



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

March 9, 2010

Washington, D.C. 20531

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Darcey Varese
Financial Program Supervisor
Wisconsin Office of Justice Assistance
1 S. Pinckney St.
Suite 600
Madison, WI 53702

Re: Compliance Review of Wisconsin Office of Justice Assistance (09-OCR-0525)

Dear Ms. Varese:

On June 18, 2007, the Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ or Department) initiated a compliance review of all State Administering Agencies (SAA), including the Wisconsin Office of Justice Assistance (OJA or Office), in accordance with federal regulation 28 C.F.R. § 42.206. The focus of the review was on the OJA's compliance with applicable federal civil rights laws along with the Office's monitoring procedures for ensuring the compliance of subrecipients with these laws. Of particular interest to the OCR was the OJA's implementation and monitoring of the DOJ's regulations, Equal Treatment for Faith-Based Organizations, 28 C.F.R. pt. 38 [hereinafter Equal Treatment Regulations].

On November 19, 2009, the OCR conducted an onsite visit to the OJA's offices in Madison, Wisconsin to interview Office representatives and to conduct a training program for OJA management and program staff about the federal civil rights laws that the OCR enforces. The OCR would like to thank you for assisting OCR attorney Christopher Zubowicz during his onsite visit.

In regard to the limited scope of this compliance review, the OCR concludes that the OJA appears to be taking measures to comply with the federal civil rights laws that the OCR enforces. Nonetheless, we have reservations about the adequacy of the Office's (1) guidance to subrecipients about their legal obligations regarding applicable federal civil rights laws, (2) onsite monitoring of subrecipients, (3) training for subrecipients, (4) complaint procedures for responding to certain discrimination allegations, and (5) efforts to make subawards to nonprofit organizations that may not be tax exempt under the Internal Revenue Code. The following Compliance Review Report includes recommendations for improving the OJA's methods for monitoring the civil rights compliance of subrecipients.

Compliance Review Report: Overview and Recommendations

I. Overview

This Compliance Review Report first examines the OJA's procedures for monitoring whether subrecipients are meeting their obligations to comply with the federal civil rights laws that are a condition for receiving federal financial assistance. The Report then focuses on the Office's implementation of the DOJ's Equal Treatment Regulations.

A. General Monitoring Procedures to Ensure Subrecipient Compliance with Applicable Federal Civil Rights Laws

Recipients of federal financial assistance from the OJP are responsible for certifying that contractors and subrecipients under DOJ grant programs comply with applicable federal civil rights laws. In reviewing the OJA's general efforts to ensure subrecipients' compliance with their civil rights obligations, the OCR examined how the Office used the following four tools: (1) standard assurances; (2) onsite visits and other monitoring methods; (3) training programs and technical assistance; and (4) procedures for receiving, investigating, and resolving complaints alleging employment and services discrimination.

1. Standard Assurances

The OCR evaluated the standard assurances that the OJA uses in connection with its administration of the following DOJ-funded programs: (1) the Office of Juvenile Justice and Delinquency Prevention's (OJJDP) Title V Community Prevention Grants (Title V); (2) the OJJDP's Title II Formula Grants (Title II); (3) the OJJDP's Juvenile Accountability Block Grants (JABG); (4) the Bureau of Justice Assistance's (BJA) Edward Byrne Memorial Justice Assistance Grants (JAG); (5) BJA's Project Safe Neighborhoods (PSN) Grants; (6) BJA's Residential Substance Abuse Treatment (RSAT) Grants; and (7) the Office on Violence Against Women's Violence Against Women Act Services • Training • Officers • Prosecutors Grants (VAWA STOP).

The OJA uses an Electronic Grants Management System (Egrants) to obtain pertinent information from applicants seeking DOJ program funds.¹ During the Egrants application process, the Office requires all applicants to answer a series of questions on an Approval Checklist regarding applicable civil rights requirements. Specifically, the Approval Checklist elicits information about the following:

¹ In administering Egrants, the OJA seeks to ensure that the system is accessible to individuals who may be limited English proficient (LEP). When an individual requests access to Egrants for the first time, the OJA asks, "Do you have a need for Limited English materials from OJA?" (OJA Response to OCR Data Request, dated Oct. 2009, at 2.)

Have you, the grant recipient, had any discrimination findings after a due process hearing on the basis of race, color, religion, national origin or sex within the last 5 years?*

If yes, have the discrimination findings been reported to the Office of Civil Rights as required for all recipients of Federal funds? (see <http://www.ojp.usdoj.gov/ocr>). If no, a copy should be forwarded to: Office of Justice Assistance, Attn: EEOP, 131 W. Wilson Street, Suite 610, Madison, WI 53702.*

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Do you, the grant recipient, receive more than \$500,000 of total Federal funds annually and have more than 50 employees? (does not apply to Tribes and Non-Profit Entities)

If yes, have you submitted a copy of your Equal Employment Opportunity Plan to the Office of Civil Rights?²

If yes, have you submitted to OJA a copy of your EEOP federal approval letter?

(OJA Response to OCR Data Request, dated Oct. 2009, at 2 (Egrants Screen Shot).) OJA grants specialists review the responses to the Approval Checklist when they evaluate the applications and follow up with an applicant if it failed to provide adequate information.

The OJA also uses certified assurances documents that are tailored to specific DOJ programs; contain individualized civil rights program requirements; and must be signed by an applicant in order to receive funding. *See Appendix*, attached to Compliance Review Report. As discussed below in Recommendation A, there are basic federal civil rights obligations that govern all DOJ-funded subrecipients and that should be addressed uniformly in the applicable certified assurances documents. There are also additional pertinent requirements that apply to subrecipients of Title V, Title II, and JABG funds, which should separately be included in the certified assurances document governing those subrecipients.

2. Onsite Visits and Other Monitoring Methods

In response to the OCR's data request, the Office noted that it conducts annual desk reviews of randomly selected projects across all DOJ-funded programs. During that review process, and

² The OJA should revise the Approval Checklist to refer to the Office for Civil Rights.

through the use of a monitoring form, the OJA evaluates whether it has an EEOP approval letter on file and, if necessary, follows up with the subrecipient to obtain appropriate EEOP documentation. The Office also reviews whether a subrecipient reported any findings of discrimination and, if necessary, obtains appropriate follow-up information about those matters. In addition, the OJA requires all subrecipients to provide complete program quarterly reports, which program staff review as they are submitted.

