

**EQUAL EMPLOYMENT OPPORTUNITY  
COMPLIANCE REVIEW  
OF  
DALLAS AREA RAPID TRANSIT  
(DART)  
Dallas, Texas**

**Final Report**

**October 2010**

**Prepared For  
U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL TRANSIT ADMINISTRATION  
OFFICE OF CIVIL RIGHTS**

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**I. GENERAL INFORMATION**

Grant Recipient: Dallas Area Rapid Transit (DART)

City/State: Dallas, TX

Grantee Number: 5271

Executive Official: Mr. Gary Thomas  
President/Executive Director  
Dallas Area Rapid Transit  
1401 Pacific Avenue  
P.O. Box 660163  
Dallas TX 75266-7222

On Site Liaison: Kriss Gamez  
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Site Visit Dates: February 4-6, 2009

Compliance Review Team: Maxine Marshall, Lead Reviewer  
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Clinton Smith, Reviewer  
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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".

Dallas Area Rapid Transit (DART) 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 DART'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 DART's "Equal Employment Opportunity Program" was necessary.

The Office of Civil Rights authorized The DMP Group to conduct this EEO Compliance Review of DART. The primary purpose of the EEO Compliance Review was to determine the extent to which DART 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 DART'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 DART 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 DART’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 DART’s employment practices, including recruitment, hiring, training, promotion, compensation, retention and discipline from a variety of sources: Human Resources Department staff, other DART management and staff, and community representatives.

#### **IV. BACKGROUND INFORMATION**

Dallas Area Rapid Transit (DART) is a regional transit agency authorized pursuant to Chapter 452 of the Texas Transportation Code and was created by voters and funded with a one-cent local sales tax on August 13, 1983. The service area consists of 700 square miles and 13 member cities: Addison, Carrollton, Cockrell Hill, Dallas, Farmers Branch, Garland, Glenn Heights, Highland Park, Irving, Plano, Richardson, Rowlett and University Park.

DART is governed by a 15-member board appointed by member-city councils based on population. Eight members are appointed by the City of Dallas and seven are appointed by the remaining cities. Board members serve two-year terms with no limits. Board officers are elected from the board membership and serve one-year terms. Revenue from the voter-approved one-cent sales tax, federal funds, investment income, short- and long-term financing, and farebox revenue fund the operation and ongoing development of DART's multimodal Transit System Plan. For Fiscal Year 2007, DART collected \$389.1 million in sales tax revenue and had an operating budget of \$323.6 million.

DART serves Dallas and 12 surrounding cities with approximately 130 bus routes, 45 miles of light rail transit (DART Rail), 75 freeway miles of high occupancy vehicle (HOV) lanes, and paratransit service for the mobility impaired. DART and the Fort Worth Transportation Authority (the T) jointly operate 35 miles of commuter rail transit (the Trinity Railway Express or TRE), linking downtown Dallas and Fort Worth with stops in the mid-cities and DFW International Airport. For Fiscal Year 2007, DART had 103.8 million passenger trips (all modes), 65.1 million passenger trips (fixed route), and operated 36.3 million revenue miles (fixed



route). The DART bus system has 742 revenue vehicle, fifteen transit centers, and 11,961 bus stops. DART Rail has 35 stations and 115 revenue vehicles. TRE has ten stations and a vehicle fleet of thirteen rail diesel cars, six locomotives, ten coaches, and seven bi-level cab cars.

Through 2014, the DART Rail System is slated to more than double in size to 93 miles. Extensions now in development include the 17.5-mile Northwest Corridor serving downtown Dallas, American Airlines Center, the Dallas Medical/Market Center, Love Field Airport, and the cities of Farmers Branch and Carrollton. A 13-mile branch will extend from the Northwest Corridor to North Irving's Las Colinas Urban Center and DFW International Airport. Another 10.2-mile extension will serve the Southeast Corridor connecting Downtown Dallas, Deep Ellum, Fair Park, South Dallas and Pleasant Grove. In addition, service will extend south three miles from Ledbetter Station in South Oak Cliff to I-20 and northeast five miles from Downtown Garland Station to Rowlett.

The demographics of DART's service area are shown in Table 1. As noted previously, DART's service area encompasses the Cities of Addison, Carrollton, Cockrell Hill, Dallas, Farmers Branch, Garland, Glenn Heights, Highland Park, Irving, Plano, Richardson, Rowlett and University Park. According to the 2000 Census, the service area had a population of 2,149,381.

