



**U.S. Department of Justice**

Office of Justice Programs

*Office for Civil Rights*

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Washington, D.C. 20531

**Via Certified Mail**

October 4, 2012

Colonel Kriste Kibbey Etue  
Michigan State Police  
333 S. Grand Avenue  
P.O. Box 30634  
Lansing, MI 48909-0634

Re: Compliance Review of the Michigan State Police  
Docket No. 11-OCR-0347

Dear Colonel Etue:

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

In our letter addressed to your attention and dated January 26, 2012, we included a request for information in the form of a Data Request which inquired about the MSP's monitoring practices in the above-noted areas. The MSP, through Nancy Becker Bennett, Manager, Grant Management Section, responded to our Data Request on April 11, 2012, and provided requested supplemental information on June 1, 2012.

On August 14, 2012, the OCR sent the MSP a draft copy of the Compliance Review Report (Report) requesting the MSP review the Report and notify the OCR of any factual inaccuracies within thirty days from August 14, 2012. As of the date of this correspondence, the MSP has not notified the OCR of any factual inaccuracies contained within the draft Report. Accordingly, we issue the Report as Final at this time.

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Based on the information provided by the MSP in its response to our requests for information, we conclude, in regard to the limited scope of our review, that the MSP has taken steps to substantially comply with the federal civil rights laws and regulations the OCR enforces. Nonetheless, we have reservations about whether the MSP has adequate complaint procedures in place to respond to discrimination complaints from beneficiaries and employees of subrecipients, whether it is sufficiently monitoring subrecipients for compliance with applicable federal civil rights laws and regulations, and whether it is training and educating its subrecipients on those laws and regulations. Below please find the Report which contains recommendations for improving the MSP's methods for ensuring the civil rights compliance of its subrecipients.

## **Compliance Review Report: Overview and Recommendations**

### I. Overview

This Report first examines the MSP 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 MSP'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 MSP general efforts to ensure subrecipients compliance with civil rights obligations, the OCR examined how the MSP 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 discrimination in the delivery of services.

##### 1. Standard Assurances

The MSP receives numerous grant awards through several different DOJ and OJP grant-making offices to include the Bureau of Justice Statistics (BJS), the Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking Office (SMART), the Office of Juvenile Justice and Delinquency Prevention (OJJDP), Office of Community Oriented Policing Services (COPS), the National Institute of Justice (NIJ), and the Bureau of Justice Assistance (BJA). The following five separate MSP divisions are responsible for administering DOJ grant awards on behalf of the MSP: Forensic Science Division (FSD), Office of Highway Safety Planning

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(OHSP), Criminal Justice Information Center (CJIC), Departmental Services Division (DSD), and the Grant Management Section (GMS).<sup>1</sup>

As an initial matter, the OCR wishes to highlight that of the five MSP grant divisions, only two, the GMS and the OHSP, administer funding to subrecipients, of which none are faith-based organizations due to the MSP-mandated eligibility requirements of the grant. The remaining three MSP divisions that receive grant funding from the DOJ, OJP either implement the grants directly or serve as a pass-through agency for the funding. Accordingly, this Report will focus on the procedures and practices the GMS and OHSP have in place to monitor the civil rights compliance of subrecipients on behalf of the MSP.

The MSP stated in its response that prior to receiving federal grant funds, OHSP subrecipients must endorse a document entitled, "Certifications and Assurances," otherwise referred to as, "Standard Assurances." Within this document, the MSP stated the following provisions require subrecipient compliance with applicable federal civil rights laws and regulations:

5. The grantee agrees to ensure that no person in the United States shall, on the grounds of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental handicap or disability, political affiliation, or beliefs, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this program. The grantee shall adhere to all applicable federal, state, and local laws, ordinances, rules and regulations including, but not limited to, the following:

a. The Grantee will comply with all Federal statutes and implementing regulations relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352)<sup>2</sup> which prohibits discrimination on the basis of race, color or national origin (and 49 CFR Part 21); (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686),<sup>3</sup> which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits

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1 The CJIC administers the following BJS and SMART Office grant awards: 2011-MU-BX-K065, 2010-RU-BX-K026, 2009-MU-BX-K038, 2010-AW-BX-0011. The DSD administers the following OJJDP and COPS awards: 2009-SN-B9-K059, 2009-CS-WX-0012, 2008-CS-WX-0802, and 2010-MC-CX-K056. The FSD administers the following NIJ grant awards: 2011-DN-BX-K518, 2010-DN-BX-K153, 2009-DN-BX-K126, 2011-CD-BX-0033, 2010-CD-BX-0022, and 2009-CD-BX-4019. The GMS administers the following BJA and COPS grant awards: 2009-DJ-BX-4086, 2010-DJ-BX-0003, 2011-DJ-BX-2240, 2009-SU-B9-4017, 2010-UL-WX-0014, 2010-RT-BX-0002, 2011-RT-BX-0052, 2011-DB-BX-0033, and 2011-BE-BX-0013. The OHSP administers the following OJJDP grant awards: 2011-AH-FX-0007, 2010-AH-FX-0062, and 2009-AH-FX-0067.

2 Please note the correct citation is 42 U.S.C. § 2000d.

3 Please note the correct citation is 20 U.S.C. §§ 1681, 1683, 1685-86.

discrimination on the basis of handicaps (and 49 CFR Part 27); (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse of alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application;

- b. The Elliott Larsen Civil Rights Act, 1976 PA 453, as amended.
- c. The Americans with Disabilities Act of 1990, as amended, and regulations promulgated thereunder.
- d. The grantee's highway safety program provides adequate and reasonable access for the safe and convenient movement of physically handicapped persons, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks (23 USC 402(b) (1) (D)).

The MSP stated that GMS subrecipients are receiving federal funds from the following three DOJ/OJP grant sources: the Byrne Justice Assistance Grant, the American Recovery and Reinvestment Act (ARRA) Byrne Justice Assistance Grant and the Residential Substance Abuse Treatment (RSAT) Grant. Dependent on the grant source, each subrecipient must endorse Standard Assurances prior to the receipt of federal grant funds. For GMS subrecipients receiving Byrne or RSAT grant awards, they must endorse a document entitled, "Grant Agreement." Within this document, the MSP stated the following provisions require subrecipient compliance with applicable federal civil rights laws and regulations:

**XVI. Certifications and Assurances:**

These Certifications and Assurances are applicable to the Contractor and all subcontractors of the Contractor. It is the Contractor's responsibility to ensure that subcontractors are adhering to the Certifications and Assurances. Failure to do so may result in termination of grant funding or other

remedies.

E. Standard Assurances:

The Contractor hereby assures and certifies compliance with all applicable federal statutes, regulations, policies, guidelines, and requirements, including OMB Circulars A-21, A-87, A-102, A-11-, A-122, A-133; Ex. Order 12372 (intergovernmental review of federal programs)); and, 28 C.F.R. pts. 66 or 70 (administrative requirements for grants and cooperative agreements). The Contractor also specifically assures and certifies that:

3. It will give the awarding agency or the general accounting office, through any authorized representative, access to and the right to examine all paper or electronic records related to the financial assistance. It will comply with all lawful requirements imposed by the awarding agency, specifically including any applicable regulations, such as 28 C.F.R. pts. 18, 22, 23, 30, 35, 38, 42, 61 and 63.

5. 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 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)<sup>4</sup>; 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).

GMS subrecipients that received ARRA Byrne grant awards, had to endorse two separate documents entitled, "Grant Agreement" and "Certifications and Assurances." Within the Grant Agreement, the MSP stated the following provisions require subrecipient compliance with applicable federal civil rights laws and regulations:

III. Assurances (see Certifications & Assurances for further detail)

The following assurances are hereby given to the Department:

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<sup>4</sup> Please note that the correct citation is 42 U.S.C. §§ 12131-34.

A. Compliance with Applicable Laws

The Contractor will comply with applicable federal and state laws, guidelines, rules and regulations in carrying out the terms of this agreement. The Contractor will also comply with all applicable general administrative requirements such as OMB Circulars covering cost principles, grant/agreement principles, and audits in carrying out the terms of this agreement.

C. Non-Discrimination

1. In the performance of any contract or purchase order resulting herefrom, the Contractor agrees not to discriminate against any employee or applicant for employment or service delivery and access, with respect to their hire, tenure, terms, conditions or privileges of employment, programs and services provided or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental disability unrelated to the individual's ability to perform the duties of the particular job or position or to receive services. The Contractor further agrees that every subcontract entered into for the performance of any contract or purchase order resulting herefrom will contain a provision requiring non-discrimination in employment, service delivery and access, as herein specified binding upon each subcontractor. This covenant is required pursuant to the Elliot-Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2201 et seq., and the Persons with Disabilities Civil Rights Act, 1976 PA 220, as amended, MCL 37.1101 et seq., and any breach thereof may be regarded as a material breach of the contract or purchase order.