In addition to the OJA's efforts to administer a monitoring protocol that applies to all DOJ-funded programs, separate program offices tailor site visit and desk review processes to the specific programs they administer. For instance, individual program offices have different monitoring methods based on the length of pertinent grant cycles. Recently, the OJA undertook or anticipated conducting several monitoring activities with respect to individual DOJ-funded programs:

- Title V, Title II, and JABG Programs: Program staff recently conducted or scheduled nine site visits of Title II or JABG subrecipients and will visit all current subrecipients in 2010. While the Office has not conducted recent site visits of any Title V subrecipient, it will begin one such review in 2010.
- JAG and PSN Criminal Justice Program: Program staff recently conducted eleven site visits and five desk reviews of JAG or PSN subrecipients. The OJA hired a program compliance monitor in February, which will lead to an increased number of site visits in 2010.
- RSAT Program: Program staff conduct onsite visits of the OJA's two RSAT subrecipients every other year and coordinate these reviews with the annual onsite monitoring visits from the BJA State Policy Advisor for Wisconsin. The OJA recently hired a compliance monitor for criminal justice programs, which will enable the Office to conduct onsite reviews more frequently. The OJA plans to conduct an increased number of site visits in 2010.
- VAWA STOP Program: Program staff recently conducted nine site visits and ten desk reviews of VAWA STOP subrecipients.

3. Training and Technical Assistance

The OJA does not have a comprehensive training or technical assistance program that provides information to DOJ subrecipients about applicable federal civil rights requirements. Instead, as with the previously discussed certified assurances documents and monitoring methods, individual program offices within the OJA assume responsibility for providing training and technical assistance to their subrecipients. The staff administering the Title V, Title II, and

JABG programs provide periodic subrecipient training, which covers the assurances governing the receipt of federal financial assistance (including those involving federal civil rights). The VAWA STOP program staff conduct annual subrecipient training, which covers pertinent grant management rules, regulations, and OJA procedures. The training is designed to inform subrecipients about their contractual obligations and the procedures required to fulfill them. Through agreements with the Office, several community organizations also provide ongoing technical assistance to VAWA STOP subrecipients about various compliance areas, including those related to civil rights laws, the provision of services to disabled and LEP persons, and requirements governing faith-based organizations. Currently, the Office does not provide periodic training to JAG, PSN, or RSAT subrecipients about their federal civil rights obligations.

4. Complaint Procedures

In reviewing complaint procedures, the OCR evaluated the processes in place for individuals to pursue complaints of employment and services discrimination against the OJA and its subrecipients.

The OJA has an equal employment opportunity policy that specifically prohibits discrimination or harassment on the basis of age; disability; national origin or ancestry; race; color; religion; creed; gender; sexual orientation; marital status; political affiliation (with exceptions recognized under Wisconsin law); arrest or conviction record (with exceptions recognized under Wisconsin law); and membership in the national guard, state defense force, or any other reserve component of the United States or Wisconsin military.³ Office employees can file discrimination complaints with the Department of Administration (DOA), which is the OJA's parent agency and the entity responsible for handling employment complaints involving Office employees. In addition, the State of Wisconsin, through its Civil Rights Bureau, Equal Rights Division, Department of Workforce Development (DWD), has procedures to respond to complaints of discrimination from OJA and subrecipient employees. The DWD is responsible for enforcing the provisions of Wisconsin law that prohibit discrimination in employment on the basis of age, race, creed, color, disability, marital status, sex, national origin, ancestry, arrest record, conviction record, military service, or use or nonuse of lawful products off the employer's premises during nonworking hours. Wis. Stat. § 111.321 (2009). An OJA or subrecipient employee also can file a charge of discrimination with the Equal Employment Opportunity Commission (EEOC). The OJA does not have a written policy or procedure in place that addresses receiving, investigating, and resolving services discrimination complaints from its beneficiaries.

The OJA does not require subrecipients to have a policy or procedure that addresses receiving, investigating, and resolving employment and services discrimination complaints they receive. In response to the OCR's data request regarding complaint procedures, the Office suggested that

³ In 2004 and 2006, the OJA received recognition as the top small agency in Wisconsin promoting equal employment opportunity, affirmative action, and diversity programs in the workplace.

Wisconsin law provides a mechanism for handling discrimination complaints against subrecipients. *See* Wis. Stat. § 16.765(6) (2009). As an initial matter, it is not clear to the OCR whether this provision, which addresses purchasing requirements affecting DOA contractors, governs DOJ subrecipients receiving grant awards through the OJA. Moreover, section 16.765 solely addresses employment discrimination; it does not extend to services discrimination complaints. *See id.* § 16.765(1), (2). While a specific program office may receive information from a subrecipient, beneficiary, or technical assistance provider about an employment or services discrimination complaint, the Office has no mechanism in place across all DOJ-funded programs to receive timely notice of each such complaint that may be filed against a subrecipient.

B. Monitoring Compliance with Faith-Based Regulations

The purpose of the Equal Treatment Regulations is to ensure that “[r]eligious organizations are eligible, on the same basis as any other organization, to participate in any [Justice] Department program for which they are otherwise eligible.” 28 C.F.R. § 38.1(a). The Regulations prohibit the DOJ and DOJ funding recipients from discriminating either for or against an organization on the basis of the organization’s religious character or affiliation. *Id.* In evaluating the OJA’s equitable treatment of faith-based organizations, the Compliance Review Report focuses on two issues: (1) procedures for ensuring that faith-based organizations are not unfairly excluded from subaward programs, and (2) procedures for ensuring that funded faith-based organizations comply with applicable federal civil rights laws.

