

# *Business Plan*



*Civil Rights Division*  
*District Department of Transportation*

## **Section 1 - Description**

It is the primary function of the Office of Civil Rights (OCR) to ensure that DDOT is educated and compliant with federal Civil Rights laws as a federal grantee. The Office of Civil Rights (OCR) is responsible for ensuring that DDOT is in compliance with federal and local laws. As a federal grantee, the OCR is required to adhere to Title VI, Title VII which included Contract Compliance, an On-the-job training program, the Disadvantaged Business Enterprise program, and the Americans with Disabilities Act. Our office also fulfills two District of Columbia law requirements, which are the agency reporting requirements for Certified Business Enterprise (CBE) expenditures and the DC Language Access Act of 2004.

## **Section 2 – Origin and History**

In 2002, the Office of Civil Rights coincided with the Office of Contracting and Procurement. As result of a review that was done by the Federal Highway Administration (FHWA) in January of 2004, OCR was devised as a separate office.

There was also a separate “Office of Integrity & Compliance” unit headed by Ms. Valerie E. Kitchings, Acting Chief Integrity Officer. At that time the mission of Integrity and Compliance was to assist DDOT employees and management in achieving the highest level of integrity to ensure that the agency’s external customers receive reliable and efficient service. To accomplish this mission, the Office of Integrity and Compliance (OIC) investigated all reported instances of fraud, waste and abuse.

In 2008, DDOT formed the Office of Integrity and Workforce Development. This office was headed by Ms. Danette Walker-Mincey. The office held the integrity component, the labor relations unit, civil rights and Davis Bacon programs. After a reduction in force eliminated the integrity section, the labor unit was moved directly under the Chief of Staff leaving behind the Office of Civil Rights. Last fall, the division’s name was officially changed back to the Office of Civil Rights and currently operates single –handedly, without the Fraud and Investigations unit or Labor Relations. The current chief of the OCR is Ms. Lisa Gregory.

### **Organization Structure**

OCR’s operating budget is the result of direct allocations from the Federal Highway Administration (FHWA). The organization and its employees are structured as follows:

Chief, Lisa Gregory

ADA Coordinator, Brett Rouillier  
Title VI Coordinator, Jordyne Blaise  
Title VII Coordinator, Jordyne Blaise  
EEO Specialist, Glenda Payne  
EEO Specialist, Luisa Portillo  
EEO Contract Compliance Specialist, Mohammed Kabir  
OJT/DBE Supportive Services Coordinator, Linda Fennell  
DBE Contract Specialist Consultant, Malcolm Jackson  
DBE Supportive Services, Mike Licht

## **Operating Budget**

The Office of Civil Rights has eight FTE's that are paid out of the general budget and two contractors. Our office receives direct federal allocations for our Civil Rights program, DBE Supportive Services program and the BOWDC. However, funding is not guaranteed every year for these programs. Please see the attached spreadsheet and funding allocations for over the last ten years.

## **Section 3 – Customers, Mandates and Other Strategic Priorities**

### **OCR Customers**

#### *Disadvantaged Business Enterprise (DBE):*

OCR sets DBE annual goals, as well as individual contract goals every three years on federally funded projects. OCR also monitors contract compliance on federally funded projects.

- Internal – Infrastructure Project Management Administration (IPMA), Chief of Staff (COS), Office of Contracting and Procurement (OCP)

OCR hosts events to train and build the capacity of DBE's through our supportive services unit. Through these events we are able to foster networking between prime contractors and DBE subcontractors in the Washington area market.

- External – Washington area businesses, DC residents, small businesses nationwide, FHWA, DC area prime contractors, National Association of Minority Contractors (NAMC), COMPTON

#### *On-the-Job-Training:*

OCR sets Training Special Provision (TSP) training positions on federally funded contracts.

- Internal – IMPA, COS, OCP

Ensures trainees receive adequate support and training during their training program, in part by collaborating community organizations

- External – individuals seeking employment, DC residents, FHWA, prime contractors, DBEs, unions, community organizations

*ADA:*

Internal – Transportation Operations Administration (TOA), Policy and Planning Services Administration (PPSA), COS, IPMA, OCP, Progressive Transportation Services Administration (PTSA)

External – DC residents, local and national disabled community, FHWA, ANCs, DC City Council, Office of Disability Rights, private development communities, US Dept. of Justice, US Dept. of Transportation, DDOT’s street design consultants and construction contractors, disabled advocacy community

*Title VI –*

OCR provides recommendations, training, technical assistance and policy guidance to internal customers for bringing agency activities into compliance with federal civil rights requirements.

- Internal -Title VI coordinators, project managers, ward planners, DDOT’s Environmental Program Coordinator, PTSA, DDOT Managers and Associate Directors

External - Mayor’s Office on Latino, Asian Pacific Islander, African Affairs, Office of Human Rights, DC access language coalition, Metropolitan Council of Governments (MCOG), Transportation Planning Board, specifically The Access for All Committee.

- OCR collaborates with organizations and community stakeholders targeting minority, low-income, disabled, and limited/ non-English proficient groups on policy and program development. OCR also monitors its sub-recipients for compliance with Title VI and provides recommendation and technical assistance to improve access to their programs and services by protected populations.