DART's service area is diverse, with White residents representing 60.2 percent of the total population. Hispanics are the largest minority group at 28.6 percent. Blacks follow at 17.9 percent and Asians represent 5.3 percent of the population. American Indians/Alaska Native and Native Hawaiians/Pacific Islanders each represent less than one percent of the total population.

According to the 2000 Census, the Dallas-Fort Worth SMSA had a total population of 5,221,801, with White residents representing 69.5 percent of the total. Hispanics are the largest minority group at 21.5 percent. Blacks follow at 13.8 percent and Asians represent 3.7 percent of the population. American Indians/Alaska Native and Native Hawaiians/Pacific Islanders each represent less than one percent of the total population.

**Table 1**

**Racial/ Ethnic Breakdown of the DART Service Area  
2000 – U.S. Census**

<b>Racial/ Ethnic Group</b>	<b>City of Dallas</b>	<b>Other Member Cities</b>	<b>DART Service Area</b>	<b>Dallas/ Fort Worth SMSA</b>
White	<b>604,209</b> 50.8%	<b>690,552</b> 71.9%	<b>1,294,761</b> 60.2%	<b>3,628,965</b> 69.5%
Black	<b>307,957</b> 25.9%	<b>77,175</b> 8.0%	<b>385,132</b> 17.9%	<b>720,133</b> 13.8%
American Indian and Alaska Native	<b>6,472</b> <1%	<b>4,837</b> <1%	<b>11,309</b> <1%	<b>29,629</b> <1%
Asian	<b>32,118</b> 2.7%	<b>80,860</b> 8.4%	<b>112,978</b> 5.3%	<b>195,480</b> 3.7%
Native Hawaiian/Pacific Islander	<b>590</b> <1%	<b>683</b> <1%	<b>1,273</b> <1%	<b>4,385</b> <1%
Some Other Race	<b>204,883</b> 17.2%	<b>81,373</b> 8.5%	<b>286,256</b> 13.3%	<b>517,197</b> 9.9%
Two or More Races	<b>32,351</b> 2.7%	<b>25,321</b> 2.6%	<b>57,672</b> 2.7%	<b>126,012</b> 2.4%
Total Minority Population	<b>584,371</b> 49.2%	<b>270,249</b> 28.1%	<b>854,620</b> 39.8%	<b>1,592,836</b> 30.5%
<b>Total Population</b>	<b>1,188,580</b>	<b>960,801</b>	<b>2,149,381</b>	<b>5,221,801</b>
Hispanic Origin*	<b>422,587</b> 35.6%	<b>191,593</b> 19.9%	<b>614,180</b> 28.6%	<b>1,120,350</b> 21.5%

\* Per the 2000 Census, people of Hispanic origin can be, and in most cases are, counted in two or more race categories.

The President/Executive Director was DART's Chief Executive Officer and was responsible for implementing the policies of the Board of Directors. The President/Executive Director, General Counsel, Director of Internal Audit, and Director of Board Support all reported to the Board of Directors.

At the time of the Compliance Review and according to DART's most recent Organization Chart, DART was organized under the following management structure that reported directly to the President/Executive Director:

- Executive Vice President, Operations
- Executive Vice President, Administration
- Rail Program Development
- Capital Planning and Development
- Executive Affairs
- Chief Financial Officer
- Media Relations

The Equal Employment Opportunity function was in the Office of Diversity and EEO that was under the Executive Vice President, Administration. The Director, Diversity & EEO reported to the Executive Vice President, Administration, with a dotted line reporting relationship on EEO matters to the President/Executive Director. The Office had three employees.

According to DART's most recent workforce statistics, dated September 2008, DART had 3,321 employees and minorities represented 77 percent of the total workforce, as follows:

- Asians - two percent
- Blacks - 58 percent
- Hispanics - 17 percent
- American Indians - Less than one percent

Females represented 26 percent of the workforce. Sixty-five percent of DART's employees belonged to one union, Amalgamated Transit Union (ATU), Local 1338.

Each year, the DART Board of Directors adopts Agency Goals. For Fiscal Year 2009, under "Strategic Initiative III: Build & Maintain DART's Regional Transportation Leadership", the Board adopted the following:

Goal	Objective	Measure	EMT	Due
Ensure employment equity	Implement Monitoring & analysis measures required by DART's 3-year Affirmative Action Plan (2007-2010)	<ul style="list-style-type: none"> <li>• Conduct required yearly monitoring and analysis (calendar Year) of the Plan</li> <li>• Implement good faith effort outreach/ recruitment strategies for identified areas of underutilization</li> <li>• Conduct workforce analysis by department, job category &amp; job title</li> </ul>	Gamez	QTR II  QTR I

