

Miami-Dade Transit

13(c) Strategic Task Force

Final Report

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13(c) Strategic Task Force

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Executive Summary

This report represents a review of Miami-Dade Transit's (MDT) current recruitment, selection, and training processes outlined in various 13(c) agreements as well as recommendations to the MDT Director for improvement of their efficiency and effectiveness. The report was prepared by the 13(c) Strategic Task Force (Task Force), established as a result of MDT's "Strategic Plan, September 2000."

The Task Force, organized by MDT Assistant Director for Transit Services who served as chair of the Task Force, consisted of representatives of various divisions within MDT including Human Resources, Transit Services, Office of Fair Employment and Labor Practices, Bus Operations and Maintenance, Rail Track & Guideway and Vehicle Maintenance, and Field Engineering Systems Maintenance. The Task Force undertook an aggressive schedule to complete this report and finalize recommendations to the Director within a period of three months. With staff assistance from the Center for Urban Transportation Research (CUTR) at the University of South Florida and the Florida Conflict Resolution Consortium (FCRC) at Florida State University, the Task Force developed their recommendations through a combination of formalized consensus building processes and problem-solving initiatives.

The Task Force relied on detailed information from past and present 13(c) agreements in addition to a comparative analysis to other properties on the issues being addressed, an historical overview of 13(c) from a transit law perspective, and specific examples of the impact of those agreements on MDT.

Findings

In the absence of minimum qualifications, employees compete for positions on the basis of seniority and, subsequently, are trained to qualify for the positions they have been awarded. This results in extensive recruitment lists that contain a number of minimally qualified candidates; employees lacking the requisite knowledge, skills, and abilities to succeed move into jobs; furthermore, the technical expertise that qualified workers would normally bring to the job is eroding. Movement into, across, and out of training positions is excessive as is turnover in the feeder classifications. In many areas, an experienced supervisor directly provides the "qualifiable" training, which negatively impacts supervisor availability for on-site supervision during the course of the training. Since the same supervisor conducts several of the training programs, training in one area is often delayed while other training is in progress. Training to develop skills



beyond becoming qualified, to refresh skills or to become proficient is unavailable due to the heavy demands for the “qualifiable” training.

TWU acknowledged that employees’ excessive movement into and out of training positions is a problem as is the inability of junior employees to secure advanced positions despite their qualifications. Additionally, they recognize the need for funding to establish training and a legitimate career ladder to enable their membership to secure technical jobs for which they are qualified.

Recommendations & Implementation Plan

As a first step, the Task Force should present their recommendations for action to the MDT Director and seek his approval for implementation.

Short Term Actions

Immediately institute a new policy that requires an employee to hold permanent status to be considered for any new “trainee” position.

Invoke a 12-month waiting period for re-application for an employee who previously failed probation for the position.

Provide the Human Resources Division with temporary help to expedite the manual data inputting and trial implementation of the 13(c) seniority database.

Establish a meeting with TWU leadership to discuss minimizing the length of time a recruitment is advertised.

The Task Force believes, given acceptance of these recommendations by the Director and endorsement by the County Attorney’s Office, these actions can be accomplished by November 2001.

Long Term Actions

Immediate dialogue should begin with the leadership of the TWU regarding the issue of the “one-bite” rule to establish a policy mandating that TWU seniority and the obligation to qualify a candidate for a new job can be exercised by an employee only once during the life of the project.

Steps should be taken to re-establish or establish appropriate minimum qualifications and implement a career progression with career paths for each individual division.



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A strategic training plan should be developed contingent upon those recommendations regarding recruitment, selection, and training that are adopted.

The Training Section, Human Resources, Rail/Mover Maintenance and Transit Facilities Maintenance Divisions need to meet to identify what training can be appropriately provided by local technical institutions and to what extent there is overlap in the basic training required for technical classifications across division lines. If the Director accepts this recommendation, an agreement with a local school should be funded and put in place within six months of the Director's approval of the plan.

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Origin of the 13(c) Strategic Task Force

The 13(c) Strategic Task Force (Task Force) grew out of Miami-Dade Transit's (MDT) Strategic Plan, formulated by members of a steering council during a two-day retreat. The Strategic Plan was intended not only to provide a useful framework to guide fiscal and management decision-making, but also to provide a basis upon which to evaluate progress at year's end. Several events highlighted the need for MDT to engage in pro-active planning to have greater control of their future direction. A one-cent sales tax referendum recently failed despite favorable public perception of the proposed transportation plan. Discussions by key policy makers regarding the formation of an independent authority for transportation, which has a dedicated funding source and autonomous board, have become serious.

During the retreat, participants documented budgetary trends, environmental constraints, and opportunities available to MDT. Participants identified organizational strengths and weaknesses, and itemized legislative mandates that impact the department's structure and organization. Participants reaffirmed MDT's mission statement: "to meet the needs of the public for the highest quality transit service: safe, reliable, efficient and courteous." Participants clarified MDT's vision for the future. Pursuant to MDT's September 2000 Strategic Plan, in the future, MDT will be independent of political pressure, will be based on an independent, stable income and procurement process, and will be able to deliver unhindered service.

A host of issues was identified during the sessions. From these, participants selected critical issues defined as "primary strategic issues" to be included in the Strategic Plan. Participants developed goals, objectives, and action steps for addressing each of the primary strategic issues and committed to work on those issues throughout the year. One of the six primary issues acknowledged was effective and efficient management of 13(c) Agreement requirements.

In response to the MDT Strategic Plan, Roosevelt Bradley, Assistant Director for Transit Services, established a 13(c) Strategic Task Force to review current recruitment and selection processes outlined in various 13(c) agreements and make recommendations to the MDT Director for improvement in their efficiency and effectiveness. Task Force Members included: Victor Bravo (Rail, Track & Guideway), Al Calderin (Bus Operations), Hugh Chen (Field Engineering Systems Maintenance), Angela Concepcion (Human Resources), Diana Araujo (Office of Fair Employment and Labor Practices), Sandra Gamble (Human Resources), Derrick Gordon (Bus Operations), William Imhof (Bus Maintenance),

Cathy Lewis (Human Resources), Regina Sandilands (Transit Services), and Richard Snedden (Rail, Vehicle Maintenance). Roosevelt Bradley acted as Chairperson of the Task Force.

The Task Force entered into a contract with the Center for Urban Transportation Research (CUTR) at the University of South Florida to conduct a comparative analysis to other properties on the issues being addressed, provide staff support to the task force, and secure other staff resources required by the group.

Background of Section 13(c)

Section 13(c) is the labor protection provision of the Federal Transit Act and requires, as a precondition for a grant of federal assistance by the Federal Transit Administration (FTA), that fair and equitable labor arrangements be made by the grantee to protect employees affected by such assistance. Statutory requirements of Section 13(c) of the Federal Transit Act, 49 U.S.C. § 5333(b),¹ provide:

It shall be a condition of any assistance under section 3 of this Act that fair and equitable arrangements are made, as determined by the Secretary of Labor, to protect the interests of employees affected by such assistance. Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise; (2) the continuation of collective bargaining rights; (3) the protection of individual employees against a worsening of their positions with respect to their employment; (4) assurances of employment to employees of acquired mass transportation systems and priority of reemployment of employees terminated or laid off; and, (5) paid training or retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employment which shall in no event provide benefits less than those established pursuant to section 5(2)(f) of the Act of February 4, 1887 (24 Stat. 379), as amended. The contract for the granting of any such assistance shall specify the terms and conditions of the protective arrangements.²

The U.S. Department of Labor (DOL) is responsible for ensuring that Section 13(c) protective agreements comply with the statutory requirements. Generally, DOL certifies to FTA that fair and equitable protective agreements have been

established within a specific FTA project after the grantee and the union, which represents the employees affected by the project, reach agreement.