Within the Certifications and Assurances, the MSP stated the following provisions require subrecipient compliance with applicable federal civil rights laws and regulations:

STANDARD ASSURANCES:

The grantee/contractor hereby assures and certifies compliance with all applicable federal statutes, regulations, policies, guidelines, and requirements, including OMB Circulars A-21, A-87, A-102, A-110, A-122, A-133; Ex. Order 12372 (intergovernmental review of federal programs); and, 28 C.F.R. pts. 66 or 70 (administrative requirements for grants and cooperative agreements). The grantee/contractor also specifically assures and certifies that:

4. It will comply with all lawful requirements imposed by the awarding agency,

specifically including any applicable regulations, such as 28 C.F.R. pts. 18, 22, 23, 30, 35, 38, 42, 61 and 63.

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 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)<sup>5</sup>; 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).

Although the Certifications and Assurances that the OHSP provides to its subrecipients for endorsement prior to receiving federal grant funds contain a few legal clauses, overall, the document fails to reference the majority of applicable federal civil rights laws. The Assurances also do not instruct subrecipients to submit findings of discrimination to the OCR, nor do they address the requirement to ensure meaningful access to individuals who are considered limited English proficient or LEP. The Standard Assurances also do not convey to subrecipients the Equal Employment Opportunity Program requirements pursuant to 28 C.F.R. §§ 42.301-.308. Finally, the Assurances either omit or provide incorrect legal citations to applicable federal civil rights laws which are fully outlined for your reference in Section II (C) of this Report.

As for the GMS, the award documents that it requires subrecipients to endorse prior to the release of federal grant funds, provide full and nearly accurate legal citations to all applicable federal civil rights laws. However, like the OHSP, neither the Grant Agreement or the Certifications and Assurances instruct subrecipients to submit findings of discrimination to the OCR, nor do they address the requirement to ensure meaningful access to individuals who are considered limited English proficient or LEP. The Standard Assurances also do not convey to subrecipients the Equal Employment Opportunity Program requirements pursuant to 28 C.F.R. §§ 42.301-.308. Thus, the GMS should also review Section II (C) of this Report for a comprehensive list of all applicable federal civil rights laws and requirements.

## 2. Onsite Visits and Other Monitoring Methods

The MSP stated in its data response that the OHSP monitors its subrecipients for compliance with their civil rights obligations by reviewing applicable federal civil rights laws contained in the Certifications and Assurances that each subrecipient is required to endorse prior to the release of federal grant funds. The MSP stated the OHSP reviews the language in the Assurances during

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<sup>5</sup> Please note that the correct citation is 42 U.S.C. §§ 12131-34.

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grant orientation at the beginning of the fiscal year and during a mid-year monitoring review of the subrecipient. The MSP went on to state in its response that the OHSP documents that all grantees and subrecipients receive and review the Assurances during the monitoring review.

As for the GMS, the MSP stated although this division does have a system in place to monitor subrecipients for compliance with the programmatic and financial terms of grant awards, it does not specifically monitor subrecipients for compliance with applicable federal civil rights laws and requirements.

### 3. Training and Technical Assistance

The MSP stated in its response that the OHSP provides training to its subrecipients regarding their duty to comply with applicable federal civil rights laws and regulations during the grant orientation that is conducted with each grantee at the beginning of the fiscal year. During the orientation, the OHSP reviews the non-discrimination clause contained in the Assurances which addresses applicable federal civil rights laws. Outside of reviewing the Assurances, it does not appear from the MSP's response that the OHSP provides any other training to subrecipients on their obligation to comply with applicable federal civil rights laws and requirements. As noted in Section I.(A)(1) of this Report, the Assurances utilized by the OHSP do not contain a comprehensive resuscitation of all applicable federal civil rights laws and requirements thus, subrecipients are not receiving a comprehensive review of all applicable civil rights laws and requirements during the grantee orientation that OHSP provides and which serves as its primary form of training to the subrecipient.

The MSP stated the GMS does not provide any training to its subrecipients regarding their duty to comply with applicable federal civil rights laws and requirements.