1. The Procedures for Ensuring That Faith-Based Organizations Are Not Unfairly Excluded From Participating in Subaward Programs

The OJA subawards Title V, Title II, JABG, JAG, PSN, RSAT, and VAWA STOP funds. Generally, other than programs funded under the Juvenile Justice and Delinquency Prevention Act (JJDP), DOJ-funded formula grants do not require eligible nonprofit organizations to obtain federal tax exempt status in order to apply for funds.⁴ The OJA generally recognizes that nonprofits are eligible to apply for DOJ funding regardless of whether they have federal tax exempt status (other than in connection with the Department’s Title V, Title II, and JABG programs, which are funded pursuant to the JJDP). However, in its response to the OCR’s data request, the OJA asserted that the VAWA STOP program requires nonprofit organizations to obtain federal tax exempt status under 26 U.S.C. § 501(c) to be eligible for funding.

When the OJA announces funding opportunities, it publishes eligibility criteria through a standard announcement template that applies to all DOJ programs. Any organization can sign up to receive e-mail alerts from the Office about available funds. The OJA also posts all funding

⁴ The Juvenile Justice and Delinquency Prevention Act of 2002, 42 U.S.C. § 5672(b), is the only formula grant statute administered by the OJP that limits funding to organizations with 501(c)(3) status.

announcements on its Web site and sends direct notifications by mail to potential applicants. When a nonprofit applicant registers with Egrants, the OJA requests information about their organization type. In 2007, the Office enhanced its data collection by expanding the nonprofit agency category to include a specific field for faith-based organizations, which allows it to determine which faith-based groups applied for certain programs.⁵ In some instances, the OJA awards DOJ funds to subrecipients, which in turn further subaward funds to faith-based organizations.

a. Juvenile Justice Programs

The OJA generally utilizes a two-part review process to award all Title V, Title II, and JABG funding.⁶ Under the first part of the review, organizations submit concept papers that explain their proposed projects. The Governor's Juvenile Justice Commission (Commission), which is comprised of twenty-six members, has a grant review committee to review these concept paper submissions. After the committee completes its assessment of individual proposals, it identifies organizations with projects that are especially promising and makes recommendations to the full Commission about which applications to invite to submit a formal application. The Commission decides which applicants to invite to submit applications. During this second phase of the review process, the grant review committee makes funding recommendations to the Commission, which in turn provides its recommendations to the Governor for final approval.⁷

In reviewing the inclusion of faith-based organizations in the subaward process for Title V, Title II, and JABG funds, it is important to emphasize that each of these juvenile justice programs limits the ability of such groups to apply directly to the OJP or the Office for specific funds.

- Title V Program: Faith-based organizations are statutorily ineligible to apply directly to the OJJDP or the Office for Title V funds. However, the OJJDP encourages faith-based organizations to access such funds by partnering with units of local government in developing the required local delinquency prevention plan and implementing the proposed prevention activities. *See OJJDP, OJJDP FY 09 Title V Community Prevention Grants Program* at 3, <http://ojjdp.ncjrs.gov/>

⁵ In some cases, OJA programs seek concept papers from organizations before vetting applications through the Egrants process. However, the Office does not obtain information about whether any group submitting a concept paper is faith-based.

⁶ The Title V and Title II programs focus on assisting units of local government to reduce risks and to enhance protective factors to prevent youth at risk from becoming delinquent and entering the juvenile justice system. The JABG program supports state and units of local government in their efforts to strengthen juvenile justice systems.

⁷ The Commission generally uses the concept paper process to select and fund Title II initiatives; however, with respect to available formula funds for disproportionate minority contact projects for 2009, the Commission requires letters of intent seeking the available funds. The Commission asked all entities that submitted letters of intent to submit full applications.

[grants/solicitations/FY2009/Title%20V.pdf](http://www.ojjdp.ncjrs.org/grants/solicitations/FY2009/Title%20V.pdf).

- Title II Program: Faith-based organizations are statutorily ineligible to apply directly to the OJJDP for Title II funds. However, the OJJDP encourages faith-based organizations to respond to requests for proposal from the SAA. See OJJDP, *OJJDP FY 09 Title II Formula Grants Program* at 3-4, <http://ojjdp.ncjrs.org/grants/solicitations/FY2009/TitleIIFormula.pdf>.
- JABG Program: Faith-based organizations are statutorily ineligible to apply directly to the OJJDP or the Office for funding under the JABG program; however, Section 1806 of the Omnibus Crime Control and Safe Streets Act of 1968 permits units of local government to contract with such groups to implement appropriate JABG purpose areas. See OJJDP, *OJJDP FY 09 Juvenile Accountability Block Grants Program* at 3-4, <http://ojjdp.ncjrs.gov/grants/solicitations/FY2009/JABG.pdf>.

One faith-based group applied for Title II funding in 2008 but did not receive an award because it failed to follow applicable application procedures and sought to serve an ineligible population. Another faith-based organization applied for similar funds in 2009; it did not receive an award because its proposed project was outside the scope of the program's objectives. At this point, no faith-based organizations receive OJJDP funds through the Office's subaward process.

b. JAG program

The OJA administers the JAG program, which provides funding to states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system. Some of the JAG grants are allocated through the state budget process. For funds that are awarded on a competitive basis, such as those related to drug law enforcement or youthful offender prevention, the Office relies on an advisory group or peer review committee to review applications and to make funding recommendations to the OJA Executive Director, who makes the final funding decisions. Currently, no faith-based groups receive JAG funds.

c. RSAT program

The OJA also administers the RSAT program, which provides assistance to state and local governments to develop and implement substance abuse treatment programs in state and local correctional detention facilities and to create and maintain community-based aftercare services for offenders. The Office cannot distribute RSAT funds directly to nonprofit organizations. See BJA, *Residential Substance Abuse Treatment (RSAT) for State Prisoners Program FY 2008 Formula Grant Announcement* at 1, <http://www.ojp.usdoj.gov/BJA/grant/09RSATsol.pdf> ("The state office may award subgrants to state agencies, units of local government, and Native

American tribes.”). However, nonprofit groups are eligible to receive RSAT funds by partnering with, for instance, units of local government to implement specific programs. No faith-based groups receive RSAT funds through the Office’s subaward process.