Historical Development of Section 13(c)

Critical to comprehending the significance of Section 13(c) requirements as they relate to transit agencies is an understanding of how Section 13(c) came to be. By 1960 the long-neglected and deteriorating condition of urban mass transit systems in the United States generated congressional response. As costs rose and passenger counts declined, private transit systems were forced to increase fares, cut back service, and defer maintenance. This resulted in an even greater loss of ridership, which exacerbated the problem and imperiled the ability of urban mass transportation providers to offer adequate services. Streets and highways became congested due to increased reliance on the automobile. Between 1956 and 1960, revenue passengers carried by buses and streetcars declined by about 22 percent.³ In the decade prior to enactment of the Urban Mass Transportation Act, 243 transit companies were sold and 194 abandoned. As a direct result, transit labor and services were significantly and adversely affected. Between 1945 and 1960, transit employment plummeted from 242,000 employees to 156,000 employees, with 35 percent of that loss occurring between 1950 and 1960.⁴

Since growth of the urban centers was critical to the nation's well being, Congress viewed the state of mass transit as a national rather than local problem. As early as 1960, legislation to provide assistance to the transit industry was introduced; however, efforts were unsuccessful due to opposition from labor unions and the automotive industry. Labor unions anticipated that federal funding would bring with it a negative impact on transit labor employment in two very distinct ways. They feared that access to federal funding would generate technological advances that would ultimately reduce the number of workers required to operate mass transit systems. Unions were concerned that a transfer from private employee to public employee status would mean a loss of collective bargaining rights, the right to strike, and pension and retirement benefits, because state and local government employees were (and remain) expressly exempt from coverage under the National Labor Relations Act (NLRA).⁵

Congress engaged in significant debate on provisions to assist the nation's urban mass transit systems with much of that debate focused on those issues raised by the transit labor unions. It was not until 1964 that Congress took definitive action to implement the Urban Mass Transportation Act, which provided funding through grants and loans to finance the capital facilities and equipment necessary to

extend and improve urban mass transportation systems. Section 13(c) is that section of the Act that details the labor protection provision required as a precondition for a grant of federal assistance and contains five main elements:

Section 13(c)(1): Preservation of Rights, Privileges and Benefits

Assures that if a state or local public body desires federal grant funds, it must agree that existing collective bargaining rights will be preserved and continued

- Rights achieved through bargaining cannot be removed unilaterally
- Changes to rights must occur through collective bargaining and agreement of parties

Section 13(c)(2): Continuation of Collective Bargaining Rights

Requires that collective bargaining must continue

- No intent to require public employers to establish a right to collectively bargain
- Where right to bargain existed, intent was to require right not be adversely affected by assistance

Section 13(c)(3): Protection Against Adverse Impacts

Reflects the basic policy determination that employees should be compensated in the event of any “worsening” (i.e., economic harm, such as loss of a job or reduction in compensation) resulting from their employer’s receipt of federal assistance

- Displacement/dismissal/separation allowances
- Moving expenses
- Home sale allowance

Section 13(c)(4): Employment Assurances and Priority of Reemployment
Obligation to provide employment assurance was based on Congress’ desire to protect private transit employees of systems that were acquired with federal assistance

- Includes all employees of systems acquired with federal dollars
- Separated/laid off employees’ right to fill vacant positions on the transit system

Section 13(c)(5): Paid Training or Retraining

- Grantee financially responsible for training/retraining, when required

Administration of Section 13(c)

Since Section 13(c) agreements are the product of individual negotiations, terms do vary from one to another; nonetheless, common elements, in addition to those five elements described above, are found in most contemporary Section 13(c) protections. The definition of “project” normally used in Section 13(c) arrangements is not limited to the particular activity being funded, but includes any change, whether organizational, operational, or otherwise, that occurs as a result of the federal assistance provided.⁶ A process for the resolution of disputes and claims arising under the agreement is typically included in Section 13(c) agreements, as is a provision establishing a time period for the filing of claims. Means for resolving disputes, prohibition of the duplication or pyramiding of employee protection benefits, and a successor clause are common in Section 13(c) agreements. Some Section 13(c) agreements contain a provision giving protected employees the first opportunity for any new jobs created as a result of the project. These provisions have been used in certain cases to provide job rights to existing bus employees in connection with start-up of new rail projects. DOL has ruled that such a provision is not, however, required by Section 13(c).⁷

The primary source of representative protections is the Model (national) Section 13(c) Agreement entered into on July 23, 1975, by representatives of the American Public Transit Association (APTA), ATU, and the Transport Workers Union of America, AFL-CIO. The Model Agreement often serves as a ready-made basis for Section 13(c) certification of operating assistance projects.⁸ DOL has specifically determined that the Model Agreement “provides fair and equitable arrangements to protect the interests of employees in general purpose operating assistance project situations and meets the requirements of Section 13(c).”⁹ Because the Model Agreement’s provisions have been repeatedly certified by DOL as “fair and equitable,” the Model Agreement serves as the most frequently used source document for standard terms and conditions incorporated into negotiated Section 13(c) agreements.¹⁰

Summary of MDT Section 13(c) Agreements

April 29, 1974, Capital Items - Metrobus

On April 29, 1974, prior to the development of the Model Agreement, MDT entered into a Section 13(c) agreement with the Transport Workers Union of America, Local 291, AFL-CIO (TWU) for the purchase of capital items. MDT agreed to protect the interest of employees affected by assistance received against a worsening of their positions with respect to employment; provided assurances of employment to employees of acquired transportation systems;

extended priority of reemployment to employees terminated or laid off; and, agreed to pay for training and retraining programs. Paragraph (4) of the agreement afforded those employees who were terminated, laid-off or placed in a worsened position full or differential compensation; or placement in available vacant positions; or placement in Dade County classified service positions with equal hours, working conditions and benefits; or paid training/retraining; or other such reasonable provisions to preserve or protect the rights, privileges or benefits the employee formerly enjoyed.

August 22, 1975, System Improvement Program – Metrorail

The August 22, 1975 Section 13(c) agreement between MDT and TWU for assistance in the purchase of ways and structures and equipment for the System Improvement Program (i.e., the future Metrorail system) included the “first opportunity for new jobs clause” referenced previously. The provision, detailed in Paragraph 7., gave “employees of the County covered by the agreement the first opportunity for employment in any new jobs included in the Transit Agency or comparable to those included in the Transit Agency, created as a result of the Project, for which they were, or by training or re-training could become, qualified.” The agreement further stated that all such jobs were to be filled in accordance with seniority.

August 30, 1976, Capital Items – Metrobus

While the August 30, 1976 Section 13(c) agreement between MDT and TWU for assistance in the purchase of capital items mirrored the August 22, 1975 agreement, it represented a further expansion of MDT’s commitment. MDT agreed not to tender such jobs to any other individual or individuals so long as members of the bargaining unit who were qualified or after a reasonable training period could become qualified were willing to bid these jobs. They also agreed to establish a formal training program for any new created job classifications that resulted from the Project at least six months prior to hiring personnel for those classifications.

February 28, 1978, Capital Grant – Metromover

MDT’s February 28, 1978 Section 13(c) agreement with TWU for a capital grant to engineer and construct a fixed guideway people mover system in downtown Miami (i.e., Metromover) represented a slight modification of the August 30, 1976 Section 13(c) agreement. Jobs were to be filled by “qualified” employees in accordance with seniority. Jobs created by the Project, comparable to those which union members were performing, were to be filled by union represented employees. “All other jobs were to be filled by employees who were represented

by the union, wherever possible.” In essence, first opportunity for new jobs was restricted to comparable jobs.

August 31, 1978, Balance of Funding – Metrorail

The Section 13(c) agreement MDT negotiated with TWU for the balance of funding for Metrorail significantly changed the department’s recognition of the union. MDT agreed to extend voluntarily recognition to the union for “purposes of covering all new rank and file job classifications directly involved in the operation and maintenance of the rapid transit system.” MDT also agreed to implement a specific training program, with target dates, for all new created job classifications resulting from the Project.

August 30, 1994, Metrorail to Palmetto Extension

MDT and TWU agreed to “piggyback” the terms and conditions of the August 31, 1978 Section 13(c) agreement, as supplemented, and the March 19, 1987 Section 13(c) agreement to the grant for the “Metrorail to Palmetto extension.”

MDT 13(c) Arrangements

March 19, 1987, Operating Assistance

In February 1986, MDT presented a new Section 13(c) proposal to TWU. After negotiations between MDT and TWU, MDT agreed to withdraw the Section 13(c) proposal and agreed to use the existing Section 13(c) Agreement, dated August 31, 1978 with changes in several provisions. After negotiations continued to prove unsuccessful, DOL granted interim certification of MDT’s proposed Section 13(c) agreement and directed the parties to continue to negotiate on the issue of opportunity for employment in new jobs as provided for in paragraphs (7) and (8) of the August 31, 1978 agreement, which were not included in the interim certification.

TWU wanted to continue to use the same language that had been used in all Section 13(c) agreements since 1978. MDT argued that the first opportunity for employment in any new rail job was an additional benefit given to employees in the TWU bargaining unit for start up of the rail project, which occurred in May 1984. It was MDT’s contention that new jobs should not be reserved solely for TWU bargaining unit employees.