*Title VII*

Internal – DDOT employees and managers, General Counsel Office

External—FHWA, DBE’s, prime contractors

## **Mandates**

OCR is governed by several federal mandates. Our programs mandates include the Civil Rights Act of 1964 and related statutes:

49 Code of Federal Regulations (CFR) Part 26 – DBE and Contract Compliance

23 CFR Part 230 – EEO Subpart C and D

23 CFR Part 111 -ADA

23 CFR Part 200.9 – Title VI

**The Civil Rights Restoration Act of 1987**, P.L. 100-209, provides:  
Clarification of the original intent of Congress in Title VI of the 1964 Civil Rights Act, Title IX of the  
Education  
Amendments of 1972, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of  
1973.

(RESTORES THE BROAD, INSTITUTION-WIDE SCOPE AND COVERAGE OF THE NON-  
DISCRIMINATION  
STATUTES TO INCLUDE ALL PROGRAMS AND ACTIVITIES OF FEDERAL-AID RECIPIENTS,  
SUB-RECIPIENTS AND CONTRACTORS, WHETHER SUCH PROGRAMS AND ACTIVITIES ARE  
FEDERALLY- ASSISTED OR NOT)

49 CFR Part 37 - ADA

49 CFR Part 27.3 –ADA

- **ADA's Mandates are listed below in further detail.**

Conformance to ADA in Street Construction

Title II of the ADA and Appendix A of 49 CFR 37 (28CFR 35.151(C) and 49CFR  
27.3(b)) requires that all street designs, upgrades, and alterations must be accessible:

*35.151 - New construction and alterations.*

*(a) Design and construction. Each facility or part of a facility constructed by, on behalf of, or for the use of a public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities, if the construction was commenced after January 26, 1992.*

*(b) Alteration. Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 26, 1992.*

*(c) Accessibility standards. Design, construction, or alteration of facilities in conformance with the Uniform Federal Accessibility Standards (UFAS) (appendix A to 41 CFR part 10119.6) or with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) (appendix A to 28 CFR part 36) shall be deemed to comply with the requirements of this section with respect to those facilities, except that the elevator exemption contained at section 4.1.3(5) and section 4.1.6(1)(k) of ADAAG shall not apply. Departures from particular requirements of either standard by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.*

*(d) Alterations: Historic properties. (1) Alterations to historic properties shall comply, to the maximum extent feasible, with section 4.1.7 of UFAS or section 4.1.7 of ADAAG.*

*(2) If it is not feasible to provide physical access to an historic property in a manner that will not threaten or destroy the historic significance of the building or facility, alternative methods of access shall be provided pursuant to the requirements of 35.150.*

*(e) Curb ramps. (1) Newly constructed or altered streets, roads, and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street level pedestrian walkway.*

*(2) Newly constructed or altered street level pedestrian walkways must contain curb ramps or other sloped areas at intersections to streets, roads, or highways.*

**AND:**

*TITLE 49 - TRANSPORTATION*

*SUBTITLE A - OFFICE OF THE SECRETARY OF TRANSPORTATION*

*PART 27 - NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE*

*subpart a - GENERAL*

*27.3 - Applicability.*

*(a) This part applies to each recipient of Federal financial assistance from the Department of Transportation and to each program or activity that receives such assistance.*

*(b) Design, construction, or alteration of buildings or other fixed facilities by public entities subject to part 37 of this title shall be in conformance with appendix A to part 37 of this title. All other entities subject to section 504 shall design, construct or alter a building, or other fixed facilities shall be in conformance with either appendix A to part 37 of this title or the Uniform Federal Accessibility Standards, 41 CFR part 10119 subpart 10119.6, appendix A.*

***AND:***

*Changes that affect usability are defined as alterations. Alterations to sidewalks or streets must include curb ramps if there are pedestrian facilities. DOJ, like the U.S. Court in the Yerusalim case, considers all "paving, repaving, resurfacing" and changes in usability as an alteration requiring upgrades to meet pedestrian ADA compliance requirements.*

## **Section 4 – Mission, Key Businesses and Activities**

### **OCR Mission**

The mission of the Office of Civil Rights is to ensure agency compliance with Title VI of the Civil Rights Act of 1964 and related statutes; Title VII of the Civil Rights Act of 1964; Titles I, II & IV of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973; the DC Human Rights Act of 1977 and the DC Language Access Act of 2004.

### **Key Businesses and Accomplishments**

#### ***ADA – Accomplishments 2010***

- Successfully fulfilled our accessible parking compliance commitment in Jan. of 2010 with the provision of 3224 accessible parking meters, (a minimum of two per block), and the construction of 346 ADA compliant curb ramps and 225 landings at meters.
- Installed accessible pedestrian signals to assist pedestrians with disabilities to safely cross intersections with high traffic volumes at:

4<sup>th</sup> & M, SW

4<sup>th</sup> & I, SW

Georgia & Hemlock, NW  
Georgia & Shepherd, NW  
Georgia & Madison, NW  
17<sup>th</sup> and South Mall Pedestrian Crossing

- Designated a total of 653 on street parking spaces throughout the city to provide safe and accessible access by a qualifying DC resident with a disability.
- Conducted ADA compliance reviews for 74 major proposed building developments in the District.