d. PSN program

The OJA also subawards DOJ funds through the PSN program, which is a nationwide network designed to create safer neighborhoods by reducing gun violence and gun crime, and sustaining that reduction. According to the PSN solicitation, faith-based groups should be encouraged to apply for assistance awards to fund eligible grant activities. *See BJA, Project Safe Neighborhoods (PSN) FY 2009 Grant Announcement* at 1, <http://www.ojp.usdoj.gov/BJA/grant/09PSNsol.pdf>. Committees formed by the U.S. Attorney’s Offices for the Eastern and Western Districts of Wisconsin select individual subrecipients, which are then monitored by Office program staff. One faith-based organization recently received PSN funds indirectly through a local subrecipient.

e. VAWA STOP program

Finally, the OJA administers the VAWA STOP program, which promotes a coordinated, multidisciplinary approach to improving the criminal justice system’s response to violent crimes against women, such as domestic violence and sexual assault. The Office uses a two-year funding cycle for VAWA STOP projects and awards these funds through requests for proposal. In its funding announcement, the Office highlights that “[i]t is OJA policy that faith-based and community organizations that statutorily qualify as eligible applicants under Office on Violence Against Women programs are invited and encouraged to apply for assistance awards to fund eligible grant activities.” (OJA Response to OCR Data Request, dated Oct. 2009, at 4; *see also* STOP Violence Against Women Act, Victim Services – FFY 2009, Grant Announcement at 1.)

Once the OJA receives competitive applications and reviews them for completeness, it establishes a peer review committee to rank applications in the following categories: should be funded, could be funded, or eliminated. The peer review committees include representatives from the court system, law enforcement, district attorney offices, state government, and victim’s services organizations. In providing guidance to these teams about the review process, the OJA emphasizes “that Faith and Community based organizations are eligible and welcome to apply for these funds. However, there are restrictions about the program participation they may require of clients. Any activities of a religious nature must be option[al] and ‘success’ in or qualification for the program services can not be tied to any religious activities.” (VAWA STOP Review Instructions at 2.) Once the review teams assess the grant applications, they provide their funding recommendations to the OJA Executive Director, who in turn provides recommendations to the Governor for final review and approval. Before the Office awards funds for the second year of the grant cycle, the Committee conducts an interim review session to evaluate the program and to determine whether project administrators need specific technical

assistance. One faith-based group submitted two applications for VAWA STOP funding in 2009; the organization did not receive an award because the review teams concluded that it could not provide services within the pertinent program requirements. At this point, no faith-based organizations receive VAWA STOP funds through the Office's subaward process.

2. Procedures for Ensuring that Faith-Based Organizations Comply with Applicable Civil Rights Laws

As with the OJA's approach to subrecipient training and technical assistance, individual program offices are responsible for ensuring that faith-based groups comply with applicable federal civil rights laws. For instance, in the Violence Against Women Peer Review sessions, the STOP formula program conducts training for all reviewers about the Equal Treatment Regulations. Once grants are awarded, and in the course of monitoring subrecipients, program staff obtain information about the general activities of subrecipients and their progress toward program goals and objectives; however, they generally do not inquire about whether projects are engaging in inherently religious activities.

II. Recommendations

The OJA already has in place a number of procedures for monitoring the civil rights compliance of its subrecipients. To strengthen the Office's monitoring efforts and its inclusion of faith-based organizations in the grant funding process, the OCR offers the following five recommendations: (1) modify the civil rights/nondiscrimination provisions in its certified assurances, (2) refine its monitoring form, (3) refine and expand its training for subrecipients regarding their obligations to comply with federal civil rights laws, (4) develop a comprehensive policy for addressing discrimination complaints, and (5) allow subrecipients to demonstrate nonprofit status by any of the means identified in the DOJ's Equal Treatment Regulations.

A. Modify the Civil Rights/Nondiscrimination Provisions in Certified Assurances

The OJA should ensure that all DOJ subrecipients agree to certified assurances that accurately reflect their federal civil rights obligations. To that end, the OCR recommends that each program office use a certified assurances document that incorporates the following language or substantially similar language, which would continue to apply to all applicants for and subrecipients of DOJ funding, regardless of the amount of federal financial assistance at issue:

LANGUAGE APPLICABLE TO ALL DOJ PROGRAMS:

Recipient will comply (and will require any subgrantees or contractors to comply) with any applicable federal nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d);

the Victims of Crime Act (42 U.S.C. § 10604(e)); the Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b)); the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131-34); the Education Amendments of 1972 (20 U.S.C. §§ 1681, 1683, 1685-86); the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07); 28 C.F.R. pt. 31 (U.S. Department of Justice Regulations – OJJDP Grant Programs); 28 C.F.R. pt. 42 (U.S. Department of Justice Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Ex. Order 13279 (equal protection of the laws for faith-based and community organizations); and 28 C.F.R. pt. 38 (U.S. Department of Justice Regulations – Equal Treatment for Faith-Based Organizations).

In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs and the Wisconsin Office of Justice Assistance (OJA).

Recipient will provide an Equal Employment Opportunity Plan (EEOP) to the Office for Civil Rights, Office of Justice Programs and the OJA, if required to submit one; otherwise, it will provide a certification to the Office for Civil Rights, Office of Justice Programs and the OJA that it has a current EEOP on file, if required to maintain one. For grantee agencies receiving less than \$25,000, or grantee agencies with less than 50 employees, regardless of the amount of the award, no EEOP is required. Information about civil rights obligations of grantees can be found at <http://www.ojp.usdoj.gov/oct/>.

LANGUAGE APPLICABLE TO TITLE V, TITLE II, AND JABG PROGRAMS:

Recipient will designate a civil rights contact person who has lead responsibility in insuring that all applicable civil rights requirements, assurances, and conditions are met and who shall act as a liaison in all civil rights matters with the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs and the Office for Civil Rights, Office of Justice Programs.

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Recipient will inform the public and subgrantees of affected persons' rights to file a complaint of discrimination with the Office for Civil Rights, Office of Justice Programs for investigation.