DOL reviewed information from both MDT and TWU, and, in the absence of the parties’ mutual agreement to continue to use paragraphs (7) and (8) of the August 31, 1978 agreement, determined that those paragraphs should not be

required for certification of the project. DOL supplemented its certification of September 29, 1986 with the following language which was made a condition of that certification retroactively: “employees covered by this agreement will have the opportunity to apply for County job openings, created as a result of the project, along with other qualified applicants, in accordance with Dade County employment procedures.”

Paragraphs (7) and (8) of the August 31, 1978 Section 13(c) Agreement were not certified by DOL and are not contained in the March 19, 1987 Section 13(c) Arrangement. Since agreement of both parties, MDT and TWU, was not achieved, the document governing the labor protection provisions of this project is referred to as a Section 13(c) Arrangement.

MDT Arbitration

In a 1990 arbitration, TWU alleged MDT violated the terms of the August 31, 1978 Section 13(c) Agreement. A total of 70 grievants were involved in the arbitration; their cases fell into 5 distinct categories:

- 32 Cases – employees completed formal/on the job training for specified positions; openings were awarded outside of the bargaining unit; all positions were new positions
- 34 Cases – employees applied for promotional positions; were told they were not qualified or qualifiable; later applied for and received promotions despite no additional training or experience
- 37 Cases – employees were qualified or qualifiable for promotions but were denied and never granted promotions
- 19 Cases – employees worked out of classification (OCL) in a promotional job; OCL was not counted as experience; when positions opened, were told they were not qualified or less qualified; 11 of cases filled outside of bargaining unit
- 22 Cases – employees applied for supervisory positions and were adjudged not qualifiable or best candidate

The arbitrator denied those grievances where the issue involved promotions to supervisor and/or managerial positions. Evidence did not convincingly establish that the phrases “any new job” or “all other jobs” meant supervisory and managerial positions as well as bargaining unit jobs.

In all other aspects of the issues raised, the arbitrator granted the grievances. The arbitrator found that “the parties did not change the 13(c) agreements, at least with respect to the essence of paragraph 7 (apparently until recently).” The arbitrator noted that nothing in paragraph 7 speaks of a one time, or one shot or first generation priority. In addition, while the arbitrator did indicate that Exhibit B does purport to establish an initial training schedule, the project itself was viewed as ongoing so it must be concluded that the initial training schedule was to continue as well. The arbitrator also found that bargaining unit members who are qualified or can become qualified get the jobs. They do not have to be the “best” qualified. It is clear from the rulings that the arbitrator relied solely on the August 31, 1978 Section 13(c) Agreement as a basis for decisions.

MDT Implementation of Section 13(c)

The outcome of the 1990 arbitration appears to have had long standing impact on the implementation of labor protection provisions within MDT. Despite DOL certification of a new Section 13(c) arrangement in 1987, current MDT practices mirror provisions outlined in the August 31, 1978 Section 13(c) agreement. As recently as February 2001, correspondence from MDT to TWU referenced an arrangement created in 1981, commonly known as the Rolfe/Tober Agreement, which implemented provisions of the August 31, 1978 Section 13(c) labor protective agreement. The Rolfe/Tober Agreement defined the scope of positions covered by the agreement, outlined the employment process, and established first opportunity for jobs on the basis of seniority.

The principles and procedures covered those job classifications currently within the bargaining unit and those created in the future which were comparable to those within the bargaining unit. In terms of the employment process, persons who applied for a given classification and who successfully completed the various qualification steps and any training or re-training were considered to be equally qualified for the job classification. Their placement into available positions in the job classification was to be determined by seniority. Existing bargaining unit employees were given first opportunity for employment arrangements. In practice, this meant that the list of persons covered by the bargaining unit who successfully completed the various qualification steps, including training and retraining, would be exhausted first when filling available positions in a job classification covered before any persons from outside the bargaining unit could be selected. All “lists of qualified individuals (or candidates)” were considered to be lists of individuals covered by the bargaining unit in order of two types of seniority. For new job classifications (those filled for the first time), employment seniority, based upon the date a person covered by the bargaining unit became employed by MDT, was to be used. For existing/old

classifications, classification seniority, based upon the date that a person covered by the bargaining unit went into their current job classification, was used. That employment process, as defined in the Rolfe/Tober Agreement, is outlined in the following table:

<i>Employment Process</i>	
Self-Development / Preparatory Training	Job Opening Announcement
	Candidates Express Interest
	Basic Requirements Screen
Self-Development / Preparatory Training	Testing (As Necessary)
Functional Area Training (As Necessary)	Performance Screen
	Interview
	Affirmative Action Check
Functional Area Training (As Necessary)	Seniority Screen
	Selected Candidate
Specialized / Vendor Training	

In a 1994 settlement agreement, TWU recognized MDT's right to establish training programs for positions within the bargaining unit and to hire employees on trainee status. These trainee classifications were instituted to provide bargaining unit members the opportunity to become "qualified through training" for all jobs. Selection for these trainee positions was based on seniority; bargaining unit seniority was used for all new positions and classification seniority applied to replacement of vacant positions. The recruitment approach established for positions covered by the 1978 Section 13(c) agreement as defined in 1994 and presently in use today is outlined as follows:

1. Background - Paragraph 7 of the 1978 13(c) agreement gives interested TWU bargaining unit personnel who are qualified, or who by training or retraining can become qualified, preference for jobs created as a result of the project covered by the agreement
 - a. MDT must revise its recruitment procedures to comply with the agreement, Civil Service rules, and Dade County Code
 - b. Project means Metrorail and Metromover
2. Classifications covered – Classifications affected by the Section 13(c) preferential hiring language as of November 13, 1998:

Code – Classification	Career Ladder Status
8021 – Transit Facilities Mechanic	Developed
8042 – Transit Revenue Collector	Pending
8052 – Transit Elec Tech/Laboratory	Pending
8054 – Guideway Inspection Specialist	Advertised
8056 – Rail Vehicle Machinist	Developed
8059 – Rail Vehicle Technician/ATP	Developed

8060 – Rail Technician/Train Control	Advertised
8061 – Rail Technician/Traction Power	Advertised
8063 – Rail Maintenance Worker	Developed
8064 – Track Repairer	Developed
8065 – Rail Structural Repairer	Developed
8066 – Track Equipment Operator	Developed
8067 – Rail Vehicle Helper	Developed
8068 – Rail Vehicle Electronic Technician	Developed
8069 – Rail Vehicle Cleaner	Developed
8071 – Rail Vehicle Mechanic	Developed
8073 – Train Operator	Pending
8074 – Rail Stock Clerk	Pending
8076 – Rail Maintenance Clerk	Pending
8077 – Rail Maintenance Control Clerk	Pending
8082 – Metromover Technician	Pending
8083 – Transit Electronic Technician	Pending
8084 – Transit Electronic Tech/Radio	Pending
8085 – Transit Electronic Tech/Systems	Pending
8092 – Rail Electrician/Train Control	Pending
8093 – Rail Electrician/Vehicle	Developed
8094 – Rail Electrician/Communications	Pending
8095 – Rail Electrician/Traction Power	Pending
8097 – Rail Structural Inspection Spec	Pending

3. General

- a. Job announcements should be limited to TWU MDT bargaining unit employees or include a statement to inform the public that TWU bargaining unit personnel will receive preference
- b. MDT employees covered by the TWU bargaining unit will have the opportunity to be considered for jobs if they possess KSAs (knowledge, skills, and abilities) that have been determined as necessary to make them qualified through a reasonable amount of training

4. Recommended Strategy

- a. Review vacancies and determine recruitment priorities
- b. Evaluate job description and requirements and design and develop training program
- c. Validate training program
- d. Establish KSAs designed to identify applicants who possess the background necessary to be considered eligible for the training through which they can become qualified (qualifiable)
- e. Announce vacancies, trainee status

- f. Hire and provide training – Qualifiable applicants are those who have demonstrated that they have, at minimum, the background necessary to participate actively in the training designed to develop them into qualified individuals. Unlike qualified applicants who enter the classification in probationary status, applicants deemed qualifiable will enter the position in trainee status. Applicants who enter the classification in trainee status are not paid at the same rate of pay as those who enter in probationary status, and the time spent in trainee status does not count toward completion of the probationary period.
- g. Protected individuals should be given employment preference in seniority order
- h. Testing and validation will develop a test to be administered upon completion of training
 - i. Trainees who pass will go on probation
 - ii. Trainees who fail are eligible for a reasonable amount of retraining and are required to take a second test
 - iii. Trainees who fail the second test are not considered qualified or qualifiable and are not eligible to remain in the classification (return to their former jobs)

5. Seniority and Options

- a. TWU bargaining unit seniority determines who goes into positions created as a result of the project and being filled for the first time
- b. On 5/31/94, parties agreed to develop career ladders for all 13(c) positions not created as the result of a new project; seniority for employment based on date employee covered by the bargaining unit entered current classification (classification seniority)
- c. Positions should be filled with trainees until career ladder is complete (6 months)

Attempts have been made by MDT to redefine seniority for employment purposes. This issue was referenced in correspondence following a meeting with TWU in March 1999 and as recently as February 2001 in an MDT proposal to TWU. MDT has proposed that all positions created as a result of a project will be filled using TWU bargaining unit seniority unless the employee has already exercised preferential hiring rights for that specific project. Employees who obtain a 13(c) position with their TWU bargaining unit seniority would not be barred from applying for other positions; however, each employee's respective classification seniority would be used thereafter. A bargaining unit employee may use TWU bargaining unit seniority only once per project, i.e., for the first 13(c) position employee elects to pursue and accept. An employee has used bargaining unit seniority once the employee has occupied the budgeted 13(c)

position for one day, regardless of status. There has been no response to the MDT proposal from TWU to date.