***ADA Coordinator performs the following functions :***

- Plans, develops, and implements agency civil rights program initiatives to ensure that firms that have construction contracts with the District Government are in compliance with ADA program, and District and Federal laws and guidelines for effective implementation of affirmative action plans.
- Reviews plans, drawings and specifications at or before the 30% design phase and provides advice and assistance to agency program managers, engineers, procurement officials, union reps, and contractors regarding EEO and ADA requirements; Coordinates development of program policies and procedures.
- Independently conducts on-site monitoring,, reviews, inspections and evaluations of agency external and internal ADA and EEO programs to ensure compliance with ADA and EEO laws.
- Investigates problematic issues and other above average problems of difficulty
- Develops and negotiates, remedies, and prepares written reports of findings

***Title VI --- Accomplishments 2010***

- Established procedures to process external complaints from external customers regarding discriminatory practices in subcontracting opportunities.
- Established procedures and implement agency's process for tracking regulatory public participation activities.
- A total of 325 civil rights survey forms distributed to attendees at public meetings and events
- A total of 39 vital agency documents were translated into Spanish, French, Amharic, Vietnamese, Chinese and Korean

- **Language Access**

- Provide translation services if needed during public participation activities
- Contracts translation services for agency documents that are used by the public
- Received national recognition at this year's ASSHTO Civil Rights Conference for providing the agency's Title VI documents on the website in several different languages that reflect the demographics of the district's population.

A total of 192 employees were trained on language access/limited-English proficiency training

***Jordyne Blaise performs the following functions as a Title VI Coordinator:***

Manage and administer the agency's Title VI Compliance Program, including:

- Develop and implement processes and procedures to analyze and evaluate equity in the transportation program
- Analyze the agency's policies and major activities (including Environmental documents) to identify potential impacts on protected groups and provide recommendations and policy guidance for bringing agency activities into compliance with federal civil rights requirements.
- Train and provide technical assistance to agency staff on federal and civil right requirements, identifying and responding to civil rights complaints, and developing federal-aid transportation projects and programs in compliance with civil rights laws and regulations.
- Provide technical assistance to agency staff on major projects to enhance public engagement of protected populations.
- Conduct routine internal and external civil rights compliance reviews to identify potential violations and to assess the extent to which the activities of funding recipients complied with federal and local civil rights laws and regulations.
- Manage an agency-wide internal interdisciplinary task force to monitor and evaluate the agency's compliance with civil rights laws, streamline compliance processes and procedures, and develop new policies in line with the agency's commitment to providing equal access to programs and services.
- Coordinate the agency's Language Access Program, including development and implementation of policies, processes and procedures to ensure equal access to the agency's programs and activities by limited-English proficient individuals and communities.
- Plan and implement multi-lingual outreach activities to increase participation by limited

- English proficient communities in the transportation program and raise public awareness about civil rights.
- Collect and analyze data on DDOT's program beneficiaries and outreach efforts, and use results to inform and improve transportation planning and community engagement activities.
- Handle and process civil rights complaints from program beneficiaries.
- Develop civil rights educational and training materials.
- Attend public meetings and events to monitor for compliance with civil rights requirements and distribute Title VI information.
- Complete federally and locally required compliance reports.

***Jordyne Blaise performs the following functions as a Title VII Coordinator***

Manage and administer the agency's Title VII Compliance Program, including:

- Coordinate the agency's affirmative action program including collecting and conducting statistical analysis of employment data; developing policies, standard operating procedures, instructional materials and evaluation tools to support program implementation.
- Review the agency's employment practices and provided reports and recommendations to senior management to support compliance initiatives and performance analysis.
- Provide technical assistance to agency management regarding avoiding or minimizing potential EEO issues in the workplace.
- Develop and facilitate specialized EEO and civil rights training for agency staff.
- Serve as the agency's EEO counselor; provide counseling assistance and employ alternative dispute resolution techniques to resolve informal EEO complaints.
- Coordinate responses to EEOC interrogatory requests with the agency's General Counsel.
- Plan and implement agency-wide diversity events to recognize monthly observances and raise awareness about equal opportunity in the workplace.
- Research diversity and special emphasis programs in support of expanding the agency's EEO program.

***Title VII --- Accomplishments 2010***

- Complete federally and locally required compliance reports.
  - 15 EEO Complaints processed

Developed internal EEO counseling program to resolved employee complaints at the lowest level possible

### ***DBE Certification***

As an Equal Opportunity Specialist, *Glenda Payne's* current primary responsibility is coordinating activities for the implementation of the federally funded Disadvantaged Business Enterprise (DBE) Program under 49 CFR Part 26. Over the past twenty four (24) years of service to the District she has served in various capacities in the Office of Contract and Procurement and the Office of Civil Rights. Her daily activities include but are not limited to the following:

