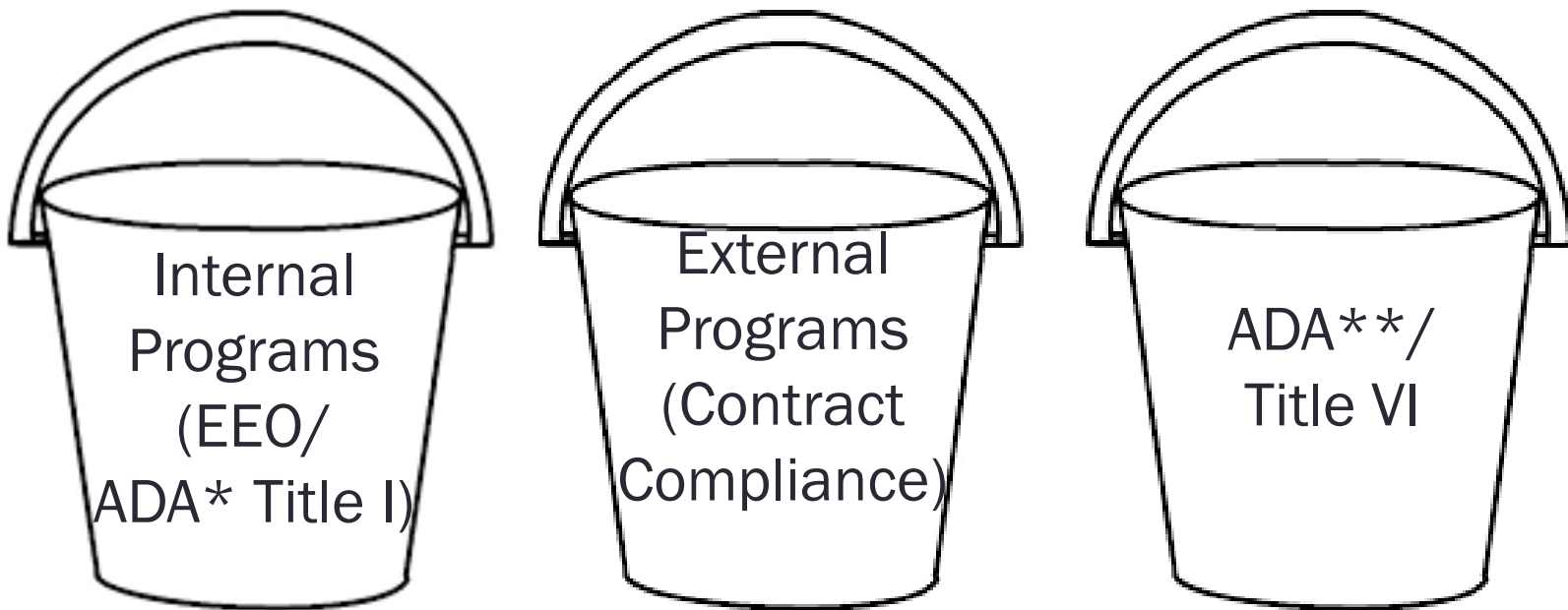


OFFICE OF DIVERSITY AND CIVIL RIGHTS

MassDOT and MBTA

ODCR – Three Buckets of Work



* Includes ADA - Title I prohibiting employment discrimination against qualified individuals with disabilities

** ADA -Title II prohibits Discrimination on the Basis of Disability in State and Local Government Services.

Overview of ODCR Internal Programs

- Internal operations consist of the following programs:

- Equal Employment Opportunity/Affirmative Action (EEO/AA)
- Americans with Disabilities Act (ADA) (MassDOT)
- Civil Rights Investigations
- Mediation and Training Unit

These programs work in collaboration with operating units to provide training, enforce Civil Rights related policies and laws, and to assist MassDOT/MBTA in ensuring a workplace that is free of discrimination, harassment and retaliation

EQUAL EMPLOYMENT OPPORTUNITY (EEO) PROGRAM

The EEO Program was developed and implemented to meet the requirements of both state and federal law:

- CIVIL RIGHTS ACT of 1964 (42 U.S.C. 2000d et seq.)
- AMERICANS WITH DISABILITIES ACT (ADA) (Title I)
- M.G.L. c. 151B (Unlawful Discrimination Because Of Race, Color, Religious Creed, National Origin, Ancestry Or Sex)
- FTA's EEO Circular (4704.1A)

US DOT regulations require both agencies, **as a condition for receiving federal funds**, to report on EEO finding periodically. The next submission for a new EEO plan is due in June 2018