Impact of Section 13(c) within MDT

MDT staff estimate that it takes twice as long to fill a 13(c) position as it does to fill a non-13(c) position. A significant amount of that time is involved in training employees to become qualified for the position for which they were selected. Since bargaining unit seniority has superseded minimum qualifications, employees often enter the recruitment process with little or no experience. Trainee status positions have replaced “minimum qualification” positions in order to provide bargaining unit employees with the first opportunity for jobs. Since employees are not qualified to perform the responsibilities of their new positions until they complete training, vacant positions remain open until training programs are complete. Some programs span six to eight months. With upward mobility based on seniority, employees frequently move from one training program to another, often participating in numerous recruitments. Following are several examples of specific employees who have engaged in movement characterized as “hopping:”

<i>Date</i>	<i>Action</i>
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Employee Example #1

02/26/86	Hired as Track Repairer
12/06/93	Entered Rail Veh Mechanic Trg
01/04/94	Entered TFM Training
11/17/94	Returned to Track Repairer
05/22/95	Entered Track Equip Operator Trg
09/13/95	Returned to Track Repairer
04/01/98	Entered Rail Struct Repair Trg
03/01/99	Entered Rail Tech/Train Control Trg
03/08/99	Returned to Rail Structural Repairer

<i>Date</i>	<i>Action</i>
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Employee Example #2

10/03/89	Hired as Bus Operator
05/11/95	Declined Train Operator
08/16/95	Declined Train Operator
07/09/96	Entered GIS
11/13/96	Request return to Bus Operator
09/14/98	Accepted Rail Veh Mechanic Trg

Employee Example #3

09/14/92	Hired as Bus Operator
12/11/96	Declined Train Operator
07/01/98	Declined Train Operator
11/10/98	Entered GIS
12/09/98	Request return to Bus Operator
12/09/98	Accepted Rail Veh Mechanic Trg
03/17/99	Accepted Transit Painter

Employee Example #4

12/12/88	Track Repairer
04/11/94	Rail Vehicle Mech Trg
05/17/94	Enter RV Mech
07/22/96	Rail Vehicle Machinist Trg
11/13/96	Enter RV Mach
05/08/97	Vol demotion to Rail Veh Mech

Employee Example #5

03/05/89	Enter Track Repairer
07/23/89	Accept TEO - Failed Probation
11/22/89	Accept TEO - Failed Probation
12/04/98	Accept Rail Veh Mechanic (Trg)
03/18/99	Accept Transit Painter

Employee Example #6

07/18/93	Enter Track Repairer
05/22/95	Accept TEO Training
05/31/95	Terminated from TEO Training
07/22/96	Accept Rail Veh Mechanic (Trg)
05/13/97	Accept Transit Painter

This type of movement within the system restricts opportunities available to those employees entering the system with little seniority regardless of the training and skills the less senior employees bring with them.

In the absence of job standards and performance measures, employees lacking the requisite knowledge, skills, and abilities to succeed often return to their former positions or apply for other training opportunities. In some cases, employees who fail probation continue to re-apply for new vacancies in the same job classification, further perpetuating a cycle of movement throughout the system. Feeder classifications have high turnover rates, and the technical expertise qualified workers would normally bring to the job is eroding. The erosion of the technical knowledge base of the Electronic Technicians within Metrorail and the Metromover Technicians is exemplified in the following tables:

<i>Metrorail Electronic Technician</i>			
May 2000	E.T.s \leq 5 yrs	E.T.s > 5 yrs	All E.T.s
Average Education	12.2 years	13.3 years	12.6 years
% Former E.T. or Electrician	0%	90%	50%
Average Years in Classification	2.5 years	12.4 years	6.1 years
% of Total E.T.s	63%	37%	100%

<i>Metromover Technician</i>			
May 2000	M.T.s \leq 5 yrs	M.T.s > 5 yrs	All M.T.s
Average Education	12.0 years	12.6 years	12.3 years
% Former E.T. or Electrician	8%	68%	37%
Average Years in Classification	4.4 years	9.9 years	7.0 years
% of Total M.T.s	73%	27%	100%

The above tables show that Metrorail Electronic Technicians hired within the last five years came to their position with no previous electronic or electrical experience. Since seniority rather than minimum qualifications dictates

advancement through the classification system, previous experience is no longer required. A common standard for proficiency in this type of technical position is six to eight years in similar agencies. The fact that two-thirds of the present work force has less than five years of experience is of critical concern not only in terms of the length of the required learning cycle but also in terms of the impact felt by the retirement of seasoned workers as the rail fleet approaches its midlife. Data presented for Metromover Technicians also show a significant lack of experience brought to the department by the recently hired Metromover Technicians. Some assistance in this area will be provided as the newly designated and trained Bus Technicians become proficient and migrate to these jobs. Metrobus will then be faced with a loss of skilled, seasoned workers. Recruitment and selection processes, overwhelmed by these obstacles have proven to be inefficient and ineffective in providing MDT with a qualified work force.

MDT currently provides the training necessary for employees to become qualified for positions they attain through seniority. In many areas, an experienced supervisor directly provides the training, which makes that supervisor unavailable for on-site supervision during the course of the training. Since the same supervisor conducts several of the training programs, training in one area is often delayed while other training is ongoing. Even within highly technical job classifications, training offered is basic training, i.e., training to qualify employees for the positions. Employees are permitted to move from one training opportunity to another, return to their former positions at any time during the process, and repeat training for positions for which they failed training and/or probation at will, as was indicated in a previous table regarding "hopping." This movement of employees within MDT appears to be extensive and is taxing the resources not only of the training staff but also the recruitment/selection staff. Training to develop skills beyond becoming qualified, to refresh skills or to become proficient is unavailable due to the heavy demands for the "qualifiable" training to which MDT is committed.

Other heavy rail systems, including Metropolitan Atlanta Rapid Transit (MARTA), Maryland Mass Transit Administration (MTA), and Washington Metropolitan Area Transit Authority (WMATA), were reviewed to determine how workers entered their systems and the type of training they provided.

WMATA and MARTA require two years of technical training in addition to two years of relevant experience in order to enter the rail car maintenance system. Both agencies experienced difficulty in finding a sufficient pool of qualified personnel to meet their needs, and, as a result, initiated apprenticeship programs that waive the experience requirement but continue to require two years of technical training. WMATA requires that all staff enter their system as Helpers. They are promoted one step at a time, annually, from classes C, B, A to AA after

completing a year of service in that class in addition to passing a written proficiency examination. MTA candidates who meet minimum qualifications are required to pass an examination, and the most senior person who achieves a passing test score is assigned to the position. MARTA recently began hiring apprentices from the internal ranks, recruiting employees who were currently in the system in other occupational groups who did not meet the minimum qualifications for technician and mechanic positions. Initially, these apprentices participated in a 2-½ year training program that included the entire first year of training in the classroom. MARTA recently revised their program to provide rotation between the classroom and the shop in three-month intervals. Their success with their in-house program has been rather limited; however, they report excellent results from a recruitment program that focused on naval and army bases as well as on local community colleges. The following table provides a comparison of those heavy rail programs:

<i>Agency</i>	<i>Experience</i>	<i>Technical Training</i>	<i>Written Exam</i>
MDT	TWU Seniority	TWU Seniority	No
MTA	2 Years Technical	2 Years	Yes
WMATA	2 Years Technical*	2 Years	To Advance (C-B-A-AA)
MARTA	2 Years Technical*	2 Years	No

*Apprenticeship is required if no experience

Summary of Task Force Process

To assist the Task Force with its work, MDT engaged the services of the Center for Urban Transportation Research (CUTR) at the University of South Florida to provide staff support to the task force and to secure other staff resources required by the group. Under an existing Interlocal Agreement, a scope of work was developed and approved that included facilitation services of Mr. Robert Jones, Director of the Florida Conflict Resolution Consortium at Florida State University (FCRC).