The OJA may also consider including in the certified assurances the following language or substantially similar language regarding language assistance services, which would apply to all DOJ programs:

As clarified by Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with the Omnibus Crime Control and Safe Streets Act of 1968 and Title VI of the Civil Rights Act of 1964, recipient must take reasonable steps to ensure that LEP persons have meaningful access to its programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Recipient is encouraged to consider the need for language services for LEP persons served or encountered both in developing its budgets and in conducting its programs and activities. Additional assistance and information regarding your LEP obligations can be found at <http://www.lep.gov>.

Finally, the Office may wish to add a sentence to the certified assurances stating that, in accordance with federal civil rights laws, the subrecipient shall not retaliate against individuals for taking action or participating in action to secure rights protected by these laws.

B. Refine Its Monitoring Form

The OJA is to be commended for its general efforts to monitor subrecipients through onsite visits and desk reviews, as well as for its use of a monitoring form. As part of its responsibility to monitor the compliance of subrecipients with applicable federal civil rights laws, the Office should continue to ensure that it conducts onsite monitoring of its subrecipients and should improve the quality of its monitoring of subrecipients within individual DOJ-funded programs. Going forward, it should refine its monitoring form to ensure that it evaluates the various civil rights requirements that apply to all DOJ-funded subrecipients (e.g., whether the subrecipient has posted nondiscrimination notices as required by section 504 of the Rehabilitation Act; and whether the subrecipient has a grievance procedure and a designated coordinator as required by section 504 of the Rehabilitation Act and Title IX of the Education Amendments of 1972). Additionally, the checklist should include questions that evaluate whether the subrecipient is complying with the DOJ's Equal Treatment Regulations, including the prohibitions against using federal funds to engage in inherently religious activities and discriminating against program

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beneficiaries on the basis of religion. In an effort to assist the OJA in refining its checklist, the OCR has prepared a sample Federal Civil Rights Compliance Checklist, which is enclosed for the Office's review.

C. Refine and Expand Training for Subrecipients Regarding Their Obligations to Comply with Federal Civil Rights Laws

While the OJJD and VAWA STOP programs are making a concerted effort to provide training to their subrecipients, the OJA should ensure that subrecipients in all DOJ-funded programs receive training about their obligations under applicable federal civil rights laws, such as to provide services to LEP individuals and to have procedures in place to receive and evaluate complaints alleging discrimination from employees and beneficiaries. The OCR is available to provide the Office with technical assistance in refining and expanding its civil rights training programs.

D. Develop Comprehensive Policy for Addressing Discrimination Complaints

As previously noted, the OJA has procedures in place for responding to discrimination complaints from its own employees, and the DWD provides a forum for resolving employment discrimination complaints filed by OJA and subrecipient employees. Nonetheless, the Office has an obligation as a recipient of federal financial assistance to have in place a policy that comprehensively addresses how it responds to employment and services discrimination complaints that it receives from OJA and subrecipient employees and beneficiaries. Specifically, it should ensure that it has a policy for addressing discrimination complaints that includes at a minimum the following elements:

- designating an individual or individuals to be responsible for overseeing the complaint process;
- notifying employees of the OJA, as well as beneficiaries and subrecipients, of prohibited discrimination in funded programs and activities and the Office's policy and procedures for handling discrimination complaints;
- establishing written procedures for receiving discrimination complaints from subrecipient employees and beneficiaries;
- referring each complaint to the appropriate agency for investigation and resolution, such as the DWD or the EEOC; or referring the complaint to the OCR, which will review the complaint and work with the OJA to resolve it; and

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- training OJA program staff on their responsibility to refer discrimination complaints or potential discrimination issues to the Office's complaint coordinator for processing as soon as the alleged discrimination comes to their attention.

In an effort to assist the OJA in developing a comprehensive complaint policy, the OCR has prepared sample procedures for responding to discrimination complaints, which are enclosed for the Office's review. While the OJA's adoption of these procedures would satisfy the instant recommendation, the OCR also recognizes that there may be other, equally effective complaint procedures that accomplish the same objectives. Additional information about the applicable laws, complaint forms, and the investigative process can be found at <http://www.ojp.usdoj.gov/about/offices/ocr.htm>.

E. Allow Subrecipients to Demonstrate Nonprofit Status by Any of the Means Identified in the DOJ's Equal Treatment Regulations

Unless federal tax exempt status is required under the particular grant program (e.g., programs funded under the federal JJDP), the OJA should be mindful that applicants, including VAWA STOP applicants, can also demonstrate nonprofit status by any of the following means identified in the DOJ's Equal Treatment Regulations: (1) proof that the Internal Revenue Service recognizes the organization as being tax exempt under 501(c)(3) of the Internal Revenue Code; (2) a statement from a state taxing body or state secretary of state certifying that the organization is a nonprofit organization and that no part of the organization's net earnings may benefit any private shareholder or individual; (3) a certified copy of a certificate of incorporation or similar document establishing nonprofit status; and (4) any of the above, if it applies to a state or national parent organization, with a statement by the state or national parent organization that the applicant is a local nonprofit affiliate. 28 C.F.R. § 38.1(g); *see also* Memorandum from Robert D. McCallum, Jr., Associate Attorney General, to Directors, SAAs (July 22, 2005), *available at* <http://www.ovw.usdoj.gov/docs/asgmemoreimplementationof28cfrpart38.pdf>.