## 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<sup>®</sup> 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.
8. 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 this EEO Compliance Review consisted of consultation with the FTA Region VI Civil Rights Officer and Civil Rights Headquarters staff regarding the decision to conduct a Compliance Review of DART. Relevant documents from FTA's files were reviewed as background. Next, an agenda letter was prepared and sent to DART by FTA's Office of Civil Rights. The agenda letter notified DART of the planned Compliance Review, requested preliminary documents, and informed DART of additional documents needed and areas that would be covered during the on-site portion of the Review. It also informed DART of the staff and other organizations and individuals that would be interviewed. The following documents were requested:

1. A copy of all personnel policy guides, handbooks, regulations, or other material, that governs employment practices.
2. A copy of each complaint or lawsuit filed against DART, internally or externally, during the last three years (January 2006 - December 2008) alleging discrimination towards an employee or job applicant.
3. DART'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 DART to inform employees of their right to obtain reasonable accommodation and any formal procedures to make such accommodation. Also, a listing of requests for reasonable accommodations



from applicants and employees for the past three years, noting if DART 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 copy of the information given to employees regarding employer-sponsored on-the-job training or educational programs.
7. A copy of DART's current organization chart.
8. Collective Bargaining Agreements covering the past three years for each bargaining unit, if applicable.
9. A listing of all job titles for which written examinations are conducted.
10. A listing of all job titles for which medical or physical examinations are conducted.
11. Process Flow Charts and Operating Procedures of the EEO Monitoring and Reporting Systems.
12. A report on the results of DART'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.
13. 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.
14. 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.
15. 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.

16. 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.
17. Data on applicants/hires, promotions, terminations, demotions, suspensions and disciplinary actions for the past three years for persons with disabilities.
18. Utilization Analysis for the past two years prepared in accordance with FTA Circular 4704.1 Chapter III 2 d.
19. Goals and Timetables for the past two years prepared in accordance with FTA Circular 4704.1 Chapter III 2 e.
20. A description of the procedures and criteria used by DART to monitor its subrecipients and contractors to determine compliance with FTA EEO requirements.
21. Copies of EEO Programs from subrecipients and contractors that employ 50 or more transit related employees.

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

DART's site visit occurred February 4-6, 2009. The Entrance Conference was conducted at the beginning of the Compliance Review with DART's senior management staff, FTA Headquarters staff, 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 Review team conducted a detailed examination of documents submitted by DART's General Counsel and Director, Diversity & EEO on behalf of the agency. The Review team also held discussions with DART's Executive Vice President of Administration regarding DART's EEO Program and its implementation.

The next day, a group interview was conducted with members of DART's Human Resources staff to learn about DART'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 DART 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.

### **Community Interviews**

Several community representatives were interviewed and they had a wide range of involvement in the community. The individuals consisted of such persons as vocational rehabilitation counselors for individuals with disabilities, minority business members, civil rights community activists, and a DART Community Action Committee member. Most of the individuals stated that they were aware of DART involvement in job fairs within the last year. For those for whom it was relevant, none noted having received notifications from DART regarding available job

opportunities. Only one of those interviewed expressed a concern about DART's practice when it came to hiring, promoting, and disciplining persons without regard to race, color, age, sex, disability or national origin and only one had any knowledge of accusations of discrimination at DART. Most of those interviewed viewed DART as a very diverse organization and stated that they would like to have received notifications on available employment opportunities so they could share them with their constituents.

### **Staff Interviews**

Eight staff members were independently selected by the Review team for interviews. The staff members interviewed were an ethnically diverse group and included both men and women. All of the staff members had been with DART for several years. Each employee said that DART was a very diverse organization that provides lots of opportunity for promotion with no significant barriers. They all had received promotions during their time at DART.

DART recently underwent a reorganization that resulted in the establishment of a new EEO officer. The general consensus was that there was little or no knowledge of who the new EEO officer was or how the reorganization affected DART's EEO Program. Most were aware that the new change had been posted on the website. A notice about the new EEO officer was also sent out via inter-office mail. Everyone had received training on sexual harassment within the last three years and they knew that EEO training was part of the orientation for new employees. Staff in management positions did receive additional EEO training about every two years. Most of the staff expressed an interest in receiving additional information about the EEO officer and changes to the EEO program.

None of the individuals interviewed mentioned having concern about any specific complaints regarding EEO matters other than a desire to see the complaint process time shortened. One individual stated that he/she would like not only to see the process time shortened, but also would like to receive periodic updates on the status of complaints.