At its first session, the Task Force created and then subsequently refined a purpose statement.

“The purpose of the 13(c) Strategic Task Force is to review the 13(c) agreements in Miami-Dade County and lessons learned from other national transit properties in order to develop consensus recommendations to the Miami-Dade Transit Director to increase the overall productivity of MDT by improving the effectiveness and efficiency of recruitment, selection and training. The Task

Force is composed of a diverse group of representatives of the various MDT divisions.”

Roles and Responsibilities

The roles and responsibilities of the groups and individuals involved in the Task Force deliberations and the development of the recommendations were articulated. These roles and responsibilities, which were defined in a first work session of the group, were refined and adopted in a second work session.

The MDT Strategic Committee - The Committee coordinates the work of various strategic task forces including the 13(c) Strategic Task Force. The Task Force will brief the Committee on progress it is making with its charge.

The MDT Director - The Task Force will present to the Director their report and consensus recommendations for his consideration and possible implementation.

The 13 (c) Task Force - Members were responsible for engaging in a process of consensus building on recommendations for improvements to the recruitment, selection and training process and programs. Each member had the responsibility of conferring with the leadership within their divisions and bringing their issues to the table for consideration.

The 13(c) Task Force Chair - The Assistant Director for Transit Services served as the Task Force chair and participated as a peer on the committee, relying on the CUTR/FCRC team to develop draft session agendas, facilitate Task Force meetings, and assist the Task Force in completing its tasks.

The CUTR/FCRC Team - The team served the Task Force by providing research and report drafting assistance, process design, and meeting facilitation to aid in the Task Force’s efforts to build consensus on a final report. The Team may seek outside legal assistance on specific questions that arise in the process and for review of the draft final report at the conclusion of the process.

TWU Local 291 - The Task Force attempted to inform the TWU Local 291 leadership of its efforts and seek its input early in the process. The CUTR/FCRC team and the Task Force were unable to convene an informational gathering and briefing session following Work Session #1 (as planned) with the TWU Local 291 leadership in conjunction with the MDT management and personnel staff. However, during Session #4, the Task Force and CUTR team did convene an informational presentation with TWU Local 291 leadership and reviewed and received their input on the report.

The County Attorney's Office - The Task Force informed the County Attorney's office of its purpose and will keep it informed of its progress and outcomes. The Task Force may seek assistance and input as appropriate.

The Miami-Dade Labor Relations Office - The Task Force will seek to inform the County Labor Relations office of its purpose and keep it informed of its progress and outcomes. The Task Force may seek assistance and input as appropriate.

Workshop Format

In discussions between MDT and the CUTR/FCRC team, there was agreement that the most expeditious method of achieving an agreed upon set of recommendations was through a series of one day workshops. The format would be consistent throughout the three planned one-day sessions. Mr. Robert Jones facilitated the sessions, and CUTR staff provided informational briefings and the results of their research.

The Following Principles for the operation of the Task Force, which were reviewed and refined at Session #1, were adopted at Session #2:

- Be open in sharing information and problem solving.
- All should function as peers on Task Force work.
- Make Task Force decisions by consensus after educating each other on issues and concerns.
- Should be free to openly engage, i.e., voice opinions freely without attribution or retribution.
- Find a way to get TWU Local 291 input during the Task Force process.
- Seek to develop consensus recommendations that are even-handed, fair and impartial.
- Be responsible for giving guidance to the CUTR team and be responsible for solving problems and resolving conflicts.
- Should consider the impact of their consensus recommendations on manpower, budget, and service before finalizing them.

- Recommendations should take into account legal guidance on 13(c) issues.

The 13(c) Strategic Task Force sought consensus decisions on their package of recommendations for improvements to the MDTA recruitment, selection and training procedures and programs.

Consensus building is a participatory process whereby, on matters of substance, the Task Force members strive for agreements, which all members could accept, support, live with or agree not to oppose. In instances where, after vigorously exploring possible ways to enhance the Task Force members' support for a recommendation or for final decision on a package of recommendations, and found that 100 percent acceptance or support was not achievable, final decisions required at least 80 percent favorable vote of all members present and voting. This super majority decision rule underscored the importance of actively developing consensus acceptable to all, with the participation of all members throughout the process on substantive recommendations.

The Task Force developed recommendations using consensus-building techniques, such as the use of brainstorming, ranking, and prioritizing approaches, with the assistance of the CUTR/FCRC team.

The Task Force and Task Force Chair worked with the facilitator to design agendas that were both efficient and effective. The chair was responsible, in consultation with the Task Force members and facilitator, for proposing meeting agendas. The use of a facilitator enabled the chair to participate directly in the substantive process of seeking agreement on recommendations. The CUTR/FCRC team helped the Task Force with information and research needs.

Description of Process

The following outline details the process the Task Force adopted to perform their work. Again, the process and schedule were collaboratively developed with input from and discussion with all of the membership.

The 13(c) Strategic Task Force Meeting Process

Pre-Session

- Initial Task Force “scoping” meeting with CUTR team
- Conducted interviews with Task Force members
- Conducted background research
- Prepared Agenda Packet

Session #1, April 10, 2001

- Sought agreement on Purpose, Roles and Principles
- Identified key questions, initial ideas in answering the questions, and information needed to develop recommendations in the area of recruitment, selection, and training

Session #1 Products

- Facilitator meeting summary and background materials

Between Sessions

- Conducted additional research and data collection as suggested by Session #1 including interviews and studies
- Drafted options to address key questions raised by the Task Force regarding recruitment, selection, and training
- Prepared draft outline of Task Force report
- Held Meeting with County Attorney on April 24, 2001

Session #2, May 1, 2001

- Presented additional information/research
- Presented and sought agreement on draft outline for Task Force report
- Reviewed, ranked and tested consensus on draft options and alternatives for each of the issue areas
- Discussed implementation strategies
- Agreed on the amendment process guidelines for the final report

Session #2 Products

- Facilitator meeting summary and background materials

Between Session

- Presentation to the Strategic Committee and full Retreat Group on May 11, 2001
- Circulated draft final amendatory text based on Session #2 with amendment forms
- Deadline for written amendments
- Circulated all amendments and agenda

Session #3, May 31, 2001

- Reviewed and made decisions on all written amendments
- Adopted the content of the final draft report

Between Sessions

- CUTR/FCRC finalized the Task Force report based on decisions at Session #3
- CUTR continued work on the Resource Manual

Session #4, June 14, 2001

- Reviewed input and adopted the content of the final report
- Task Force and CUTR presented report findings to the TWU Local 291 leadership for input
- Discussed Resource Manual
- Agreed upon implementation strategy

Following Session #4

- Incorporated TWU leadership input into final report
- Presentation to the Director for action
- Distributed Resource Manual

Key Questions & Issues

Recruitment/Selection

Problem Statement

The Task Force reviewed the recruitment/selection processes currently in place and detailed those obstacles and issues that hamper the recruitment/selection process. The Task Force determined that from a time perspective, the process required to fill a vacant position is quite lengthy. Bargaining unit seniority has superseded minimum qualifications, and, as a result, recruitment lists contain a large number of minimally qualified candidates.

The impact of this volume of candidates is felt at every step of the recruitment process, i.e., processing applications, verifying and ranking seniority order, screening for basic skills, and training candidates to qualify for those positions. With upward mobility based primarily on seniority, it has become the charge of the department to provide employees with the training necessary to qualify them for the positions they select. In their attempt to secure “favored” positions, employees frequently move from one training program to another, often

impacting numerous recruitments. This type of movement within the system, commonly referred to as “hopping,” restricts opportunities available to those employees entering the system with little seniority regardless of the training and skills the less senior employees bring with them.