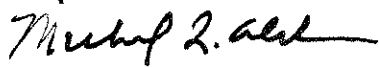
III. Conclusion

We find that the OJA should implement the OCR's recommendations to ensure substantial compliance with the federal civil rights laws that the OCR enforces. On request, the OCR is available to provide technical assistance to the Office in addressing the concerns raised in this Report. **Immediately upon receipt of this letter, we ask that a responsible OJA official contact Attorney Advisor Christopher Zubowicz to develop a timeline and goals for implementing the OCR's recommendations.**

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Thank you for your cooperation and the assistance of your staff during the compliance review process. If you have any questions, please contact Mr. Zubowicz at [REDACTED]

Sincerely,



Michael L. Alston
Director

Enclosures

Compliance Review of Wisconsin Office of Justice Assistance (09-OCR-0525)
Appendix of Pertinent Certified Assurances Reviewed by the OCR

Federal Civil Rights Assurances Governing Title V, Title II, or JABG Applicants:

9. Recipient and its contractors will comply with the nondiscrimination requirements of the JJDPA, as amended, and 42 USC 3789(d); Title VI of the Civil Rights Act of 1964, as amended; Title II of the Americans with Disabilities Act of 1990; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; the Department of Justice Nondiscrimination Regulations 28 CFR Part 42, Subparts C, D, E and G; and Department of Justice regulations on disability discrimination, 28 CFR Part 35 and 39.
10. In the event a Federal or state court or Federal or state administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the applicant will forward a copy of the finding to the OJA.
11. If required the recipient will formulate an Equal Employment Opportunity Program (EEOP) in accordance with 28 CFR 42.301 et seq., and, upon request, will submit a certification to the state that it has a current EEOP on file which meets the requirements therein. Applicants, upon request, will provide the name, address, and phone number of an Equal Employment Opportunity contact person who has lead responsibility in ensuring that all applicable Equal Employment Opportunity requirements are met and who acts as liaison to OJA in such matters.

(Title V, Title II, JABG Certified Assurances ¶¶ 9-11.)

Federal Civil Rights Assurances Governing JAG Applicants:

6. It will comply (and will require any subgrantees or contractors to comply) with any applicable statutorily-imposed nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d); the Victims of Crime Act (42 U.S.C. § 10604(e)); The Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b)); the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131-34); the Education Amendments of

1972 (20 U.S.C. §§ 1681, 1683, 1685-86); and the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07); see Ex. Order 13279 (equal protection of the laws for faith-based and community organizations).

- * * *
11. It and its contractors will comply with the nondiscrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and 42 U.S.C. 3789(d); Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Title II of the Americans with Disabilities Act (ADA) of 1990; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; the Department of Justice Nondiscrimination Regulations 28 CFR Part 42, Subparts C, D, E and G; and Department of Justice regulations on disability discrimination, 28 CFR Part 35 and 39.
 12. In the event a Federal or state court or Federal or state administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the applicant will forward a copy of the finding to the Office of Civil Rights Compliance (OCRC), Office of Justice Programs.
 13. If required the applicant will formulate an Equal Employment Opportunity Program (EEO) in accordance with 28 CFR 42.301 et seq., it will maintain a current one on file. Further, the OJA will require every fund recipient required to formulate an EEO, in accordance with the previously cited regulation, to submit a certification to the OJA that it has a current EEO on file which meets the applicable requirements.
 14. In accordance with Department of Justice Guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. s. [sic] 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). For more information on the civil rights responsibilities that recipients have in providing language services to LEP individuals, please see the website at <http://www.lep.gov>.

(JAG Certified Assurances ¶¶ 6, 11-14.)

Federal Civil Rights Assurances Governing PSN Applicants:

2. It will provide an Equal Employment Opportunity Program if required to maintain one, where the application is for \$500,000 or more. The recipient acknowledges that failure to submit an acceptable Equal Employment Opportunity Plan (if recipient is required to submit one pursuant to 28 C.F.R. Section 42.302), that is approved by the Office for Civil Rights, is a violation of its Certified Assurances and may result in suspension or termination of funding, until such time as the recipient is in compliance. If required the applicant will formulate an Equal Employment Opportunity Program (EEO) in accordance with 28 C.F.R. 42.301 et[] seq., it will maintain a current one on file. Further, the OJA will require every fund recipient required to formulate an EEO, in accordance with the previously cited regulations, to submit a certification to the OJA that it has a current EEO on file which meets the applicable requirements.

(PSN Certified Assurances ¶ 2.)

Federal Civil Rights Assurances Governing RSAT Applicants:

6. It will comply (and will require any subgrantees or contractors to comply) with any applicable statutorily-imposed nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d); the Victims of Crime Act (42 U.S.C. § 10604(e)); The Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b)); the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131-34); the Education Amendments of 1972 (20 U.S.C. §§ 1681, 1683, 1685-86); and the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07); see Ex. Order 13279 (equal protection of the laws for faith-based and community organizations).

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11. It and its contractors will comply with the nondiscrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and 42 USC 3789(d); Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Title II of the Americans with Disabilities Act (ADA) of 1990; Title IX of the Education

Amendments of 1972; the Age Discrimination Act of 1975; the Department of Justice Nondiscrimination Regulations 28 CFR Part 42, Subparts C, D, E and G; and Department of Justice regulations on disability discrimination, 28 CFR Part 35 and 39.

12. In the event a Federal or state court or state administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the applicant will forward a copy of the finding to the Office of Civil Rights Compliance (OCRC), Office of Justice Programs.
13. If required the applicant will formulate an Equal Employment Opportunity Program (EEO) in accordance with 28 CFR 42.301 et seq., it will maintain a current one on file. Further, the OJA will require every fund recipient required to formulate an EEO, in accordance with the previously cited regulation, to submit a certification to the OJA that it has a current EEO on file which meets the applicable requirements.
14. In accordance with Department of Justice Guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C s. [sic] 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). For more information on the civil rights responsibilities that recipients have in providing language services to LEP individuals, please see the website at <http://www.lep.gov>.

(RSAT Certified Assurances ¶¶ 6, 11-14.)

Federal Civil Rights Assurances Governing VAWA STOP Applicants:

8. It will comply, and all its contractors will comply, with the non-discrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 USC 3789(d), or Victims of Crime Act (as appropriate); Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Subtitle A, Title II of the Americans with Disabilities Act (ADA) (1990); Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; Department of Justice Non-Discrimination Regulations, 28 CFR Part 42, Subparts C, D, E, and G; and Department of Justice regulations on disability discrimination, 28 CFR Part 35 and Part 39.

9. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, sex, or disability against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights, Office of Justice Programs.
10. If required to formulate an Equal Employment Opportunity Plan (EEOP) in accordance with 28 CFR 42.301 et seq., it will maintain a current one on file and, upon request, will submit a certification to the state that it has a current EEOP on file which meets the applicable requirements. It will provide an EEOP where the application is for \$500,000 or more.

(VAWA Certified Assurances ¶¶ 8-10.)