### 4. Complaint Procedures

In its data response, the MSP stated the following four departmental nondiscrimination policies are in place to respond to discrimination complaints from MSP employees and beneficiaries: Order No. 001, Section X: Employment Policy, Order No. 001, Harassment Policy, Order No. 0012, Recognizing and Reporting Discriminatory Harassment and Civil Rights Violations Involving Department Members, and Michigan State Police Discriminatory Harassment Policy. Upon review, it is clear that these policies apply to MSP employees and direct beneficiaries and collectively address how complaints of discrimination from these parties may be filed, how the complaints are processed and by whom, and when the complaints may be referred to another reviewing body such as the DOJ or the Michigan Department of Civil Rights. However, the stated the policies and procedures do not appear to extend MSP's subrecipient employees or beneficiaries, nor do the policies and procedures specifically state that they do so.



The MSP stated in its data response that they were not aware of any complaints, filed either internally or externally, from the date of our Data Request, January 1, 2011 to present, from beneficiaries, prospective beneficiaries, applicant organization, or subrecipients alleging discrimination in any MSP-funded program or activity or alleging discrimination in the MSP's grant-making process.

## 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.” See § 28 C.F.R. 38.1(a). The Regulations prohibit the DOJ and its 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 treatment of faith-based organizations, the OCR will briefly address the procedures the MSP has in place for ensuring that funded faith-based organizations comply with applicable federal civil rights laws.

### 1. Procedures for Ensuring that Faith-Based Organizations Comply with Applicable Federal Civil Rights Laws

As previously noted, because only units of local government are eligible to apply for current MSP grant awards, the MSP does not have procedures in place to address compliance with the Equal Treatment Regulations found at 28 C.F.R. pt. 38.

## II. Recommendations

The MSP currently has minimal procedures in place for monitoring the civil rights compliance of its subrecipients. To strengthen its monitoring efforts, we offer the following four recommendations: (1) develop a comprehensive policy, including the establishment of written procedures, for addressing discrimination complaints; (2) include information on all applicable federal civil rights laws and requirements in assurance and award documents; (3) monitor subrecipients for compliance with federal civil rights laws during annual onsite monitoring visits; and (4) provide training to subrecipients about their obligation to comply with federal civil rights laws and requirements.

### A. Develop Comprehensive Policy for Addressing Discrimination Complaints

While the MSP demonstrated what steps it may take when receiving a discrimination complaint from an employee or direct client and how to process complaints of this nature, it did not have any explicit procedures in place which address how to process complaints of discrimination from employees or beneficiaries of MSP subrecipients. Accordingly, the MSP should adopt a policy for addressing discrimination complaints that includes, at a minimum, the following elements:

- 1) designate a coordinator who is responsible for overseeing the complaint process;<sup>6</sup>
- 2) notify employees of the MSP, beneficiaries, and subrecipients of prohibited discrimination in funded programs and activities and the MSP policy and procedures for handling discrimination complaints;<sup>7</sup>
- 3) establish written procedures for receiving discrimination complaints from the MSP beneficiaries, and from subrecipient employees and beneficiaries;
- 4) refer each complaint to the appropriate agency for investigation and resolution, such as the EEOC; or referring the complaint to the OCR, which will review the complaint and work with the MSP to resolve the complaint; and
- 5) train MSP program staff on their responsibility to refer discrimination complaints, or potential discrimination issues, to the MSP complaint coordinator for processing as soon as the alleged discrimination comes to their attention.

Information about the applicable laws, complaint forms, and the investigative process may be found at the OCR's website at [www.ojp.usdoj.gov/ocr/crc](http://www.ojp.usdoj.gov/ocr/crc). Developing a comprehensive policy for addressing discrimination complaints should be a top priority for the MSP. To assist the MSP in the drafting process, we have developed, and provide for your consideration, sample procedures for addressing how to process complaints of discrimination from subrecipient employees and beneficiaries.

**B. Include Reference to Civil Rights/Nondiscrimination Provisions in the MSP Standard Assurances**

The MSP should include a full and accurate reference to all of the federal civil rights laws the OCR enforces and that subrecipients are required to comply with in the documents noted in Section I (A)(1) of this Report and which contain the assurance and condition that subgrantees must sign when applying for, and receiving federal grant awards. To that end, both the OHSP and the GMS should incorporate, at a minimum, the following language in all DOJ subrecipient assurance documents regardless of the amount of the federal financial assistance at issue:

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

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<sup>6</sup> See 28 C.F.R. § 31.202 (a)(1).

<sup>7</sup> *Id.* at 31.202 (b)(3).

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); 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 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, sex, or disability 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 Michigan State Police (MSP).

