

DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION

SUPPORTING STATEMENT

Nondiscrimination as It Applies to FTA Grant Programs

(OMB Control No. 2132-0542)

ABSTRACT

This is a request to the Office of Management and Budget (OMB) to approve a three-year extension of an Information Collection Request (ICR) for OMB Control Number 2132-0542, “Nondiscrimination as It Applies to FTA Grant Programs”, which is currently due to expire on February 28, 2022. This request is a revision of an existing information collection. There have been no programmatic changes or burden changes since the last approval from OMB. However, the previous submission to OMB erroneously listed the annual burden hours as 1,575. That was incorrect, the 1,575 hours is actually the burden hours per respondent not the total annual Burden hours. The total annual burden hours is 83,475 (1,575 annual burden hours per respondent x 53 annual respondents). So, although neither the annual respondents nor the burden hour per response has changed since the previous submission, the revision in the 2022 ICR submission reflects FTA notating the data in the correct fields of the ROCIS table. The information collected is associated with an Equal Employment Opportunity (EEO) plan that respondents submit to FTA via the electronic grant management systems called TrAMS when they apply for federal financial assistance under an FTA grant program. They must provide specific plans and analysis to ensure that the Civil Rights program requirements are met.

1. Circumstances that make the collection necessary.

The Federal Transit Laws, 49 U.S.C. 5332(b), provide that “no person in the United States shall on the grounds of race, color, religion, national origin, sex, or age be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any project, program or activity funded in whole or in part through financial assistance under this Act.” This applies to employment and business opportunities and is in addition to the provisions of Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

Since 1977, as part of the grant approval process, FTA has required grantees to submit EEO programs to demonstrate compliance with Title VII of the Civil Rights Act of 1964 and Section 13 of the FTA Master Agreement. The FTA Master Agreement applies to Federal assistance authorized by Federal public transportation laws codified at 49 U.S.C. Chapter 53; Title 23, United States Code (Highways); and other Federal legislation FTA administers to the extent FTA so determines.

The Federal Transit Administration's (FTA) policies and requirements are designed to clarify and strengthen Equal Employment Opportunity (EEO) procedures for FTA grant recipients by requiring submission of written EEO plans and concurrence of such plans by FTA. Experience has demonstrated that a program requirement at the application stage is necessary to ensure that affirmative action is properly and earnestly undertaken by grant recipients.

The above policies are supported by 42 U.S.C. 2000d–Title VI of the Civil Rights Act of 1964; 28 CFR Part 42.406–Coordination of Enforcement of Nondiscrimination in Federally-Assisted Programs; Federal Transit Law at 49 U.S.C. 5332(b); and 49 CFR Part 21–Nondiscrimination in Federally Assisted Programs of the Department of Transportation.

2. How, by whom, and for what purpose the information is to be used.

When recipients submit a request for federal financial assistance, they must provide specific plans and analysis to ensure that the Civil Rights program requirements are met. No special form is used to collect this information. Each plan may differ in size and format, but each grantee’s plan must adhere to specific program requirements prior to receipt of funding assistance. The plans are similar in format for any grant they apply so respondents typically use a standard plan they have developed over the years and change the data specific for the grant they are applying for at that time. The data derived from the written EEO and affirmative action plans is used by the Office of Civil Rights in monitoring grantees' compliance with applicable EEO laws and regulations. This monitoring and enforcement activity helps ensure that minorities and women have equitable access to employment opportunities and that recipients of federal funds do not discriminate against any employee or applicant based on race, color, religion, national origin, sex, age, genetic information, disability, veteran status or retaliation. All recipients of FTA funds are required to comply with the terms of a Master Agreement, which becomes part of the grant agreement. “Section 13. Civil Rights” of the Master Agreement states that recipients agree to comply with all applicable civil rights laws and regulations, except as otherwise determined in writing by the federal government. Any FTA applicant, recipient, sub-recipient, and contractor who meet both following threshold requirements must implement all 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.

Agencies that have between 50 and 99 transit-related employees are required to prepare and maintain an EEO Program that includes the statement of policy, dissemination plan, designation of personnel, assessment of employment practices, and a monitoring and reporting system. These smaller agencies are not required to conduct a utilization analysis with goals and timetables or to submit the EEO Program to FTA every four years. Instead,

these agencies will be required to provide the EEO Program to FTA if requested by the Office of Civil Rights or for a State Management Review or Triennial Review. Before the new circular, the employee threshold was 50 transit-related employees with a EEO plan submission every three years. To decrease the burden on transit agencies, FTA changed the threshold to 100 transit-related employees with a four-year plan submission.