In the absence of job standards and performance measures, employees lacking the requisite knowledge, skills, and abilities to succeed often return to their former positions or apply for other training opportunities. In an attempt to insure a pool of successful candidates, several additional employees, known as alternates, are included in the training program. The use of alternates in the training process creates a whole new set of problems due to the two types of seniority requirements currently in place. Despite successful completion of training, some alternates cannot be selected for placement due to their lack of seniority. In some cases, employees who fail probation continue to re-apply for new vacancies in the same job classification, further perpetuating a cycle of movement throughout the system. Feeder classifications have high turnover rates, and the technical expertise qualified workers would normally bring to the job is eroding. Recruitment/selection processes, overwhelmed by these obstacles have proven to be inefficient and ineffective in providing MDT with a qualified work force.

The task force members reviewed the list of recruitment/selection obstacles and issues identified in the interviews and developed key recruitment/selection questions for the task force to address. Those questions focused on establishing performance measures to improve the recruitment process, re-establishing minimum qualifications, improving the employment verification process, minimizing the “hopping” from one training program to another, reducing the advertising time for the recruitment process, establishing the size of the recruitment pool based on the number of vacancies, and achieving a single seniority mechanism for placement. In the area of promotional opportunities, the task force discussed developing a “one-bite” rule for asserting seniority, defining disqualifiers, assigning feeder classifications, and establishing career progressions for promotional purposes. Members generally agreed with the problem statement.

Key Questions

How can performance measures be established to improve the recruitment process?

<u>Proposition</u>	Introduction of employee performance as a factor in the recruitment/selection process will create a more qualified candidate pool.
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Members generally agreed with the proposition. Their discussion focused on the issue of performance evaluation versus a performance test. Establishing job standards for each job classification to be evaluated by a proficiency test is needed. Members agreed on the need to establish proficiency tests for skilled classifications to improve the quality of the candidate pool. They generally agreed that the use of overall performance factors such as attendance, recognition, disciplinary actions, professional development, and the allocation of points for relevant training and experience could be useful if issues associated with seniority were addressed.

Can minimum qualifications be re-established?

Proposition Introduction/re-introduction of minimum qualifications will produce a more qualified candidate pool.

Members generally agreed with this proposition. They examined options that included establishing realistic minimum qualifications for all TWU classifications, for only entry level “feeder” classifications, and for “critical” classifications, i.e., classifications that need knowledge, skills, and abilities external to those gained in movement through MDT today. They unanimously agreed that minimum qualifications should be acknowledged and enforced for all TWU classifications. They viewed the other options as just building blocks that would be included if all classifications were addressed. They did note that “trainee” status would be unnecessary after minimum qualifications were established. Critical to the discussion was information obtained from the County Attorney, who suggested that it is reasonable for MDT to establish minimum qualifications for Section 13(c) positions.

How can the verification process in determining minimum qualifications be improved?

Proposition Using an existing administrative tool in a more assertive way within the recruitment/selection process could enhance the quality of the candidate pool.

The members generally agreed with this proposition. They thought the idea was sound but the implementation would be difficult. Employment history verification does not affect the Section 13(c) candidates and does require a significant commitment of staff. There was general acknowledgement that the introduction of minimum qualifications, as previously proposed, would increase the number of candidates external to MDT thereby increasing the importance of employment history verification.

How can the training “hoppers” problem be minimized?

Proposition Restructuring available training opportunities by limiting the number of opportunities available to each worker could enhance productivity in the workforce.

The members generally agreed with this proposition. They unanimously agreed that the implementation of specific recruitment strategies and establishing “hopper” rules would enhance productivity. Recruitment strategies include: performance measures, minimum qualifications, employment verification, and the “one-bite” rule. “Hopper” rules that require permanent status in the new position prior to a “hop,” a minimum amount of time in a position between “hops” and the achievement of probationary status in a position prior to a “hop” might be effective. Members unanimously favored the requirement of permanent status to “hop.” They also explored possible penalties and disincentives for those who were involved in training but failed to complete the entire program. Training time could be deducted from classification seniority or failure to complete the training program could be viewed as failure to pass training.

The members rejected the option of instituting a simultaneous recruitment schedule where all recruitment would be advertised at the same time. The members determined that this could be viewed as limiting workers’ opportunity to advance in that it restricts employment to one recruitment selection during a specific schedule. It would be difficult to implement, and there appeared to be more effective ways to solve the problem.

Information obtained from the County Attorney supports action to minimize “hoppers.” He indicated not only that it was unrealistic to assume that, through training, every employee could perform any job within MDT but also that the training program was never intended to operate in that manner.

Can the advertising time for the recruitment process be reduced?

Proposition Time to fill a job with a candidate is too long.

The members unanimously agreed with this proposition and with the implementation of other recruitment strategies, such as performance measures, introduction of minimum qualifications, and “one-bite” rule to reduce the time to fill a job. In addition, they favored the use of additional full-time trainers as one of the strategies.

The members generally agreed that automation of the seniority database reduces recruitment time. The process is underway but is time consuming.

Allocation of temporary staff to assist Human Resources could speed this process.

While the members generally agreed that a reduction in advertising time would reduce the time required to fill a job, they did note that negotiation with TWU would be required to change the length of the advertising time.

How can the length of a list be limited?

There was some question as to what was meant by this key question. Was the issue the number of applicants on the list or the length of time the list is valid? Members determined that the issue is the length of time the list is viable for use. A list can now be used for up to three years. Members agreed that the aging of the list contributes to a variety of other problems including “hoppers.” Management and HR need to consider more carefully the immediate recruitment needs as well as the age of the eligibility list before deciding to extend a list. The Task Force refrained from making any recommendation on changing the existing procedures involved in updating lists due to potential implications of the implementation of their recommendations on the entire recruitment and selection process.

Can a “one-bite” rule per “project” for asserting seniority for promotional opportunities be developed?

<u>Proposition</u>	Use of overall seniority and the obligation to make someone qualified was initially intended to be “as a result of the project.” Widespread practice results in hoppers, erodes the knowledge, skills, and abilities of the work force, and places extreme demands on the department in the areas of recruitment/selection and training.
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The members generally agreed with this proposition. They did question the need for the “one-bite” rule if minimum qualifications were re-instituted. Record keeping and tracking could be major issues. Furthermore, MDT did propose this concept to TWU in November 1999 and February 2001 and, to date, TWU has failed to respond. An alternative would be to apply minimum qualifications to the second “bite.” Members suggested that they share this concept with TWU and lay out the career progression concept linked to minimum qualifications.

Members generally agreed that “one-bite” should apply both the TWU seniority and “becoming qualified” for a job rather than only seniority or becoming qualified.

Can feeder classifications for promotional purposes be assigned?

Proposition By addressing recruitment/selection and qualification issues for feeder classifications, the candidate pool for promotional advancement will improve.

The members generally agreed with this proposition. Members rejected the option of focusing recruitment efforts on those identified classifications that feed higher-level classifications. They felt that this was actually the first step in the career ladder process, and the County has a “rule of 4” regarding straight feeder classifications. It was suggested that activities in this area could mirror those currently on-going with Bus Technicians.

Is it possible to restrict the voluntary return to an employee’s previous classification unless the employee fails or is failing the probationary period?

Proposition The recruitment/selection process would be improved by limiting opportunities available to those employees who continually move from one training program to another.

The members unanimously agreed with this proposition. They favored establishing a waiting period prior to re-application for the same position after failed probation rather than prior to re-application for any position. They noted that re-institution of minimum qualifications would reduce the significance of this issue.

Training

Problem Statement

The current MDT training program is structured to provide the training necessary for employees to become qualified for positions they attain through seniority. Within some areas of MDT, manual labor and equipment operator positions serve as entry-level positions. All other positions are filled on the basis of seniority. In many areas, an experienced supervisor directly provides the training. As a result, that supervisor is unavailable for on-site supervision during the course of the training. Since the same supervisor conducts several of the training programs, training in one area is often delayed while other training is ongoing.

Even within highly technical job classifications, training offered is basic training, i.e., training to qualify employees for the positions. Employees are permitted to move from one training opportunity to another, return to their former positions at

any time during the process, and repeat training for positions for which they failed training and/or probation. This movement of employees within MDT appears to be extensive and is taxing the resources not only of the training staff but also the recruitment/selection staff. Training to develop skills beyond becoming qualified, to refresh skills or to become proficient is unavailable due to the heavy demands for the “qualifiable” training to which MDT is committed.

At the first session, the task force members reviewed the list of training obstacles and issues identified in the interviews and developed key recruitment/selection questions for the task force to address. Those questions focused on limiting the amount of training opportunity, using supervisors as trainers, balancing the use of resources for training that brings employees up to minimum qualifications with meeting other MDT training needs, identifying those points in the system where training improvements could be directed that would have big payoffs up and down the system, and determining whether training should be provided for career changes or only as job specific training. Members generally agreed with the problem statement.