The only other specific recommendations on DART's EEO performance were to reinstate the Diversity Council. This Council was created by the previous Vice President of Diversity & EEO (a position that was eliminated) to obtain input from a diverse group of employees on matters such as proposed human resource policies. Several of the staff interviewed for this Review were past members of the Diversity Council and they and others commented on how the Council helped to educate their co-workers and others in their departments on diversity and other EEO matters.

At the end of the site visit, an Exit Conference was held with DART's senior management staff, FTA Headquarters staff, and the contractor Review team. At the Exit Conference, initial findings and corrective actions were discussed with DART. A complete list of attendees at the EEO Compliance Review is included at the end of this report.

Following the site visit, DART provided additional data and documents to the Review team that was used to complete this Compliance Review report.

## VI. FINDINGS AND RECOMMENDATIONS

The EEO Compliance Review focused on DART's compliance with nine specific requirements of FTA Circular 4704.1 and Title I of the ADA. This section describes the requirements and findings at the time of the Compliance Review site visit.

Deficiencies were identified in the following six areas: *Statement of Policy, Dissemination, Designation of Personnel Responsibility, Goals and Timetables, Assessment of Employment Practices, and Monitoring and Reporting System.*

Following the issuance of the Draft Report, DART submitted corrective actions sufficient to close all of the deficiencies in *Statement of Policy, Designation of Personnel Responsibility, Goals and Timetables, and Assessment of Employment Practices.* Deficiencies remain in two areas, *Dissemination, and Monitoring and Reporting System.*

### 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:** During this Compliance Review of DART, no deficiencies were found FTA requirements for Program Submission. DART submitted its most recent EEO Program Update, entitled *DART Affirmative Action Plan, December, 2007 – December, 2010*, to FTA in November 2007. The most recent Update, which

reported on employment data as of January 10, 2006, was comprised of the following areas:

- Introduction
- Policy Statement on Affirmative Action
- Equal Employment Opportunity Policy
- Dissemination and Implementation of Policy
- DART Management Organization Chart
- EEO Categories
- Workforce Analysis By Department
- Salary Chart
- Utilization Analysis
- Availability, Utilization and Goals Chart
- Affirmative Action Goals
- Action Plan and Timetables
- Discrimination Complaint Procedure
- Internal Monitoring

The FTA Region VI Regional Civil Rights Officer approved the DART EEO Program Update submittal on December 20, 2007 through December 20, 2010.

## **2. Statement of Policy**

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

**Finding:** During this Compliance Review of DART, deficiencies were found with FTA requirements for Statement of Policy. Prior to the site visit, DART provided the Review team with information on its Policy Statement through the following documentation that was contained in its most recent EEO Program Update to the FTA:

- Policy Statement on Affirmative Action
- DART Administrative Employment Manual (AEM) for Salaried and Non-Exempt Employees, Chapter 2.0 Employment Policies
- DART Hourly Employment Manual (HEM), Chapter 2.0 Equal Opportunity

The abovementioned “Policy Statement on Affirmative Action” contained all the required elements of a Statement of Policy as described in FTA Circular C 4704.1, except that the position designated as the Equal Employment Opportunity (EEO) Officer, the Vice President of Diversity & EEO, no longer existed at DART. In March 2008, DART reorganized the EEO function and created the position of Director of Diversity & EEO that reported to the Executive Vice President of Administration, with a dotted line reporting relationship to the President/Executive Director. Also, prior to and at the site visit, DART provided the Review team with additional information on its Policy Statement through the following documentation:

- Equal Employment Opportunity Policy, signed by the President/Executive Director (revised November 17, 2008)
- Affirmative Action Program, signed by the President/Executive Director (revised November 17, 2008)



- Interoffice Memorandum to All Salaried Employees from Lynda Jackson, Vice President, Human Resources, on the subject of AEM Modifications, dated January 26, 2009

The following table lists the elements required to be in a Statement of Policy and where each element can be found in the latest documents:

<b>DART EEO Policy Documents</b>			
<b>FTA C. 4704.1 Policy Statement Requirements</b>	<b>EEO Policy Poster</b>	<b>AA Program Poster</b>	<b>AEM/HEM<sup>1</sup></b>
Issued by CEO	Yes	Yes	No
Commitment to EEO	Yes	Yes	No
Undertake an Affirmative Action Program	No	Yes	No
EEO Program Assignment to Agency Executive	No	Yes	No
Management Personnel Share Responsibility	No	Yes	No
Applicants/Employees Right to File Complaints	Yes/Employees No/Applicants	No	Yes/Employees No/Applicants
Performance by Managers/Supervisors Evaluated	No	Yes	Yes
Successful Achievement Provides Benefits	No	Yes	No

No document contained all the required elements and, when taken in combination, did contain all the required elements except for applicants having the right to file complaints.