EQUAL EMPLOYMENT OPPORTUNITY (EEO) PROGRAM

Federal Requirements

- *“Since 1977, DOT has required recipients of transit funding meeting certain criteria to establish Equal Employment Opportunity (EEO) Programs and to comply with applicable laws and regulations...”*
- *Any FTA applicant, recipient, subrecipient, and contractor who meet both of the following threshold requirements must implement all of the EEO Program elements:*
- *Employs 100 or more transit-related employees, and*
- *Requests or receives capital or operating assistance in excess of \$1 million in the previous Federal fiscal year, or requests or receives planning assistance in excess of \$250,000 in the previous Federal fiscal year.”*

*FTA Circular 4704.1A

EQUAL EMPLOYMENT OPPORTUNITY (EEO) PROGRAM

- **State Requirements**
- *“All state agencies shall develop and implement affirmative action and diversity plans to identify and eliminate discriminatory barriers in the workplace; remedy the effects of past discriminatory practices; identify, recruit, hire, develop, promote, and retain employees who are members of under-represented groups; and ensure diversity and equal opportunity in all facets, terms, and conditions of state employment. Such plans shall set forth specific goals and timetables for achievement, shall comply with all applicable state and federal laws, and shall be updated, at a minimum, every two years.”*

*Executive Order 526

The EEO Program Plan is approved by US DOT Administrative Agencies (FHWA & FTA) on a triennial basis and approved by the Commonwealth's Office of Diversity and Equal Opportunity annually.

Main Features of the EEO Program

- Ensuring agency policies and procedures *“comply with applicable Federal civil rights laws and regulations and”... “follow applicable Federal guidance”*
 - Design, implement, and monitor internal audit and reporting systems to measure program effectiveness and to determine where progress has been made and where proactive action is needed
 - Preview and review hiring process documents to ensure a fair hiring and promotion process
 - Collaborate with Human Resources, to review employment practices policies (e.g., hiring, promotions, training), complaint policies, reasonable accommodation policies, performance evaluations, grievance procedures, and union agreements
- Advise and counsel the Secretary-CEO and GM on the progress of the EEO Program, the results of the monitoring (e.g., hiring, promotions, complaints), “hot button” issues and EEO policy and practice recommendations
- Assisting management in collecting and analyzing employment data, identifying problem areas, setting goals and timetables, and developing programs to achieve goals
- Actively promotion of tenets of MassDOT/MBTA EEO Plan (including ADA Title I)

*FTA Circular C 4704.1A

MassDOT's ADA Program

- The Americans With Disabilities Act is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public
- ODCR has responsibilities to administer and ensure compliance under both Title 1 (Employment) and Title II (State and Local Government) of the ADA
- Title I of the ADA prohibits employment discrimination against qualified individuals with disabilities

MassDOT's ADA Coordinator

- Primary point of contact for ensuring that MassDOT complies with Americans with Disabilities Act (ADA) - Title I and analogous state laws
- Administer and resolve requests for reasonable accommodation consistent with requirements of state and federal law
- Serve as a subject-matter expert for MassDOT on matters impacting employees with disabilities, offering technical assistance and training
- Serve on committee that includes ODCR, Human Resources, Workers Compensation, Office of Labor Relations and Employment Law to discuss individual matters that require careful deliberation on available rights and responsibilities

Investigations Unit

- A MassDOT and MBTA shared service unit composed of experienced attorneys certified in investigations, training and mediation.
 - Specialized Training focuses on inappropriate behavior in the workplace (e.g. hate symbols and sexual harassment)
- Investigates complaints filed by customers, employees, and vendors alleging a violation of Civil Rights related MassDOT/MBTA policy and/or state and federal law
- Complaints that do not rise to a Civil Rights violation may be referred by the Investigator to ODCR's Training & Mediation Unit

Training and Mediation Unit

- The Training & Mediation Unit's primary responsibility is educating the workforce by developing and delivering three mandatory trainings the content of which is both preapproved and required by the FTA and FHWA.
 - The Anti-Discrimination/Harassment Prevention (ADHP)
 - Diversity: Leading on the Road to Inclusion (for Supervisor)
 - Diversity: On the Road to Inclusion (for Employees)
 - Equal Employment Opportunity (EEO) and Affirmative Action Plan (AAP)

Training and Mediation Unit

- In response to the needs of the organization, this unit also conducts:
 - Mediation
 - Facilitated Dialogue
 - Partners in Transportation Monthly Diversity Celebrations
 - Development of additional trainings

- The FHWA & FTA has approved MassDOT's EEO Internal Program submission for two consecutive years finding that it "substantially complies with regulatory requirements"
- The next submission to the FHWA and FTA for an EEO plan is due June 1, 2018
- OCDR will return to both Boards in advance of this submission