- Reviews certification applications in accordance with 49 CFR Part 26 to ascertain their eligibility as a DBE
- Conducts office and project site visits of certified DBEs or potential DBE applicants
- Prepares summary reports of site visits
- Prepares evaluation reports of DBE applicants for the DBE Committee's assessment and voting
- Prepares certification and or denial letters for DBEs
- Collects data pertinent to the program implementation and disseminates to co-workers
- Assists in the collection and review of data for the preparation of DBE goal setting and federally required reports
- Prepares annual advertisement for announcement of DBE Goal and coordinates the Public Forum for community input
- Prepares statement of works (SOWS) for DBE related procurements
- Works with the DBE Program Analyst/Supportive Service Manager located at the Business Opportunities Workforce Development Center ( BOWDC), monitoring the progress of DBEs receiving supportive service, monitors supportive service consultants training activities, participates in community outreach events, presents DBE workshops and orientation training
- Updates DBE Directory
- Notifies DBEs of procurement opportunities on federally funded projects
- Conducts EEO Compliance Reviews with prime contractor as required under Title 23

CFR, Part 230

- Responds to telephone and email inquiries from DBEs and the general public
- Attends Pre-Bid meetings, Bid Openings and Pre-Construction (EEO) Meetings as required
- Keeps abreast of the Federal Highway, USDOT and SBA regulations and guidelines which govern the implementation of programs DDOT's Office of Civil Rights is responsible for

### *DBE Certification and Contract Compliance.*

- Process and track applications from disadvantaged business applicants; review applications for criteria as defined in Section 49 Code of Federal Regulations (CFR) Part 26 and provide extensive written summaries on each firm regarding their DBE eligibility
- Conduct presentations and make recommendations to the joint DDOT/Wmata Board of Reviews to vote on certification approval for prospective DBE candidates
- Coordinated, managed and hosted DBE Technical Assistance Training forum, in accordance with FHWA (Federal Highways Administration), to improve knowledge base and foster better communication with DDOT engineers and project managers
- Coordinates DBE monthly meetings and schedules for the Metropolitan Washington Unified Certification Program (MWUCP)
- Conducts office and project site visits of certified DBEs or potential DBE applicants
- Prepares certification and or denial letters for DBEs
- Updates DBE Directory
- Notifies DBEs of procurement opportunities on federally funded projects
- Responds to DBE requests from the general public
- Keeps abreast of the Federal Highway, USDOT and SBA regulations and guidelines which govern the implementation of programs DDOT's Office of Civil Rights is responsible for
- Assisted in requesting and compiling information for the FHWA 2010 Civil Rights Audit
- Complete reports due to FHWA including the following:
  - Annual Federal Performance Awards Reports-HBCU's/Tribal Colleges & Universities/Hispanic Serving Institutes
  - Annual Federal Planned Awards Reports-HBCU's/Tribal Colleges & Universities/Hispanic Serving Institutes
  - Federal Funding for Sub-Recipients List for 2010
  - Civil Rights State Profile Form
  - Uniform DBE Commitment Reports
- Customize and execute OCR's customer service survey
- Review third party contracts to ensure compliance, conduct site inspections and identify violations of the DBE regulations; provide written notice to all federal aid prime and subcontractors to ensure contract goals are attained
- Send written notifications to DBE firms to advise them of expired certification

- Send out monthly e-blasts to certified DBE's and Supportive Services members to keep them abreast of upcoming opportunities
- Featured over a dozen times in the DDOT newsletter in 2010; Created Supportive Services newsletter to ensure all DBE entities communicate and benefit from one another (see attached)

### ***DBE Accomplishments 2010***

- DDOT's DBE Certification Program has certified over 90 firms in 2010, and is currently working towards a goal of 100 processed applications by the end of 2010.
- The annual DBE Program Manual was updated to reflect existing federal regulations and internal program procedures (this manual is required to be maintained and updated by FHWA).
- Quarterly LSDBE Expenditure Reports were submitted to the DC Auditor to track local funds given to small businesses.
- The DBE website and tracking system links on DDOT's main page were updated so that external constituents can view certified DBE'S.
- The Uniform Report of DBE Commitments/Awards and Payments document, submitted to FHWA semi-annually by the DBE division, indicates over 11 million dollars awarded to certified/active DBE's on federally funded projects.
- DDOT's DBE program continues to increase visibility and awareness through trainings, quarterly DBE/OJT newsletters and updated links/icons on the agency's website.
- In conjunction with FHWA, the Office of Civil Rights hosted the DBE Technical Assistance training in July 2010 for DDOT's engineers to help expand their knowledge base of DBE regulations and contract compliance.

### ***DBE Supportive Services***

**As the DBE Supportive Services Consultant, Mike Licht works in the OCR satellite office which is also known as the Business Opportunity Workforce Development Center (BOWDC). He is responsible for the following items:**

- Orient newly-certified Disadvantaged Business Enterprise owners and assess their firms' business needs
- Coordinate business management assistance to DBE firms according to their individual needs
- Coordinate technical assistance and training in aspects of transportation construction according to individual firm needs
- Gather information on contracting opportunities at DDOT, area transportation agencies, and prime contractors and communicate it to DBE firms in a timely manner
- Assist DBE firms in the preparation of capability statements
- Assist DBE firms in the preparation of marketing materials and strategies
- Advise DBE firms in developing their financial capability
- Facilitate communication between prime contractors and DBE firms
- Gather information on business networking and training opportunities and communicate it to DBE firms in a timely manner
- Maintain two-way communication with representatives of DBE firms and transportation and civil engineering contractors to ensure awareness of each party's concerns
- Produce events that inform small businesses of regulatory and technical requirements of competing for and conducting work on Federal-aid transportation project contracts
- Participate in outreach events and activities to inform small businesses about the DDOT DBE program
- Prepare written and web-based documents that appropriately address the different constituencies of the program
- Conduct public information campaigns to ensure optimal participation in DDOT events
- Assist DBE firms in preparing to compete for direct Federal procurement opportunities as well as Federal-aid projects
- Maintain communication with the national DBE community of practice to ensure that the DDOT DBE program is utilizing current Best Practices