FTA requires the agencies to request EEO Programs from their sub-recipients and contractors who meet the EEO Program threshold described above. This will enable agencies to determine and document that sub-recipients and contractors comply with EEO statutes and regulations.

FTA applicants, recipients, sub-recipients, and contractors who do not meet the EEO Program threshold above are not required to submit an EEO Program to FTA but are still required to comply with all Equal Employment Opportunity statutes and regulations.

Circular 4704.1A, Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients provides information on the methods FTA will use to enforce EEO requirements in accordance with its responsibilities under Federal Transit Laws and 49 CFR Part 21.

A sample plan is included in the ROCIS submission.

3. Describe whether collection of information involves information technology and any consideration of using information technology to reduce the burden.

All recipients of FTA funds are required to use FTA's TrAMS system from the initial application stage through post-award management. Additionally, the Office of Civil Rights has used TrAMS since 2016 for the EEO Program submissions. This has improved communications and the processing of program requirements. The use of internet technology by 100% of recipients has improved communications and reduced long-term costs associated with EEO as it applies to FTA Grant Programs.

4. Describe efforts to identify duplication. Show specifically why similar information already available cannot be used or modified for use for the purposes described in Item 2.

There is no duplication. The information collected by FTA is not available from any other source.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

FTA continues to minimize the burden of small agencies by allowing agencies that have 50–99 transit-related employees to prepare and maintain an EEO Program that includes the statement of policy, dissemination plan, designation of personnel, assessment of employment practices, and a monitoring and reporting system. These smaller agencies are not required to conduct a utilization analysis with goals and timetables or to submit the EEO Program to FTA every four years. Since the implementation of the updated EEO Circular in October 2016, this initiative continues to be praised by FTA stakeholders.

6. Describe consequences to federal program or policy activities if the information were not collected or collected less frequently, as well as any technical or legal obstacles to reducing burden.

The EEO Program is required to be submitted every four years. This information is required due to the rapid turnover in the grantees’ work force, particularly at entry-level positions, and the constant change in other employment areas, such as recruitment, promotions, and terminations. Information must be collected on a frequent basis because grantees are required to monitor their recruitment and employment. A less frequent reporting period would make it difficult to determine the progress made by the grantee.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner inconsistent with 5 CFR 1320.6.

The collection is consistent with 5 CFR Part 1320.6.

8. Describe efforts to consult with persons outside the agency to obtain their views.

A 60-Day Federal Register Notice (FRN) was published on November 1, 2021, Vol. 86, No. 208 (page 60332), soliciting comments prior for the approval of this information collection to submission to the Office of Management and Budget (OMB). FTA received one comment on January 1, 2022 after issuing this 60-day notice. The commentor suggested that although implied, FTA specifically include a reference to the American with Disabilities Act (ADA) of 1990 in the wording of future Federal Register Notices associated with this information collection. FTA has a robust ADA program that is separate from this information collection, however FTA added the ADA reference in the 30-Day FRN which published on February 10, 2022 under the background section to make sure it is explicitly clear FTA supports and enforces the ADA. FTA also added the ADA reference to its response to question number one of this supporting statement for the same reason. The 30-Day Federal Register Notice was published on February 10, 2022 Vol. 87, No.28 (page 7898-7899).

FTA continues to conduct routine outreach directly to respondents. FTA has a regional civil rights officers designated for every transit agency, state highway, metropolitan planning organization and State agency in the U.S. to ensure stakeholders receive guidance, training, policy updates, technical support, and all relevant information for any EEO concerns. The

regional civil rights officers are located throughout the United States and routinely (daily and monthly) communicate with respondents to provide technical assistance to questions and concerns.

In addition, FTA has a “Contact Us” tool located on its website, which allows recipients and the public to ask questions. All EEO questions are assigned to the Office of Civil Rights EEO Team, which is comprised of specialist from headquarters and the regions. They provide written responses. FTA also has a EEO “Frequently Asked Questions” link on its website.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payment or gift is made to respondents.

10. Describe any assurance of confidentiality provided respondents.

All information collected is certified to comply with the Freedom of Information Act, the Privacy Act of 1974, and Office of Management and Budget Circular A-108. Confidentiality is provided, when requested, for information exempt from mandatory public disclosure requirements of the Freedom of Information Act.