Federal Civil Rights Compliance Checklist

1. If the subrecipient is required to prepare an Equal Employment Opportunity Plan (EEOP) in accordance with 28 C.F.R. §§ 42.301-308, does the subrecipient have an EEOP on file for review?

Yes No

If yes, on what date did the subrecipient prepare the EEOP?

2. Has the subrecipient submitted an EEOP Short Form to the Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ), if required by 28 C.F.R. §§ 42.301-308? If the subrecipient is not required to submit an EEOP Short Form to the OCR, has it submitted a certification form to the OCR claiming a partial or complete exemption from the EEOP requirements?

Yes – submitted an EEOP Short Form Yes – submitted a certification No

If the subrecipient prepared an EEOP Short Form, on what date did the subrecipient prepare it?

3. How does the subrecipient notify program participants and beneficiaries that it does not discriminate on the basis of race, color, national origin, religion, sex, disability, and age in the delivery of services (e.g. posters, inclusion in brochures or other program materials, etc.)?

Comments:

4. How does the subrecipient notify employees that it does not discriminate on the basis of race, color, national origin, religion, sex, and disability in employment practices (e.g. posters, dissemination of relevant orders or policies, inclusion in recruitment materials, etc.)?

Comments:

5. Does the subrecipient have written policies or procedures in place for notifying program beneficiaries how to file complaints alleging discrimination by the subrecipient with the [State Administering Agency] or the OCR?

Yes No

If yes, an explanation of these policies and procedures:

6. If the subrecipient has 50 or more employees and receives DOJ funding of \$25,000 or more, has the subrecipient taken the following actions:

- a. Adopted grievance procedures that incorporate due process standards and provide for the prompt and equitable resolution of complaints alleging a violation of the DOJ regulations implementing Section 504 of the Rehabilitation Act of 1973, found at 28 C.F.R. Part 42, Subpart G, which prohibit discrimination on the basis of a disability in employment practices and the delivery of services.

Yes No

- b. Designated a person to coordinate compliance with the prohibitions against disability discrimination contained in 28 C.F.R. Part 42, Subpart G.

Yes No

- c. Notified participants, beneficiaries, employees, applicants, and others that the subrecipient does not discriminate on the basis of disability.

Yes No

Comments:

7. If the subrecipient operates an education program or activity, has the subrecipient taken the following actions:

- a. Adopted grievance procedures that provide for the prompt and equitable resolution of complaints alleging a violation of the DOJ regulations implementing Title IX of the Education Amendments of 1972, found at 28 C.F.R. Part 54, which prohibit discrimination on the basis of sex.

Yes No

b. Designated a person to coordinate compliance with the prohibitions against sex discrimination contained in 28 C.F.R. Part 54.

Yes No

c. Notified applicants for admission and employment, employees, students, parents, and others that the subrecipient does not discriminate on the basis of sex in its educational programs or activities.

Yes No

Comments:

8. Has the subrecipient complied with the requirement to submit to the OCR any findings of discrimination against the subrecipient issued by a federal or state court or federal or state administrative agency on the grounds of race, color, religion, national origin, or sex?

Yes No

Comments:

9. What steps has the subrecipient taken to provide meaningful access to its programs and activities to persons who have limited English proficiency (LEP)?

Comments, including an indication of whether the subrecipient has developed a written policy on providing language access services to LEP persons:

10. Does the subrecipient conduct any training for its employees on the requirements under federal civil rights laws?

Yes No

Comments:

11. If the subrecipient conducts religious activities as part of its programs or services, does the subrecipient do the following:

a. Provide services to everyone regardless of religion or religious belief.

Yes No

b. Ensure that it does not use federal funds to conduct inherently religious activities, such as prayer, religious instruction, or proselytization, and that such activities are kept separate in time or place from federally-funded activities.

Yes No

c. Ensure that participation in religious activities is voluntary for beneficiaries of federally-funded programs.

Yes No

Comments:

Subject: Procedures for Responding to Discrimination Complaints from Employees of the [State Administering Agency's] Subrecipients under U.S. Department of Justice Grant Programs
Policy Number:
Effective Date:

I. Purpose

[Note: Most often, a State Administering Agency (SAA) will already have procedures in place to address discrimination complaints from its own employees and applicants. Therefore, these template complaint procedures are limited to discrimination complaints from employees of the SAA's subrecipients. If the SAA does not already have procedures in place for addressing discrimination complaints from its own employees, it should ensure that these procedures cover complaints from SAA employees as well.

In this section, the SAA should explain the purpose of this document, such as to establish written procedures for SAA employees to follow when they receive a complaint alleging employment discrimination from an employee of a SAA subrecipient implementing funding from the U.S. Department of Justice (DOJ).]

II. Policy

[The SAA should explain its policy regarding employment discrimination by subrecipients, such as a statement that all employees and applicants of the SAA's subrecipients shall be treated equally regardless of race, color, national origin, sex, religion, and disability. The SAA may wish to state that it will ensure that subrecipients comply with all applicable federal laws regarding employment discrimination.]

III. Definitions

[The SAA may wish to include definitions of relevant terms, such as "discrimination," "complaint coordinator," and "retaliation."]

IV. Complaint Procedures

[The SAA should explain its procedures for responding to employment discrimination complaints against SAA subrecipients. These procedures should include, at a minimum: 1) a designation of the SAA employee who is responsible for coordinating the series of actions described in these procedures; 2) an explanation of how a SAA employee receiving a discrimination complaint from an employee or applicant of a SAA subrecipient should forward the complaint to the employee responsible for coordinating the series of actions described in these procedures; 3) an explanation that the employee responsible for coordinating the series of actions described in these procedures should

refer employment discrimination complaints against SAA subrecipients to the U.S. Equal Employment Opportunity Commission (EEOC) or the appropriate state or local fair employment practices agency or human rights commission; and 4) a requirement that the employee responsible for coordinating the series of actions described in these procedures notify the Office for Civil Rights (OCR), Office of Justice Programs, DOJ, in writing when the employee refers a complaint to the EEOC or a state or local fair employment practices agency or human rights commission. Other options for responding to employment discrimination complaints against SAA subrecipients include the SAA investigating these complaints and notifying the OCR of the investigation and outcome, or referring the complaints to the OCR.