Following the issuance of the Draft Report, DART submitted to the FTA Office of Civil Rights documentation that it had developed an Equal Employment Opportunity Policy, dated June 25, 2009, that contained all the required elements. The deficiency in this area is now closed.

<sup>1</sup> AEM= Administrative Employment Manual for Salaried and Non-Exempt Employees  
HEM= Hourly Employment Manual

### 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:** During this Compliance Review of DART, deficiencies were found with FTA requirements for Dissemination. In its most recent EEO Program Update, entitled *DART Affirmative Action Plan, December, 2007 – December, 2010*, to FTA, DART described the internal and external dissemination of its EEO policy/program. During the site visit, DART provided documentation to show that it continued to disseminate its policy internally to the Board of Directors, management, and to current and new employees. The new posters on Equal Employment Opportunity Policy and Affirmative Action Program were posted throughout DART's employee areas, such as on bulletin boards in break rooms. With respect to external dissemination, DART did not provided documentation that, prior to the site visit, it had disseminated its new policy/program externally. As an example, the Review team toured public areas throughout the DART headquarters building, e.g., the DART Employment Office, the Board of Directors' meeting room, and the public lobby area. No Equal Employment Opportunity Policy and Affirmative Action Program posters were visible. Also, during interviews with community representatives, no one recalled ever receiving a copy of DART's EEO Policy or Affirmative Action Program. During the site visit, DART did place the posters in several public locations in DART facilities and on the DART website. In information given to potential applicants on the DART website regarding employment opportunities, there was the statement that "DART is proud to be an Equal Opportunity Employer, supporting diversity in the workplace. M/F/D/V". On

the employment application found on the DART website, there was a statement that “DART” is an Equal Opportunity Employer”. DART did not provide any other documentation of external dissemination of its EEO program.

Following the issuance of the Draft Report, DART provided a copy of the March 2009 issue of *reconnect*, its employee newsletter. This issue featured an article on the Office of Diversity & EEO. DART also submitted documentation that it was ready to internally and externally disseminate the revised EEO Statement of Policy as soon as the Policy was approved by FTA. DART would post the revised Policy on bulletin boards throughout the agency and on its website. DART also provided distribution lists for community organizations and various Chamber of Commerce groups representing women and ethnic minority groups.

**Corrective Action and Schedule:** DART must submit to the FTA Office of Civil Rights, not later than December 31, 2010, an assurance that it has posted the revised EEO Policy internally on bulletin boards and on its website. It must also provide an assurance that it has externally disseminated the revised Policy to the organizations provided in its response to the Draft Report.

#### 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:** During this Compliance Review of DART, deficiencies were found with FTA requirements for Designation of Personnel Responsibilities. 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.*

At the time of the site visit, the Director, Diversity & EEO was designated in the *Affirmative Action Program* as the EEO Officer. This position reported to the Executive Vice President of Administration, with a dotted line reporting relation to the President/Executive Director. This was a new position that was created during a larger reorganization of DART that occurred in late 2007. Previously, the EEO Officer was the Vice President of Diversity & EEO, an Executive level position that reported directly to the President/ Executive Director.

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, DART provided information regarding the role and responsibilities of the EEO Officer. In its initial submittal of responses to the Compliance Review agenda letter information request, DART provided a Job Requisition Workflow 800 diagram and a discussion that summarized its hiring process. In that hiring process, the only time the EEO Officer was involved was in *reviewing* the candidate "offer packet". At the site visit, DART indicated that it did not have written procedures for hiring. During the site visit, DART indicated that the EEO Officer was now "concurring" in all hires. DART provided a draft Standard Operating Procedure (SOP) entitled "General Hiring

Practices” that did, in fact, state that the “offer packet” would be reviewed and concurred by the Director, Diversity & EEO. During the site visit, a number of employment files were reviewed, including several hiring actions taken since the EEO Officer was authorized to “concur” in all hiring. The review of the files revealed that the Director, Diversity & EEO had signed off on some, but not all, hiring actions. Subsequent to the site visit, DART provided a Standard Operating Procedure (SOP) entitled “General Hiring Practices” that was signed by the appropriate officials. During the site visit, other aspects of the responsibilities were discussed and are summarized in the table below. In addition, prior to the site visit, DART provided a Job Description for the Director, Diversity & EEO. The Job Description contained the certain responsibilities outlined in the Circular, as summarized in the following table:

FTA Designation of Personnel Responsibility for EEO		
<b>EEO Officer Program Responsibilities</b> (FTA Circular 4704.1 III.2.c)	<b>DART EEO Officer Responsibility</b> (DART Hiring Practices)	<b>DART EEO Officer Responsibility</b> (DART Job Description)
Develop EEO Policy/Program	Yes	Yes
Assist Management in Data Needs, Setting Goals and Timetables, etc.	Yes	Data Needs-Yes Setting Goals and Timetables-No
Internal Monitoring and Reporting System	Yes	Yes
Reporting Periodically to CEO on EEO Progress	Yes	Not Specified
Liaison to Outside Organizations/Groups	Yes	Yes
Current Information Dissemination	Yes	Yes
Recruitment Assistance/Establish Outreach Sources	Yes	Yes
Concur in All Hires/Promotions	Yes for Hires Not Specified for Promotions	Not Specified
Process Employment Discrimination Complaints	Yes	Yes

Following the issuance of the Draft Report, DART submitted to the FTA Office of Civil Rights:

- A revised Job Description for the Director, Diversity & EEO that contained all the required responsibilities outlined in FTA C 4704.1.
- An assurance that the revised DART Hiring Process had been implemented and that the EEO Officer had sufficient authority to *concur* in all hires and promotions.

The deficiencies in this area are now closed.

## **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:** During this Compliance Review of DART, no deficiencies were found with FTA requirements for Utilization Analysis. DART provided workforce utilization analyses for 2006 and 2007. At the time of the site visit, DART had not completed its utilization analysis for 2008. Subsequent to the site visit, DART provided the 2008 utilization analysis. The DART Utilization Analyses showed the workforce by:

- EEO – 1 Categories/Job Groups
- Gender
- Ethnicity
- Availability

- Need for Goals
- Number of Employees in each Category/Job Group

DART based its employment availability percentages on the Dallas/Fort Worth MSA, the State of Texas, or National, depending on the applicable recruitment area.

## 6. Goals and Timetables

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

**Finding:** During this Compliance Review of DART, deficiencies were found with FTA requirements for Goals and Timetables. The Program Guidelines of FTA Circular 4704.1 Chapter III, 2e states:

*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.*

Prior to and during the site visit, DART provided information regarding its 2006 and 2007 goals. At the time of the site visit, DART had not developed its goals for 2008 or 2009. Information on goals for 2006 were found in the most recent EEO

Program Update, entitled *DART Affirmative Action Plan, December, 2007 – December, 2010*, to FTA, and included the following documents:

- Dallas Area Rapid Transit Utilization Analysis – 2006
- Detailed Availability, Utilization and Goal Chart
- Affirmative Action Goals
- Dallas Area Rapid Transit Utilization Analysis/Goals, and
- Action Program and Timetables

Information on goals for 2007 were found in documents entitled “Dallas Area Rapid Transit Availability Analyses – 2007” and “Goals & Timetables 2007”. In the documents reviewed where goals were set, goals were expressed only in “percentages”. DART did establish percentage goals for areas of underutilization but there were no numerical goals with timetables for any specific affected classes of persons identified in the utilization analyses.

Following the issuance of the Draft Report, DART submitted to the FTA Office of Civil Rights Goals and Timetables for 2009 in accordance with the requirements of FTA Circular 4704.1. The goals were based on DART’s 2008 Utilization Analysis that identified ten areas of underutilization. DART identified both short term numeric goals based on the projected openings in each category and long-term percentage goals. The deficiency in this area is now closed.



## 7. 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:** During this Compliance Review of DART, deficiencies were found with FTA requirements for Assessment of Employment Practices. DART did not document that it had conducted qualitative or quantitative assessments of employment practices.

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.*

In the most recent EEO Program Update, entitled *DART Affirmative Action Plan, December, 2007 – December, 2010*, to FTA, DART provided considerable information on its workforce in the section entitled “Workforce Analysis by Department”. However, there was no discussion regarding a qualitative and quantitative analysis of employment practices to identify those practices that operated as employment barriers and unjustifiably contributed to underutilization. Prior to the site visit, DART provided a document entitled “Assessment of Employment Practices”, which was a flow chart showing steps to be taken on “A review of the Agency’s employment practices and related actions...”. DART did not document that it had utilized the flow chart process to conduct qualitative or quantitative assessments of its employment practices in accordance with FTA Circular 4704.1. At the site visit, DART provided detailed information regarding its Human Resources database. The database contained a substantial amount of information on employment actions. While the Human Resources department was able to show recent data to the Review team on new hires, promotions, terminations and disciplinary actions by race and gender for analysis, it did not appear that the Director, Diversity & EEO had reviewed or analyzed this data on a regular basis.