11. Additional justification for any questions of a sensitive nature.

One of the components of an EEO program is that the grantee report on employees in job categories and the range of salaries for each of these categories. The report does not provide names of individuals or their specific salary. The salary is based on the EEO category. Information relating to salaries is needed to ensure that minorities and women are paid salaries comparable to other employees in the same job categories.

12. Estimates of the hour burden of the collection of information and annualized cost to respondents.

Estimated Total Annual Number of Respondents: 53 (52.5 actual)

Estimated Total Annual Number of Responses: 53

Estimated Total Annual Burden Hours per respondent: 1,575 (30 hours per respondent)

Estimated Total Annual Burden Hours: 83,475 (1,575 hours per x 53 respondents)

Estimated Annual Total Cost: \$ 60,685

Information Requirements for each plan	# Total Annual Respondents	Frequency of Response (Every 4 years)	#Burden Hours Per Submission	#Total Burden Per Response	#Total Annual Burden Hours	Total Cost
EEO Program <ul style="list-style-type: none"> • Race • Gender • Sex • Complaints • Employment practices 	53	1	30	1,575	83,475	\$60,685

Approximately 210 grant recipients are required to prepare EEO submissions during each 4-year period. Annualized, there are 53 (actual is 52.5) respondents. Based on a discussion with 4-6 grantees (small and large), it is estimated that the average time spent in the preparation of an EEO program plan is 30 hours. Annualized, the burden per respondent is 1,575 hours (52.5 respondents x 30 hours). The estimated total annual burden hours for all 53 respondents is 83, 475 hours (1,575 burden hours per respondent x 53 annual respondents).

b. Cost to Respondents:

While the range of labor costs vary between small and large grantees, FTA utilizes data from the 2020 Bureau of Labor Statistics and estimates that the average salary of the respondent, typically a First-Line Supervisors of Office and Administrative Support Workers (occupation code 43-1011) [First-Line Supervisors of Office and Administrative Support Workers \(bls.gov\)](https://www.bls.gov/oes/current/oes431011.html) has a median hourly wage of \$38.15 (hourly salary \$29.81 weighted with a 28% benefits adjustment). It is estimated to take each respondent approximately 30 hours to prepare and submit an EEO program. With an average salary of \$38.15 per hour, it cost reach respondent \$1,145 annually (38.15 x 30 hours). There is a total of 53 reports annually; therefore, the cost is estimated to be \$60,685 annually (53 x \$1,145)

Since submittals of EEO Programs were forwarded via FTA’s electronic grant management system (TrAMS) began in 2016, there is no longer any overhead cost associated with printing and equipment cost.

13. Estimate of total annual cost burden to respondents or record keepers resulting from the collection of information (not including the cost of any hour burden shown in Items 12 and 14).

The information collected and reviewed is required in the course of normal business and

there is no additional cost beyond that shown in Items 12 and 14.

14. Estimates of annualized cost to the federal government.

A total of (10) Civil Rights Officers review EEO program submissions. On an average, they spend approximately 11 percent of their total annual duty hours, or approximately 230 hours per year (11% x 2080 duty hours per year) reviewing programs. With an average grade of GS-13 Step 1, at an hourly rate of \$45.22, the total cost of labor hours for the 10 officers is \$104,006 (230 hours x \$45.22 x 10).

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of OMB Form 83-I.

This request is a revision of an existing information collection. There have been no programmatic changes or burden changes since the last approval from OMB. However, the previous submission to OMB erroneously listed the annual burden hours as 1,575. That was incorrect, the 1,575 hours is actually the burden hours per respondent not the total annual Burden hours. The total annual burden hours is 83,475 (1,575 annual burden hours per respondent x 53 annual respondents). So, although neither the annual respondents nor the burden hour per response has changed since the previous submission, the adjustments in the 2022 ICR submission reflects FTA notating the data in the correct fields of the ROCIS table.

16. Plans for tabulation and publication for collections of information whose results will be published.

FTA does not anticipate the publication of its EEO data.

17. If seeking approval not to display the expiration date for OMB approval, explain the reasons.

There is no reason not to display the expiration date of OMB approval.

18. Explain any exception to the certification statement identified in Item 19 of OMB Form 83-I.

No exceptions are stated.