Can limitations be placed on the number of training opportunities available to an employee?

It is unlikely that employees could be restricted from taking advantage of training opportunities. The issue in this case might be an insufficient number of training opportunities. There is currently a lack of in-house trainers; it is difficult to release additional employees for training programs; and, refresher as well as proficiency training needs remain unmet.

Is the use of in-house trainers the best use of MDT resources?

Proposition The use of a variety of training providers with a schedule of varying hours might be a more efficient way to address the training needs in most areas of the department.

The members generally agreed with this proposition. They favored outsourcing core training and using in-house staff for specialized on-the-job training. While they did not reject the idea of outsourcing core courses simultaneously or establishing training programs during non-work hours, they considered those options to be less appealing.

The members expressed concern about funding and quality issues involved with outsourcing. They suggested that new projects should include training budgets. They indicated that training time and needs might change if minimum qualifications were introduced.

How can the use of resources for training to achieve minimum qualifications be balanced with meeting other MDT training needs?

Proposition The current method of providing training to minimally qualified employees dilutes resources and prevents the department from providing training to maintain the proficiency of the work force.

The members generally agreed with this proposition. They indicated that in order to be efficient, the training program must be flexible.

Would a strategic approach to training be beneficial?

Proposition A training plan developed to maximize training resources and enhance the specialized skills of workers would benefit MDT

The members unanimously agreed with this proposition. They favored creating a series of tactics that support a strategy. They unanimously supported feeding the work force with new qualified employees and keeping current employees proficient.

Would evaluation of the training program benefit the MDT?

This appears to have a cause/effect proposition. Evaluation of the training program could, in essence, evaluate the aptitude of the students rather than the efficacy of the training program.

Should training be provided for career changes versus only job specific training?

Proposition Current emphasis on and allocation of resources to creating a qualified work force hampers MDT's ability to provide refresher and proficiency training to enhance the skills of the work force.

The members unanimously agreed with this proposition. They favored the use of strategies, such as the "one-bite" rule, non-work hour training, and minimum qualifications.

Recommendations

As a result of deliberations, the 13(c) Strategic Task Force recommends the following actions be taken to improve the efficiency and effectiveness of MDT's recruitment, selection and training processes to increase the department's productivity. During the final Work Session, Task Force members reviewed each of the recommendations with JW Johnson, Vice President of the Transport Workers' Union, Local 291, AFL-CIO.

1. Minimum qualifications for all TWU bargaining unit positions should be reviewed and refined, where necessary, and integrated into a new career progression. Implementing the career progression should include a reclassification of maintenance personnel similar to what WMATA has established. This could eliminate the trainee status, and movement from one division to another could be limited. Career paths within this career progression would be established for each individual division.

TWU has always favored a true career ladder and viewed this recommendation as the most palatable of the recommendations. TWU also indicated that implementation of this recommendation would eliminate the need for several of the other recommendations.

2. Rules should be established to minimize "hopping." After evaluating several options, the Task Force unanimously recommended that only an employee with permanent status (not on probation or in training status) be eligible for movement to a trainee status position.

Despite their concerns regarding potential circumvention of seniority rights, TWU did express a willingness to discuss this recommendation.

3. Sufficient resources should be provided to Human Resources to complete manual data inputting and trial implementation of the 13(c) seniority database in a timely manner.

TWU supported this recommendation and suggested that a deadline for implementation be established.

4. Discussions should begin with TWU regarding a reduction in the amount of time positions are advertised with the goal of minimizing advertisement time while providing sufficient opportunity for the application process.

TWU indicated a willingness to discuss advertisement time for those positions within their control.

5. A policy should be established mandating that TWU seniority and the obligation to qualify a candidate for a new job can be exercised by an employee only once during the life of the project.

TWU expressed a willingness to discuss this recommendation. TWU views the definition of newly created jobs as the issue rather than the project itself.

6. A policy should be established that requires a waiting period of one year for re-application for a position in which the employee has failed probation.

TWU suggested that the Claude Rolfe/Ronald Tober letter should be discussed in detail to address this recommendation.

7. A “core training” program with local technical schools should be established to minimize the use of in-house trainers. The “core training” program should include technical training requirements common to several job families, e.g., basic electrical theory.

TWU supports this concept. Apparently, they previously proposed the use of “core training” similar to the “cross training” provided by MARTA.

8. A new training strategy and plan must be developed contingent upon those recommendations regarding recruitment, selection, and training that are adopted.

TWU is looking for true training and a true career ladder.

Implementation Plan

In devising an implementation strategy to enhance productivity of the MDT workforce through improved 13(c) recruitment, selection, and training processes, one realization that quickly emerges is the issue of interrelationships between strategic initiatives. As a result of the department's reliance on seniority as the driver for determining candidates, every factor relating to that seniority generates its own set of causal relationships. Re-establishing minimum qualifications lessens the need for creation of the "one-bite" rule. Creation of the "one-bite" rule reduces the significance of requiring permanent status to "hop." While requiring permanent status to hop does indeed reduce the number of hoppers, in and of itself, it fails to provide a qualified workforce. Although "hoppers" have created significant problems for the department not only in terms of their considerable drain on resources but also in their lessening of productivity, they appear to result from rather than cause various 13(c) recruitment, selection, and training practices.

The recommendations forwarded by the Task Force can be categorized into two broad areas. There are those recommendations needed to address problematic symptoms resulting from the overall recruitment, selection, and training processes. While the remedies resulting from these recommendations could immediately provide some improvement to the processes themselves, they fail to address the systemic issues identified within the department. Toward that end, they constitute "short term" implementation actions. The other category includes the set of recommendations that attempts to correct the root causes of the inefficiencies being experienced by MDT in the 13(c) recruitment, selection, and training arenas. Recognizing that the recommendations in this category will require discussions and possible negotiations with TWU, potential arbitration, and significant staff work on the part of the department, they are considered as "long term" implementation actions.

The first step in this process is to present the recommendations formulated by the 13(c) Strategic Task Force to the MDT Director and seek his approval for implementation.

If as indicated in the recommendation section, TWU, Local 291, AFL-CIO is amenable to participating in an ongoing forum to resolve recruitment, selection, and training issues, this plan could be achieved through a collaborative effort.

I. Short Term

- A. **Immediately institute a new policy that requires that an employee hold permanent status in order to be considered for any new “trainee” position; and, if an employee has failed his probation for a position, a 12-month waiting period for reapplication will be invoked.** This change will have the short-term benefit of weeding out the “professional student,” help minimize the “hopping” situation, and will free up opportunities for other employees to advance. Advice of the County Attorney should be sought prior to discussion with TWU to alert them of the impending change.
- B. **Provide the Human Resources Division with temporary help in order to expedite the manual data inputting and trial implementation of the seniority database.** This action will have a short-term payoff in generating eligibility lists in a timely manner. Human Resources should be given the opportunity to provide an estimate of the resource required to accomplish this automation by the end of this calendar year. If additional computer hardware is required, it should be procured.
- C. **Establish a meeting with TWU leadership to discuss the length of time a recruitment is advertised.** The goal is to streamline the recruitment process while providing ample opportunity for potential applicants to become aware of and apply for job openings within MDT. This meeting could also be used to discuss other short and long term recommendations of the 13(c) Strategic Task Force.

The Task Force believes, given acceptance of these recommendations by the Director and endorsement by the County Attorney’s Office, these actions can be accomplished by November 2001.

II. Long Term

- A. **Immediate dialogue should begin with the leadership of the TWU regarding the issue of the “one-bite” rule.** As stated earlier, in February 2001 MDT for the second time proposed to TWU that all positions created as a result of a project be filled using TWU bargaining unit seniority unless the employee had already exercised preferential hiring rights for that specific project. Employees who obtained a 13(c) position with their TWU bargaining unit seniority would not be barred from applying for other positions; however, each employee’s respective classification seniority would be used thereafter. A bargaining unit employee would be able to use

TWU bargaining unit seniority only once per project, i.e., for the first 13(c) position the employee elected to pursue and accept. An employee used bargaining unit seniority once the employee had occupied the budgeted 13(c) position for one day, regardless of status.

The next step in the implementation process to remedy the root causes of the recruitment problems would, necessarily, be determined by the success or failure of these discussions. If TWU fails to acknowledge the systemic problem the “one-bite” rule would help to address, then the reintroduction of minimum qualifications should move from the long-term implementation category into the short-term category.

