



Department of Justice
Office of Justice Programs
Office for Civil Rights

MEMORANDUM

TO: COPS Grant Recipients

FROM: Michael L. Alston
Director, Office for Civil Rights, Office of Justice Programs

DATE: June 25, 2012

RE: Federal Civil Rights Statutes and Regulations

Congratulations on your recent award. In establishing financial assistance programs, Congress linked the receipt of federal funding to compliance with federal civil rights laws. The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice is responsible for ensuring that recipients of financial assistance from the Office of Community Oriented Policing Services (COPS) comply with the applicable federal civil rights statutes and regulations. We at the OCR are available to help you and your organization meet the civil rights requirements that come with Justice Department funding.

Ensuring Access to Federally Assisted Programs

As you know, federal laws prohibit recipients of financial assistance from discriminating on the basis of race, color, national origin, religion, sex, or disability in funded programs or activities, not only in respect to employment practices but also in the delivery of services or benefits. Federal law also prohibits funded programs or activities from discriminating on the basis of age in the delivery of services or benefits.

Providing Services to Limited English Proficiency (LEP) Individuals

In accordance with Department of Justice Guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, recipients of federal financial assistance must take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency (LEP). *See* U.S. Department of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (2002). For more information on the civil rights responsibilities that recipients have in providing language services to LEP individuals, please see the website <http://www.lep.gov>.

Ensuring Equal Treatment for Faith-Based Organizations

The Department of Justice has published a regulation specifically pertaining to the funding of faith-based organizations. In general, the Justice Department regulation, Equal Treatment for Faith-Based Organizations, 28 C.F.R. pt. 38, requires State Administering Agencies to treat faith-based organizations the same as any other applicant or recipient. The regulation prohibits State Administering Agencies from making award or grant administration decisions on the basis of an organization's religious character or affiliation, religious name, or the religious composition of its board of directors.

The regulation also prohibits faith-based organizations from using financial assistance from the Department of Justice to fund inherently religious activities. While faith-based organizations can engage in non-funded inherently religious activities, they must be held separately from the program funded by the Department of Justice, and recipients cannot compel beneficiaries to participate in them. The Equal Treatment Regulation also makes clear that organizations participating in programs funded by the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. For more information on the regulation, please see the OCR's website at http://www.ojp.usdoj.gov/about/ocr/equal_fbo.htm.

State Administering Agencies and faith-based organizations should also note that the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, as amended, 42 U.S.C. § 3789d(c); the Victims of Crime Act of 1984, as amended, 42 U.S.C. § 10604(e); and the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. § 5672(b), contain prohibitions against discrimination on the basis of religion in employment. Despite these nondiscrimination provisions, the Justice Department has concluded that the Religious Freedom Restoration Act (RFRA) can be construed, on a case-by-case basis, to permit some faith-based organizations to receive Justice Department funds while taking into account religion when hiring staff, even if the statute that authorizes the funding program generally forbids recipients from considering religion in employment decisions.

Questions about the regulation or the application of RFRA to the statutes that prohibit discrimination in employment may be directed to the OCR.

Enforcing Civil Rights Laws

All recipients of federal financial assistance, regardless of the particular funding source, the amount of the grant award, or the number of employees in the workforce, are subject to the prohibitions against unlawful discrimination. Accordingly, the OCR investigates recipients that are the subject of discrimination complaints from both individuals and groups. In addition, based on regulatory criteria, the OCR selects a number of recipients each year for compliance reviews, audits that require recipients to submit data showing that they are providing services equitably to all segments of their service population and that their employment practices meet equal employment opportunity standards.

Complying with the Safe Streets Act or Program Requirements

In addition to these general prohibitions, an organization that is a recipient of financial assistance subject to the nondiscrimination provisions of the Safe Streets Act or other federal grant program requirements must meet two additional obligations: (1) complying with federal regulations pertaining to the development of an Equal Employment Opportunity Plan (EEOP) (*see* 28 C.F.R. pt. 42, subpt. E) and (2) submitting to the OCR findings of discrimination (*see* 28 C.F.R. §§ 42.204(c), 205(c)(5)).

(1) Meeting the EEOP Requirement

In accordance with federal regulations, Assurance No. 6 in the Standard Assurances, COPS Assurance No. 8B, or certain federal grant program requirements, your organization must comply with the following EEOP reporting requirements:

If your organization is a government agency or private business and has received an award for \$500,000 or more and has fifty or more employees (counting both full-and part-time employees but excluding political appointees), then it has to prepare an EEOP Short Form and submit it to the OCR for review within sixty days from the date of this letter. For assistance in developing an EEOP Short Form, please consult the OCR's website at <http://www.ojp.usdoj.gov/about/ocr/eeop.htm>. You may also request technical assistance from an EEOP specialist at the OCR by telephone at (202) 307-0690.

If your organization is a government agency or private business and received an award between \$25,000 and \$500,000 and has fifty or more employees, your organization still has to prepare an EEOP Short Form, but it does not have to submit the report to the OCR for review. Instead, your organization has to maintain the EEOP Short Form on file and make it available for review on request. In addition, your organization has to complete Section B of the Certification Form and return it to the OCR. The Certification Form can be found at <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf>.

(2) Meeting the Requirement to Submit Findings of Discrimination

If your organization has received an adverse finding of discrimination, after a due-process hearing, from a state or federal court or from a state or federal administrative agency, your organization must send a copy of the finding to the Office for Civil Rights at 810 7th Street, NW; Washington, DC 20531