### ***DBE Supportive Services--- Accomplishments 2010***

- The Office of Civil Rights collaborated with the agency's engineers for the "Doing Business with DDOT Forum" in September 2010. This business

opportunity forum revealed the agency's upcoming projects to our certified DBE's, and reiterated the importance of following federal regulations and guidelines during project lifecycles.

- The District established an Agency goal for subcontracting opportunities of 21.50%, of which 12.50% is considered race-conscience (agency is not allowed to establish set-asides as the construction funds are federal).
- Partnered with the 11<sup>th</sup> Street Bridge Contractor to host a vendor day in February 2010. Over 100 vendors attended the event to receive an overview of upcoming business opportunities this project.
- Partnered with several community-based business organizations to serve and assist the agency in publishing contracting opportunities on the 11<sup>th</sup> Street Bridge Projects.
- Attended several outreach activities to promote the agency's small business development program and the services provided at the Business Opportunity and Workforce Development Center.
- Partnered with the American Road and Transportation Builders Association to provide construction safety courses for small businesses that are engaged on DDOT's highway construction projects.

### **OJT and OJT/Supportive Services**

*Linda Fennel serves as the Office of Civil Rights' DBE and On-the-Job Training Supportive Services Program Manager, On-the-Job Training Program Manager, and Coordinator of the Business Opportunity and Workforce Development Center.*

- Oversees the daily activities of the BOWDC, which included ensuring that all vendor obligations are satisfied;; maintaining community bid room for DBE access; coordinating public access to the conference room; maintain a small business resource library.
- As the DBE/Supportive Services Program Manager, she oversees DDOT's obligation to provide technical assistance to DDOT's certified DBE firms.

- Represents DDOT at U.S. Department of Transportation and other regional transportation partners procurement events targeted towards the small business community and assists DBE firms that have partnered with DDOT's prime contractor community with supportive services that enables them to build business and management capacity in order to be successful on DDOT's highway and road construction projects. Ms. Fennell responds to inquiries into specific DBE requests for information and provides referrals to the appropriate staff
- Serves as the On-the-Job Training Program and Supportive Services Program Manager
- Monitors federal-aid contractor compliance for training requirements on DDOT's federal-construction projects.
- Monitoring and compliance of the Agency's Pre-Apprenticeship for the Highway Construction Trades
- Recruitment for qualified applicants for the On-the-Job Training Program and partnership development with the District's workforce development community
- In the supportive role for DDOT's Infrastructure Project Management Administration and the Anacostia Waterfront Initiative, Ms. Fennell:
  - Conducts community outreach activities to the impacted communities as needed
  - Disseminate weekly procurement information on current contracting opportunities to certified DBEs, other small business firms and small business technical assistance providers; attends various meetings with community business and professional associations and assist in the scheduling of appointments between the DBEs and the on-site financial consultant.
- Other certifications:

**Equal Employment Advisory Council Professional Certificate, July 30, 2010.**

**District Department of Human Resources Workforce Development Administration, COTR Training Program, May 27, 2010.**

**District of Columbia Government Department of Human Resources Workforce Development Administration, Writing Effective Statements of Work, May 13, 2010**

**Equal Employment Advisory Council, Basic EEO and Affirmative Action Compliance Program, 19.25 CEUs, September 29-October 1, 2009**

**U.S. Department of Transportation, Disadvantaged Business Enterprise Program, Office of Civil Rights External Civil Rights Programs Certification Course, May, 20, 2009**

**U.S. Department of Transportation, Federal Transit Administration, Office of Civil Rights Civil Rights Colloquium, October 21-23, 2009**

### ***OJT Accomplishments 2010***

- The agency currently has 57 individuals enrolled in for the On-the-Job Training program during FY 2010. As of January 2011, 23 participants reached journey-level status.

- There are currently 29 federal projects with OJT goals on them
- The agency has partnered with a number of community based organizations and with our federal-aid contractors to develop a pool of applicants to fulfill their contractual obligation. Organizations include:

Court Services and Offender Supervision Agency (CSOSA)  
 DC Housing Authority  
 Department of Employment Services Project Empowerment  
 Goodwill Industries-DC and vicinity  
 Latin American Youth Center-DC and vicinity  
 Marshall Heights Community Development Organization  
 Wider Opportunities for Women at Covenant House  
 Sasha Bruce Youth Build  
 Calvin Woodland Foundation (just to name a few)

- Established a partnership with the Department of Employment Services to provide a Pre-Apprenticeship for the Highway Construction Trades. This program will provide a six week pre-apprenticeship training to 30 individuals that will be placed with federal-aid contractors or apprenticeship programs to prepare individuals for careers in the highway construction industry.
- Recruitment process is underway with classes to begin October 4.
- Established a partnership with the Community College of DC Center for Workforce Development and Lifelong Learning to provide a 10 week pre-apprenticeship training to 60 individuals that will be placed with federal-aid contractors or apprenticeship programs to prepare individuals for careers in the highway construction industry.
- Recruitment will begin late fall/January. Funds have been obligated.