- B. Steps should be taken now in order to re-establish or establish appropriate minimum qualifications.** The implementation plan will vary depending on the outcome of the discussions regarding the “one-bite” rule and how quickly progress can be made on that issue. Ideally, some mutual agreement can be reached on the first opportunity issue in the “one-bite” rule discussions. If the rule (or some variation of it) is adopted, the need to complete and implement the partially developed career ladders is significant. A logical progression through career steps based on worker proficiency will be required once selection based solely on seniority wanes.

If in fact, TWU is unwavering in its position to change anything related to the current 13(c) selection and recruitment process, the implementation plan must be quite different. In that case, the Task Force must foresee the need administratively and unilaterally to enforce appropriate minimum qualifications. This would be done for a few highly technical job classifications at first, recognizing that in this scenario, TWU will likely grieve any selection based on the newly invoked qualifications. The classifications chosen for this more tactical approach must be carefully selected; the qualifications must be appropriate; and, they must be selected with the input and advice of the County Attorney’s Office. This approach, while not the preferred alternative, will help ensure that the department is on solid legal and managerial ground in the face of arbitration. The selections made based on the new minimum qualifications will more than likely be challenged. In addition, a test of the labor market should be undertaken to determine the potential size of a candidate pool that could result from an outside recruitment.

A similar way to reintroduce appropriate minimum qualifications under a scenario of no progress on the “one-bite” rule would be simply to abolish the “trainee positions” for technical classifications. Again, this approach is less

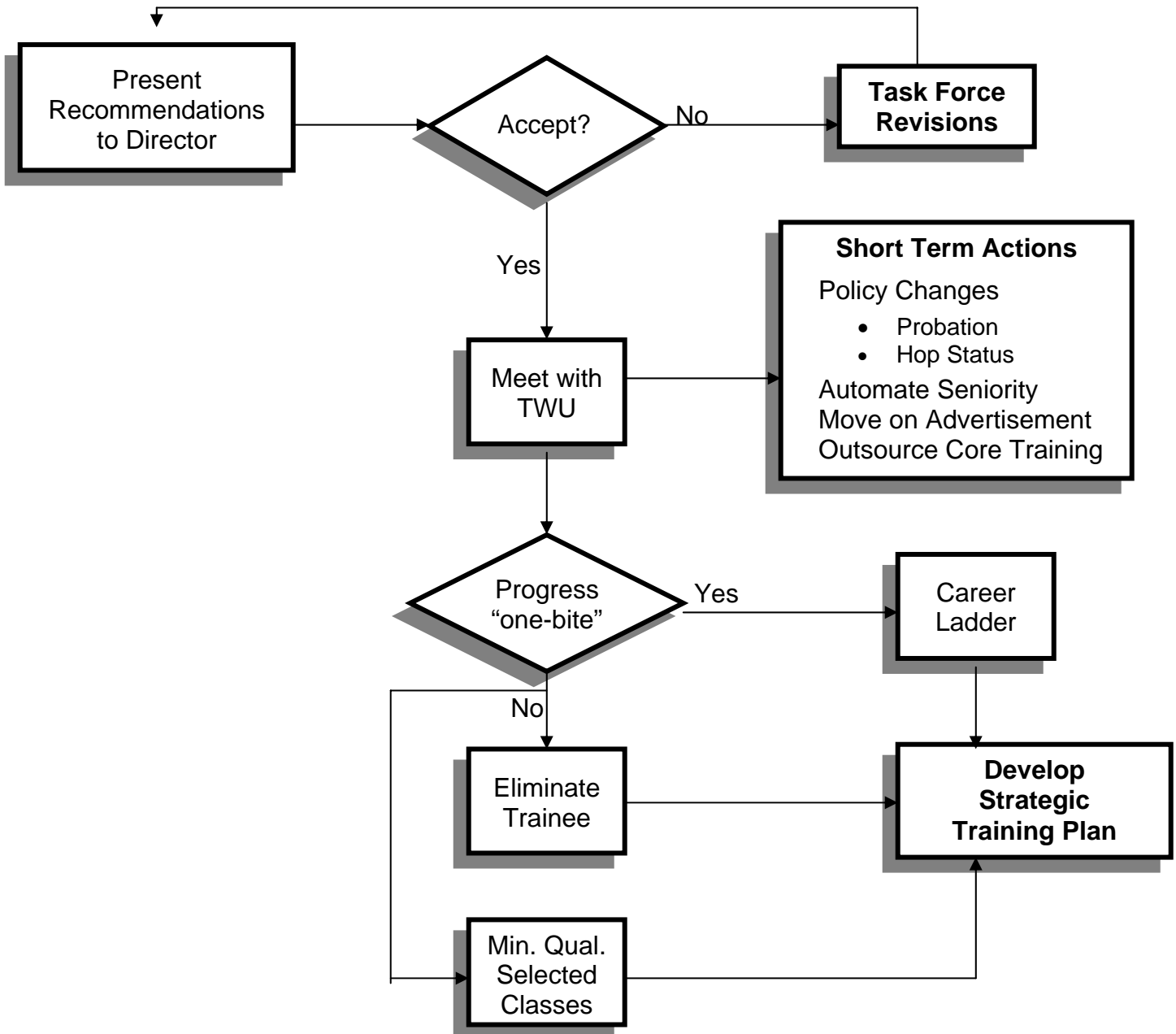
than ideal in that the action will likely be challenged; nonetheless, it is a legitimate option.

- C. Depending upon the success or failure of the implementation of short and long term recommendations, **a strategic training plan will need to be developed.** Because of the interrelationships mentioned above, the exact nature of this plan cannot yet be determined. What is known is that regardless of any change in the recruitment and selection process, there is an immediate need to outsource some of the training needs of the department. If changes do occur, the nature of the off-site training will be different. The changes that might optimally occur will require some transition time and, as long as the department is still providing training to make internal candidates qualified for advancement, there seems to be significant benefit in outsourcing.
- D. **The Training Section, Human Resources, Rail/Mover Maintenance and Transit Facilities Maintenance Divisions need to meet to identify what training is appropriate to be provided by local technical institutions and to what extent there is overlap in the basic training required for technical classifications across division lines.** If the Director has accepted the recommendation, then an agreement with a local school should be funded and put in place within six months of the Director's approval of the plan.

Flow Chart

The following flow chart is a graphic illustration of both short-term and long-term implementation actions and their interrelationship within the department:

13(c) Strategic Task Force Implementation Plan



¹ Transit Labor Protection-A Guide to Section 13(c) Federal Transit Act, G. Kent Woodman, Jane Sutter Starke, Leslie D. Schwartz, Page 4, I.A. Statutory Requirements.

² Transit Labor Protection-A Guide to Section 13(c) Federal Transit Act, G. Kent Woodman, Jane Sutter Starke, Leslie D. Schwartz, Page 4, I.A. Statutory Requirements.

³ Transit Labor Protection-A Guide to Section 13(c) Federal Transit Act, G. Kent Woodman, Jane Sutter Starke, Leslie D. Schwartz, Page 4, I.B. Legislative History of Section 13(c).

⁴ Transit Labor Protection-A Guide to Section 13(c) Federal Transit Act, G. Kent Woodman, Jane Sutter Starke, Leslie D. Schwartz, Page 4, I.B. Legislative History of Section 13(c).

⁵ Transit Labor Protection-A Guide to Section 13(c) Federal Transit Act, G. Kent Woodman, Jane Sutter Starke, Leslie D. Schwartz, Page 4, I.B. Legislative History of Section 13(c).

⁶ Transit Labor Protection-A Guide to Section 13(c) Federal Transit Act, G. Kent Woodman, Jane Sutter Starke, Leslie D. Schwartz, Page 7, I.C.1. Definitions.

⁷ Transit Labor Protection-A Guide to Section 13(c) Federal Transit Act, G. Kent Woodman, Jane Sutter Starke, Leslie D. Schwartz, Page 8, I.C.10. New Jobs Clause.

⁸ Transit Labor Protection-A Guide to Section 13(c) Federal Transit Act, G. Kent Woodman, Jane Sutter Starke, Leslie D. Schwartz, Page 8, I.E.2. Model Agreement..

⁹ Transit Labor Protection-A Guide to Section 13(c) Federal Transit Act, G. Kent Woodman, Jane Sutter Starke, Leslie D. Schwartz, Page 8, I.E.2. Model Agreement..

¹⁰ Transit Labor Protection-A Guide to Section 13(c) Federal Transit Act, G. Kent Woodman, Jane Sutter Starke, Leslie D. Schwartz, Pp 8-9, I.E.2. Model Agreement.