In this section, the SAA should also explain how it will ensure that subrecipients have procedures in place for responding to discrimination complaints that employees or applicants file directly with the subrecipient. At a minimum, these procedures should include forwarding the complaint to the EEOC or a state or local fair employment practices agency or human rights commission and notifying the SAA of this referral.]

V. Training

[The SAA should describe its procedures for providing periodic training for agency employees on these complaint procedures, including an employee's responsibility to refer discrimination complaints from employees or applicants of SAA subrecipients to the employee responsible for coordinating the series of actions described in these procedures. The SAA shall also describe in this section how it will disseminate these procedures to agency employees, such as by posting the procedures on the agency intranet website, providing a copy of the procedures to employees during the training sessions, distributing the procedures to all new employees during orientation, etc.]

Subject: Procedures for Responding to Discrimination Complaints from Clients, Customers, Program Participants, or Consumers of the [State Administering Agency] and the [State Administering Agency's] Subrecipients

Policy Number:

Effective Date:

I. Purpose

[The State Administering Agency (SAA) should explain the purpose of this document, i.e., to establish written procedures for SAA employees to follow when they receive a complaint alleging discrimination from clients, customers, program participants, or consumers of the SAA or of a SAA subrecipient implementing funding from the U.S. Department of Justice (DOJ).]

II. Policy

[The SAA should explain its policy regarding discrimination against clients, customers, program participants, or consumers of the SAA or the SAA's subrecipients, such as a statement that all individuals have the right to participate in programs and activities operated by the SAA and SAA subrecipients regardless of race, color, national origin, sex, religion, disability, and age. The SAA may wish to state that it will ensure that the SAA and its subrecipients are in compliance with the following statutes and regulations:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin in the delivery of services (42 U.S.C. § 2000d), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart C;
- The Omnibus Crime Control and Safe Streets Act of 1968, which prohibits discrimination on the basis of race, color, national origin, religion, or sex in the delivery of services and employment practices (42 U.S.C. § 3789d(c)(1)), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart D;
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in the delivery of services and employment practices (29 U.S.C. § 794), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart G;
- Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability in the delivery of services and employment practices (42 U.S.C. § 12132), and the DOJ implementing regulations at 28 C.F.R. Part 35;

- Title IX of the Education Amendments of 1972, which prohibit discrimination on the basis of sex in educational programs (20 U.S.C. § 1681), and the DOJ implementing regulations at 28 C.F.R. Part 54; and
- The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age in the delivery of services (42 U.S.C. § 6102), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart I.
- The DOJ regulations on the Equal Treatment for Faith-Based Organizations, which prohibit discrimination on the basis of religion in the delivery of services and prohibit organizations from using DOJ funding on inherently religious activities (28 C.F.R. Part 38).

The SAA may also wish to include a statement that these laws prohibit agencies from retaliating against an individual for taking action or participating in action to secure rights protected by these laws.]

III. Definitions

[The SAA may wish to include definitions of relevant terms, such as “discrimination” and “complaint coordinator.”]

IV. Complaint Procedures

[The SAA should clearly explain its procedures for accepting and responding to discrimination complaints from clients, customers, program participants, or consumers of the SAA and SAA subrecipients. These procedures should include, at a minimum: 1) a designation of the SAA employee who is responsible for coordinating the series of actions described in these procedures; 2) an explanation of how a client, customer, program participant, or consumer may file a complaint of discrimination (i.e. on a specific complaint form, in a letter, in an email, in person, or over the phone); 3) an explanation of how a SAA employee receiving a complaint of discrimination should forward the complaint to the employee who is responsible for coordinating the series of actions described in these procedures; 4) an explanation of whether the SAA will provide the client, customer, program participant, or consumer with any written acknowledgement of the complaint, and how the SAA will correspond with the complainant throughout the investigation; and 5) an explanation of how the SAA will investigate and resolve the complaint, such as whether the SAA will conduct an internal investigation of the complaint, or whether it will refer the complaint to an appropriate external agency for investigation, such as a local or state human rights commission, or the Office for Civil Rights (OCR), Office of Justice Programs, DOJ.

If the SAA’s procedures involve referring the complaint to another agency or agencies for investigation and resolution, the SAA should clearly explain the necessary steps for making this referral. If the SAA’s procedures involve investigating the complaint internally or referring the complaint to an external agency other than the OCR, such as a

local or state human rights commission, the SAA should list the procedures for notifying the OCR in writing of the referral and for notifying the beneficiary that he or she may also file a complaint with the OCR. If the SAA chooses to investigate these complaints internally, the SAA should explain what office or division of the SAA will have responsibility for investigating the complaint and how the SAA will conduct the investigation.

In this section, the SAA should also explain how it will notify clients, customers, program participants, or consumers of the SAA and SAA subrecipients of prohibited discrimination, along with the procedures for filing a discrimination complaint with the SAA and the OCR. Notification may include placing posters in SAA facilities, including reference in program materials, or providing clients, customers, program participants, or consumers with a copy of these complaint procedures. The SAA should also explain how it will ensure that subrecipients have procedures in place for responding to discrimination complaints that clients, customers, program participants, or consumers of a subrecipient file directly with the subrecipient. At a minimum, these procedures should include forwarding the complaint to the SAA, the OCR, or another appropriate external agency, such as a local or state human rights commission; notifying the SAA of any discrimination complaints that the subrecipient does not refer to the SAA; and notifying the complainant that he or she may file a complaint of discrimination directly with the SAA or with the OCR.]

V. Training

[The SAA should describe its procedures for providing periodic training for agency employees on these complaint procedures, including an employee's responsibility to refer discrimination complaints from clients, customers, program participants, or consumers to the employee responsible for coordinating the series of actions described in these procedures. The SAA shall also describe in this section how it will disseminate these procedures to agency employees, such as by posting the procedures on the agency intranet website, providing a copy of the procedures to employees during the training sessions, distributing the procedures to all new employees during orientation, etc.]