**Contract Compliance:**

***Disadvantaged Business Enterprise Program Compliance Reviews***

The purpose of the DBE Contract Compliance Program is to monitor DBE contractor involvement during the performance of a contract. DBE compliance reviews:

- Determine whether a DBE firm is performing a commercially useful function (CUF) as set forth in appropriate guidelines.

- Identify areas where DBE technical assistance is needed and provide or refer to sources available for such assistance.
- Determine the amount of expenditures that can be credited toward DBE participation.

To assure a thorough review of all the responsibilities of the DBE firm, the compliance review process is designed to collect relevant data from all available sources, including but not limited to, the project inspector, the DBE firm, and the prime contractor.

### ***As an Equal Opportunity Compliance Specialist, Mohammed Kabir***

She is tasked with the responsibility to monitor federally assisted highway contracts to ensure that contractors and sub-contractors comply with nondiscrimination and equal opportunity requirements. This is accomplished primarily by implementation and compliance oversight for the Disadvantaged Business Enterprise (DBE) program.

Once the Office of Contracting and Procurement advises our office of a new project, she follows an established methodology for setting a goal on the project. The goal is consistent with the availability of DBE subcontractors who are certified to perform the work that the project requires, the engineer's estimates for costs, and the overall award amount. Once a goal has been set, it is reviewed and approved by Lisa Gregory, Chief of the Office of Civil Rights.

Pursuant to 49 CFR 26.53, contractors are expected to submit a DBE plan as part of their bid packages. Once the plan is forwarded to the Office of Civil Rights, she checks to ensure (1) that the selected subcontractors are certified DBE's in good standing in the District of Columbia; (2) that proposed contract amounts will meet the established goal. Once the evaluation is complete, she makes a determination to deny or approve the proposed plan. She then submits her determination and documentation to Lisa Gregory, Chief of the Office of Civil Rights for final review. Following that review, she advises the prime contractor of this office's determination.

### ***Inform the Parties Orally and in Writing***

The EO Contract Compliance Specialist, represents the Office of Civil Rights at all Pre-Construction Meetings. They advise the prime contractor of their role and his/her obligation to comply with federal regulations. An oral presentation is given about the requirements, and then a written advisement of the same is delivered.

### ***Monitoring Progress as to the Goal***

#### **Collecting Documents**

Prime contractors are required to submit copies of all executed contracts with DBE's and copies of canceled checks. She solicits these submissions from the contractors, and then tracks their progress as to the goal. If it appears that they will fall short of the goal, she conferences with them to determine the reasons for the imminent shortfall and potential solutions.

Site Visits The EO Contract Compliance Specialist conducts regular, unannounced site visits. On these visits, she is looking to identify DBE's at work to ensure that they are working per the contract agreement and performing a commercially useful function. She looks to identify an on-site bulletin board with all of the federally and locally required notices. Furthermore, Ms. Valentine seeks identify the on-site EEO representative for the project. She interacts with the prime and the DBE's to ensure that work conditions are satisfactory to all parties.

### Investigations

On occasion, a DBE will complain to the Office of Civil Rights about the actions of a prime contractor. Such complaints usually revolve around failure to pay, change in scope of work, or an intimidating work environment. The EO Compliance Specialist must investigate these complaints. This involves interviewing the subcontractor, interviewing the prime contractor, reviewing any written documentation, and assisting the parties in resolving the conflict.

### Progress Meetings

Each project has weekly, bi-weekly, or periodical progress meetings. The EO Compliance Specialist attends these meetings as a representative of the Office of Civil Rights and responds to inquiries about the DBE program or plan. I offer input, where appropriate, as to inclusion of DBE's on the project.

*Mohammed Kabir dedicates half of his time to Contract Compliance and the other half to the OJT Program. He is in charge of the following responsibilities:*

- Establish schedules and methods to provide contract compliance and document management. Participate in the development of policies review and maintain the process to manage assigned federally funded/local funded contract awards to confirm compliance with USDOT Administration Regulation 49 CFR, 23 CFR and/or Local Small Business programs.
- Provide assistance to compliance issues delegated for investigation and solutions and report violation of regulations to authorized enforcement agencies/departments. Prepare, review, monitor or maintain contracts or agreements to ensure compliance with policies, procedures, applicable rules and regulations and other terms and conditions.
- Maintain and review progress of contract assigned Disadvantage Business Enterprise (DBE) Goals in accordance with appropriate scope, retention procedures and internal controls.
- Interact with other departments and communicate with them the issues related to compliance. Initiates investigative procedures in case, there is a violation of procedures, policies, rules or regulations.
- Research and prepare reports as needed. Serve in an administrative capacity for contract matters.