Additional DART employment practices that should be assessed by Diversity and EEO are the use of testing in the hiring process and the impact of changing job descriptions on hiring decisions.

The DART Human Resources department administered testing for a number of positions. The “tests” reviewed during this Compliance Review included writing samples and candidate responses to hypothetical situations that might be faced in the position being filled. It appeared that the hiring manager took the initiative in determining the need for a “test” and actually created the “test” with oversight from the Human Resources department. While the files reviewed during the site visit, suggested that these “tests” were job related, the potential existed for the testing process to be used as a barrier for equal employment opportunity. The Director, Diversity & EEO was not involved in any review of the tests and the Human Resources department was unable to document that the tests were not biased.

Additionally, DART permitted the hiring manager to initiate changes to a job description prior to a job posting. If the changes were significant, the Human Resources department would review the change and considered the impact it had on pay and classification. DART provided current and prior job descriptions for a number of operating and maintenance positions in the rail and bus divisions. The Bus Operator Job description was revised four times in five years. The education, certifications and experience requirements appeared to remain the same in three of the four changes. However, the most recent change (March 2009) added the following requirement: “Must pass a technical knowledge test”. The rail operator job description was revised eight times in three years. Again, the primary requirements for education, certifications and experience were not changed, but new requirements were added. While the Review team did not find any documentation that the changes were made by the hiring managers in an effort to create barriers in employment for women or minorities, the EEO Officer should periodically conduct assessments to determine if these and other employment practices have had an adverse impact on recruiting and retaining women. It should be noted also that EEO

complaints had increased in the past year. A regular assessment of employment practices by DART not only would meet FTA requirements, but also would provide documentation of DART's "due-diligence".

Following the issuance of the Draft Report, DART submitted to the FTA Office of Civil Rights a very comprehensive qualitative and quantitative assessment of employment practices, including an analysis of applicants, new hires, promotions, separations, and disciplinary actions, by ethnicity and gender. DART identified in this assessment the need in future analyses to analyze the use of tests and the impacts, if any, of changes to job descriptions. It provided an assurance that it had begun to collect this data and that future assessments would include these employment practices to determine if any barriers exist that have an adverse impact on the employment or promotion of women or minorities. The deficiency in this area is now closed.

#### 8. 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:** During this Compliance Review of DART, 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.*

In the most recent EEO Program Update, entitled *DART Affirmative Action Plan, December, 2007 – December, 2010*, to FTA, DART had a section entitled “Internal Monitoring and Reporting System”. The section described the process for implementation of “an internal audit and reporting system to measure the effectiveness of DART’s Equal Opportunity/Affirmative Action Program”.

As stated previously, for Fiscal Year 2009, under “Strategic Initiative III: Build & Maintain DART’s Regional transportation Leadership”, the DART Board of Directors adopted the following:

Goal	Objective	Measure	EMT	Due
Ensure employment equity	Implement Monitoring & analysis measures required by DART’s 3-year Affirmative Action Plan (2007-2010)	<ul style="list-style-type: none"> <li>• Conduct required yearly monitoring and analysis (calendar Year) of the Plan</li> <li>• Implement good faith effort outreach/ recruitment strategies for identified areas of underutilization</li> <li>• Conduct workforce analysis by department, job category &amp; job title</li> </ul>	Gomez	QTR II  QTR I

At the site visit, DART was able to demonstrate that it had been providing information to its Board of Directors regarding its Equal Employment Opportunity/Affirmative Action Program. DART did not provide documentation that it had completed its monitoring effort for 2008.

DART had one contractor, Herzog Contracting Corporation, that operates the region's commuter rail service, Trinity Railway Express (TRE). Herzog did employ 50 or more "transit-related" employees and the TRE received FTA funds for capital expenditures. A review of DART grant activity showed that at least two active FTA grants were for TRE facilities (TX-90-V549 and TX-90-X744). Prior to the site visit, DART provided a copy of Herzog's Equal Employment Opportunity Policy Statement dated January 14, 2008. DART did not provide a copy of an EEO Program for Herzog that conformed to FTA Circular 4704.1.

Following the issuance of the Draft Report, DART provided documentation that it had assessed EEO accomplishments for 2008 and had reported on the results and areas of underutilization to the senior management team and to the Board of Directors during March and April 2009. This deficiency regarding internal monitoring is now closed. DART noted, in its response to the Draft Report, that it had requested a current and complete EEO Program from its subcontractor, Herzog. This document was expected by September 22, 2009.

