-292-8285 (fax)

EEOC

Federal Transit Administration
Region IV
230 Peachtree Dr. NW
Suite 800
Atlanta, GA 30303
(404) 865-5628
(404) 865-5605

Office of Civil Rights

Mr. Carlos A. Gonzalez, Civil Rights Officer
Federal Transit Administration
Region IV
230 Peachtree Dr. NW
Suite 800
Atlanta, GA 30303
(404) 865-5628
(404) 865-5605