- Develop and prepare performance documentation to include Commercial Useful Functions and required Contract/DBE Checklists. Monitor project payments to
- DBE's contracted to perform on projects. Confirm CUF for all DBE's contracted to projects. Perform scheduled and unscheduled site visits and/or desk audits.
- Monitor, and ensure compliance of negotiated services with DBE's. Assist with the identification of resource needs as applicable. Formulate and develop needs with appropriate staff.

Make recommendations for change and improvements to existing process, standards and procedures.

Prepare and complete reporting to include analytical and statistical reports on operations, contracts and activities. Prepare correspondence for approval.

Resolve contract payment delinquencies and coordinate resolution with DBE and Prime Contractor and/ or external entities.

## **Section 5 – OCR Goals/Where Do We Want to Be?**

### **A. Key Projects for FY11 and FY12**

#### **Title VI**

- Ensure the Title VI Program is adequately staffed with interns or additional full-time employees (FTE) to effectively implement these laws
- Continue annual title VI trainings for all program areas, specifically for internal divisions whose work is impacted by the law (i.e. OD, IPMA, PPSA, etc.)
- Increase presence with the general public, awareness, knowledge base and the dissemination of information by attending public meetings and educating the public on Title VI laws and the BOWDC
- Fully integrate Title VI considerations and related compliance processes into DDOT's planning and project development process.
- Remain consistent with routine Title VI investigation training
- Conduct Title VI compliance reviews of major federally-funded contracts

#### **ADA**

### **Organizational Responsibility**

To date the Office of Civil Rights, ADA Coordinator has been tasked with ensuring that construction, alterations, and changes in usability in the public space fully comply with the ADA. At this time the position is assigned one FTE and it is not possible for one person to review,

consult, design, approve, inspect, and remedy the hundreds and hundreds of DDOT activities that fall within these qualifying parameters and occur in a year. Accordingly, the following realignment is recommended:

- A. The Traffic Safety Division of IPMA will assure that every construction plan being considered by IPMA for implementation will comply with the requirements of the ADA. The ADA Coordinator will ensure that training in ADA compliance in the Public Space is available as needed to all employees dedicated to this task. A Certification will be provided for each project approved for construction attesting that all ADA requirements have been satisfied to the maximum extent feasible and will be submitted to the ADA Coordinator for approval before any project is initiated.
- B. The Construction Inspectors that are in the Field each day overseeing street construction will also be responsible for assuring that construction activity does not present unsafe and inaccessible barriers to pedestrian movements, and that all ongoing street construction complies with the ADA elements as specified in the Plan. A Certification will be provided for each construction project completed attesting that all ADA requirements have been satisfied to the maximum extent feasible and will be submitted to the ADA Coordinator for approval at least 30 days before final payments are approved. The ADA Coordinator will ensure that training in ADA compliance in the Public Space is available as needed to all employees dedicated to this task.
- C. All Applications for Public Space will be reviewed for ADA compliance. This responsibility will be assigned to the DDOT's Office of Public Space. A Certification will be provided for each construction project completed attesting that all ADA requirements have been satisfied to the maximum extent feasible and will be submitted to the ADA Coordinator for final approval before any project is approved. The ADA Coordinator will ensure that training in ADA compliance in the Public Space is available as needed to all employees dedicated to this task.
- D. The Whole Cost SOID Inspectors that are in the Field each day overseeing street impacts of building construction will also be responsible for assuring that construction activity does not present unsafe and inaccessible barriers to pedestrian movements, and that all street impacts of building construction complies with the ADA elements as specified in the Plan. A Certification will be provided for each construction project completed attesting that all ADA requirements have been satisfied to the maximum extent feasible and will be submitted to the ADA Coordinator for final approval at least 30 days before any deposit monies are released. The ADA Coordinator will ensure that training in ADA compliance in the Public Space is available as needed to all employees dedicated to this task.
- E. All Projects initiated by PPSA that will directly alter or change the usability of Public Space will be reviewed for impacts to the pedestrian facilities that affect ADA Compliance. For all accessibility barriers identified a remediation plan will be development and submitted to the ADA Coordinator. Upon approval it will be implemented as an essential element of the Project. A Certification will be provided for each project approved attesting that all ADA requirements have been satisfied to the maximum extent feasible and will be submitted to the ADA Coordinator for approval at least 30 days before any project is initiated. The ADA Coordinator will ensure that training in ADA compliance in the Public Space is available as needed to all employees dedicated to this task.

- F. All Projects initiated by TOA that will directly alter or change the usability of Public Space will be reviewed for impacts to the pedestrian facilities that affect ADA Compliance. For all accessibility barriers identified a remediation plan will be developed and submitted to the ADA Coordinator. A Certification will be provided for each project approved attesting that all ADA requirements have been satisfied to the maximum extent feasible and will be submitted to the ADA Coordinator for approval at least 30 days before any project is initiated. The ADA Coordinator will ensure that training in ADA compliance in the Public Space is available as needed to all employees dedicated to this task.
- G. The ADA Coordinator will receive all Complaints regarding accessibility barriers in the Public Space. A Review and Action Request will be prepared by the ADA Coordinator and forwarded to the responsible office in DDOT. That office will have 30 days to investigate and either confirms that there is no barrier as alleged or if there is will present a plan for remediation. Any allegation that comprises a potential threat to public safety must be investigated and have a corrective action plan implemented within 72 hours. The ADA Coordinator will establish a comprehensive Complaint Procedure for the Department adhering to these requirements and will circulate it to the public and post it on the DDOT WEB site.