Prior to the issuance of the Final Report, DART provided sections of an EEO Program from its contractor, Herzog Contracting Company. The documentation submitted by DART included:

- Herzog Policy Statement - dated April 2009
- Availability Analysis - listing availability by job category using 1999 labor statistics from St. Joseph, MO.
- Addendum to Affirmative Action Program - undated. Discusses general goals to hire more women, if and when openings become available. Also includes statements that employment practices have been reviewed and data will be maintained, but does not include documentation of these practices.
- Letter dated January 8, 2009 - states Herzog's commitment to EEO and a list that this letter was disseminated to 76 colleges and minority and women advocacy agencies, in California, Missouri, New Mexico and Texas. A

second letter, undated, was followed by a distribution list of 36 employment agencies.

These documents do not meet the requirements set forth in FTA Circular 4704.1.

Key Herzog EEO Program deficiencies were:

- Policy statement lacks five of the eight FTA required policy statement elements
- No current availability or utilization analysis for the Trinity Railway Express workforce
- No goals or timetables, as per the Circular
- No documentation of assessment of employment practices
- No documentation of monitoring and reporting system

**Corrective Action and Schedule:** DART must submit to the FTA Office of Civil Rights, not later than December 31, 2010, an EEO Policy and Program for Herzog that conforms to FTA Circular 4704.1.

## 9. 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:** During this Compliance Review of DART, no deficiencies were found with FTA requirements for Title I of the ADA. DART included persons with disabilities as a protected group in its Equal Opportunity Policy and its Affirmative Action Policy, as well as in its Administrative Employment Manual (AEM) and

Hourly Employment Manual (HEM). In information given to potential applicants on the DART website regarding employment opportunities, there was the statement that “DART is proud to be an Equal Opportunity Employer, supporting diversity in the workplace. M/F/D/V”. DART informed its employees of their right to reasonable accommodation in the AEM. The AEM stated that information and assistance could be obtained from the DART Office of Diversity and EEO. DART provided documentation that it had considered a number of reasonable accommodation requests in the past years, some of which were ADA reasonable accommodation requests, and that it had a process for making determinations of reasonableness.



## 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	ND			
2. Statement of Policy	D	Policy lacks required elements	DART must submit to the FTA Office of Civil Rights documentation that has developed and issued a EEO Statement of Policy that contains all the required elements.	Closed 6/25/09
3. Dissemination	D	Inadequate external dissemination of policy	DART must submit to the FTA Office of Civil Rights an assurance that it has posted the revised EEO Policy internally on bulletin boards and on its website. It must also provide an assurance that it has externally disseminated the revised Policy to the organizations provided in its response to the Draft Report.	Due 12/31/10
4. Designation of Personnel Responsibility	D	Inadequate designation of personnel responsibility	DART must submit to the FTA Office of Civil Rights: <ul style="list-style-type: none"> <li>• A revised Job Description for the Director, Diversity &amp; EEO that contains all the required responsibilities outlined in FTA C 4704.1.</li> <li>• An assurance that the revised</li> </ul>	Closed 6/25/09

Requirements of FTA Circular 4704.1	Site Review Finding	Description of Deficiencies	Corrective Actions	Response Days/ Closed Date
			DART Hiring Process has been implemented and that the EEO Officer has sufficient authority to <i>concur</i> in all hires and promotions.	
5. Utilization Analysis	ND			
6. Goals and Timetables	D	Inadequate short term goals	DART must submit to the FTA Office of Civil Rights Goals and Timetables in accordance with the requirements of FTA Circular 4704.1.	Closed 6/25/09
7. Assessment of Employment Practices	D	No documentation of qualitative or quantitative assessment of employment practices	DART must submit to the FTA Office of Civil Rights qualitative and quantitative assessments of employment practices, identifying any barriers that have an adverse impact on the employment or promotion of women or minorities, in accordance with the requirements of FTA Circular 4704.1.	Closed 6/25/09
8. Monitoring and Reporting System	D	Inadequate documentation of monitoring and reporting system	DART must submit to the FTA Office of Civil Rights <ul style="list-style-type: none"> <li>• A completed monitoring and reporting process consistent with FTA Circular 4704.1</li> <li>• An EEO Policy and Program for</li> </ul>	Closed 6/25/09  Due 12/31/10

Requirements of FTA Circular 4704.1	Site Review Finding	Description of Deficiencies	Corrective Actions	Response Days/ Closed Date
			Herzog that conforms to FTA Circular 4704.1.	
9. Title I of the ADA	ND			

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

## VIII. ATTENDEES

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