The recipients will determine whether it is required to formulate an Equal Employment Opportunity Plan (EEO) in accordance with 28 CFR § 42.301 et seq. If the applicant is not required to formulate an EEO, it will submit a certification form to the U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights (OCR), and the OPM indicating that it is not required to develop an EEO. If the applicant is required to develop an EEO, but is not required to submit the EEO to the OCR, the applicant will submit a certification form to the OCR and the MSP certifying that it has an EEO on file which meets the applicable requirements. If the applicant is awarded a grant of \$500,000 or more and has fifty or more employees, it will submit a copy of its EEO to the OCR and OPM. Non-profit organizations, Indian Tribes, and medical and educational institutions are exempt from the EEO requirement, but are required to submit a certification form to the OCR to claim the exemption (a copy should also be submitted to the OPM). Additional information about the EEO requirements may be found online at [http://www.ojp.usdoj.gov/about/ocr/eeop\\_comply.htm](http://www.ojp.usdoj.gov/about/ocr/eeop_comply.htm).

Finally, additional information about the other civil rights obligations of grantees addressed in this Report may be found online at <http://www.ojp.usdoj.gov/ocr/>.

The MSP also should include in its award documents (Certifications and Assurances and Grant

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Agreement), a provision requiring subrecipients to certify that they will provide meaningful access to their programs and activities to LEP persons. In June of 2002, the DOJ published guidance for its financial aid recipients and state subrecipients about taking reasonable steps to provide meaningful access to programs and activities for LEP persons in accordance with Title VI of the Civil Rights Act of 1964 and the Omnibus Crime Control and Safe Streets Act of 1968. For a detailed discussion of the requirement to provide meaningful access to LEP persons, please review the guidance issued by the DOJ on this matter entitled, "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons," 67 Fed. Reg. 41,455 (June 18, 2002).

Finally, the MSP may wish to add a sentence 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.

C. Monitor for Compliance with Federal Civil Rights Laws during Onsite Monitoring Visits

The MSP should ensure DOJ subrecipients comply with all grant requirements. Pursuant to its responsibility to monitor the compliance of subrecipients with applicable federal civil rights laws, the MSP should broaden the scope and basis for selecting subrecipients for monitoring to include monitoring for civil rights compliance. Specifically, the OHSP and the GMS should evaluate its subrecipients for compliance with all civil rights requirements that are binding on recipients of federal funding (e.g., 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). Also, when applicable, the MSP should be sure to monitor whether the subrecipient is complying with DOJ's Equal Treatment Regulations, including the prohibitions against using federal funds to engage in inherently religious activities and discriminating against program beneficiaries on the basis of religion.

To assist the MSP in strengthening its onsite monitoring procedures, please find enclosed a monitoring checklist which was developed by the OCR and addresses the applicable federal civil rights laws and requirements that an SAA should monitor its subrecipients for compliance. The MSP should use this checklist as a stepping stone in adapting their own monitoring instrument or as a tool that is incorporated into the current monitoring practices of the OHSP and GMS.

D. Provide Training to Subrecipients on Their Obligations to Comply with Federal Civil Rights Laws

Although the OHSP is providing some training for its subrecipients on compliance with applicable federal civil rights obligations, the GMS is currently not doing so. Thus, to ensure subrecipients are aware of their obligations under federal civil rights laws, we strongly

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recommend the MSP, through the GMS and OHSP, provide periodic training for its subrecipients on the applicable federal civil rights laws. Training of this type should be for every subrecipient and offered at least once during a grant cycle, whether the MSP provides the training in person, during a teleconference, or through other means. To assist the MSP in the provision of training to subrecipients, the OCR has developed a comprehensive civil rights training which is accessible online at <http://www.ojp.usdoj.gov/about/ocr/assistance.htm>. The OCR is also available to provide the MSP with technical assistance in developing civil rights training programs.

Conclusion:

The MSP should implement the recommendations set forth in the Report to ensure substantial compliance with the federal civil rights laws the OCR enforces. On request, the OCR is available to provide technical assistance to the MSP in addressing the concerns raised in the Report. **Accordingly, immediately upon receipt of this document, we request a responsible MSP official to contact Attorney [REDACTED] to develop a timeline and goals for implementing the OCR's recommendations contained within this Report.**

Thank you for your cooperation and the assistance of your staff throughout the compliance review process. If you have any questions, please contact [REDACTED] electronically at [REDACTED] or by telephone at [REDACTED]

Sincerely,

Michael L. Alston  
Director

Enclosures

cc: Nancy Becker Bennett, Manager  
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