### **Additionally ADA will:**

- Initiate and develop an asset management survey with an inventory of ADA assets on DC streets
- Develop a GIS system to track and house asset management data  
Create a transition plan to forecast ADA asset compliance over extended periods of time
- Develop a formalized process for ADA complaints
- Conduct an evaluation of all DDOT facilities to ensure they are ADA compliant
- Conduct a yearly training for the agency to ensure they are following ADA laws
- Make certain ADA related website announcements accessible for all, including the disabled

### **DBE**

- Re-vamp and update DBE manual; ensure pertinent documents are on the K drive and the DDOT website.
- Seek new ways to improve learning opportunities and expand knowledge base regarding personal net worth statements and corporate and personal tax returns in the certification process.
- Create a system for managing full certifications vs. reciprocities
- Seek out DBE goal methodology, fraud and other annual trainings; improve partnerships with FHWA offices
- Continue to train other divisions in DDOT RE: the DBE program and contract compliance
- Simplify the DBE directory and increase the visibility of our firms regardless of re-evaluation status

- Continue OJT/DBE newsletters and increase visibility
- Capture DBE participation on consultant services for construction management

### **On-the-Job Training (OJT)**

- Create a system that establishes the annual training goal and forecasts training needs and opportunities for the upcoming fiscal year
- Get OJT manual approved by FHWA and ensure that it is a guiding document on the K drive
- Develop new ways to partner with organizations to train youth in highway construction, through our Civil Rights office.

### **Contract Compliance – Title VII External**

- Formalizing the Equal Opportunity Manual as the guiding document governing our program, including the Contract Compliance function.
  - Develop a consistent team that will run the Contract Compliance Program and conduct on-site and compliance reviews
  - Complete and submit accomplishment reports twice a year
  - Develop a formalized process on how to submit complaints; have this process centralized on the DDOT website
  - Submit complaints to the proper external entities when necessary and increase communication with them (OHR, OFCCP, OIG)
  - Ensure all policy statements are signed, visible in all areas and uploaded to the K drive
- Ensure the FHWA 1273 form is physically incorporated into all subcontracts

### **Title VII**

- Develop and meet with an EEO Advisory Committee, involving upper level management staff and HR officials to help them own, acknowledge and improve the agency's existing disparities
- Establish goals and target dates under the Affirmative Action Plan
- Re-establish the EEO Counselor Program; develop trainings for designated employees to field complaints, initially address employee's concerns and ensure confidentiality
- Continuously work with HR officials to reevaluate job descriptions, classifications and hiring criteria to assure actual job needs are conveyed
- Timely submissions of EEO reports and accomplishment reports
- Conduct consistent trainings for management and support staff on the Title VII law and the Affirmative Action Plan.

## **Section 6 - Resource Allocation**

### **A. Current and Projected Staffing**

#### **1. DBE**

Currently the Office of Civil Rights has two FTE's dedicated to DBE Certification, 1 FTE devoted to contract compliance full-time, and 1 Contractor devoted part-time to contract compliance and OJT Services. Ideally, the DBE team would consist of two people devoted to certifications, two full-time employees devoted to contract compliance and one part-time employee devoted to contract compliance.

#### **2. BOWDC**

Currently, OCR is adequately staffed in the BOWDC. There are two full-time employees devoted to OJT/Supportive Services, on person devoting 1/2 of their time to OJT and one intern.

#### **3. ADA**

Ideally, our ADA unit would serve as an oversight entity for the agency and each division (TOA, IPMA etc.) would handle ADA issues as appropriate, only seeking guidance and approval from our ADA experts. DDOT is looking to re-organize this program in a different office.

#### **4. Title VI and VII**

Currently, there is only one person doing both Title VI and VII. Federally, these programs are advised to be ran separately. Ultimately, we would have an additional person for Title VII, the Title VI position filled and a part-time employee to assist with administrative duties in the program.

### **B. Staffing Needs - (DOT DBE Staff Comparables)**

#### **1. Philadelphia, Pennsylvania**

- One Civil Rights Manager
- Seven Contract Specialists (rotate between contract compliance and DBE certification)
- \$190 million in Federal Aid

#### **2. Hanover, Maryland**

- Three Supervisors
- Eleven Certification Specialists
- Over ten contract compliance officers are located in each modal administration (state, highway, transit, and aviation)

#### **3. Raleigh, North Carolina**

- One Civil Rights Director
- Seven Certification Specialists
- Eight Compliance Specialists
- One Manger for Certification

- One Manager for Compliance

## **Section 7 – Best Practices and Benchmarks**

The Office of Civil Rights can measure their progress utilizing the following methods.

- Customer Service Survey: Polling the organizations internal customers on our division's customer service efforts
- Periodic Reviews with FHWA
- Developing Quantitative Measures for Strategic Goals Articulated in Section Five
- In 2011, OCR is working with consultants to assist in making quantitative measures