



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

Washington, D.C. 20531

VIA CERTIFIED MAIL

June 14, 2017

Ms. Yuanfen L. Chi
Executive Director
Garden of Hope
P.O. Box 520048
Flushing, NY 11352

Re: Garden of Hope Compliance Review (Docket No. 16-OCR-0699)
Letter of Findings

Dear Ms. Chi:

The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) has completed its Compliance Review of the Garden of Hope (GOH). The focus of the Compliance Review was whether the GOH as a recipient of DOJ financial assistance is meeting its legal obligations in regard to not discriminating in the delivery of services or benefits on the basis of religion and not using federal financial assistance for inherently religious activities. In regard to the limited scope of the Compliance Review, the OCR finds no basis for concluding that the GOH is in violation of the laws that the OCR enforces.

I. Jurisdiction

As a recipient of funding through the Office on Violence Against Women (OVW), the GOH is subject to the OCR's jurisdiction.¹ The OCR has administrative responsibility for conducting post-award reviews of funding recipients.²

II. Facts

The OCR received information about the GOH that raised concerns regarding its compliance with the nondiscrimination provision of the Violence Against Women Act (VAWA) of 1994, as

¹ The OVW granted the GOH an award with the number 2014-KS-AX-0008 in the amount of \$300,000 in furtherance of the GOH's proposed project entitled "Garden of Hope's Outreach and Services Program for Victims of Sexual Assault Among NYC Chinese Immigrants" for the period of October 1, 2014, to September 30, 2017 [hereinafter the GOH Outreach Program]. The grant agreement for this award includes a special condition requiring the GOH to comply with 28 C.F.R. pt. 38 (2015) [hereinafter Equal Treatment Regulation].

² 28 C.F.R. § 42.206.

amended,³ and the DOJ regulation, Equal Treatment for Faith-Based Organizations.⁴ The VAWA prohibits OVW grant recipients from discriminating on the basis of religion in the delivery of services or benefits, and the Equal Treatment Regulation prohibits DOJ recipients from using federal financial assistance for inherently religious activities. Consequently, in accordance with 28 C.F.R. § 42.206, the OCR selected the GOH for a compliance review to ensure that the GOH's delivery of services and benefits, in regard to religion, were in adherence with both the nondiscrimination provisions of VAWA and the Equal Treatment Regulation.

On February 1, 2017, the OCR notified the GOH of the Compliance Review and asked the GOH to respond to the OCR's Data Request. On March 6, 2017, the GOH responded to the OCR's Data Request and submitted supporting documentation. After thoroughly reviewing the record in this matter, the OCR issues this Letter of Findings.

III. Background

a. The GOH

The GOH is a nonprofit organization that is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code, and it is not affiliated with a religious institution. An executive director leads the organization, supervising fourteen employees. The GOH considers itself a Christian faith-based organization, and its mission involves serving people who have been exposed to domestic violence, sexual assault, and human trafficking. All of the GOH's services are free, and they are specifically tailored for New York City's Chinese immigrant community. The GOH's services include crisis intervention, counseling, and shelter placement for adults and tutoring, mentoring, and camps for children. The GOH also undertakes educational efforts to increase awareness about domestic violence, sexual assault, and human trafficking among the local Chinese immigrant community.

b. The Award

The GOH administers an OVW award in the amount of \$300,000 for the GOH Outreach Program. The OVW awarded the funding under the Sexual Assault Services Culturally Specific Solicitation, which targets nonprofit organizations. The goal of this program is to create, maintain, and expand sustainable sexual assault services provided by culturally specific organizations. The GOH Outreach Program addresses the needs of the underserved population of Chinese women in New York City who are victims of sexual assault. This program provides

³ 42 U.S.C. § 13925(b)(13).

⁴ 28 C.F.R. pt. 38 (2015). At the time the OVW awarded the grant to the GOH (*see supra* note 1), the Equal Treatment Regulation as published in the 2015 edition of the *Code of Federal Regulations* applied. In April 2016, the DOJ amended the regulation, renaming it Partnerships with Faith-Based and Other Neighborhood Organizations, 28 C.F.R. pt. 38 (2016) [hereinafter Part 38]. The OVW has interpreted Part 38 to go into effect only when an organization receives a new award after May 4, 2016. Thus, the version of the regulation that is applicable to the grant that the OCR is considering here is the Equal Treatment Regulation, the unrevised 2015 version of Part 38. Should the GOH obtain DOJ funding in the future, however, Part 38 would apply.

help for victims and their children in a comprehensive manner, which takes into account the unique cultural and language barriers they face.

c. The Applicable Law

In exchange for receiving its OVW award, the GOH agreed to several grant conditions. The grant condition regarding the Equal Treatment Regulation requires recipients not to use federal funds for inherently religious activities:

Funding may not be used to fund any inherently religious activities, such as worship, religious instruction, or proselytization. Recipients of direct grants may still engage in inherently religious activities, but such activities must be separate in time or place from the DOJ-funded program, and participation in such activities by individuals receiving services from the grantee or a sub-grantee must be voluntary. The Equal Treatment Regulation also makes clear that organizations participating in programs directly funded by the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion.⁵

Another grant condition, this one regarding the VAWA, stated that grantees are prohibited from "excluding, denying benefits to, or discriminating against any person on the basis of actual or perceived . . . religion"⁶

The OCR's review of the GOH considered whether the GOH used OVW funds for any inherently religious activities, whether the GOH compelled clients to participate in any inherently religious activities, and whether the GOH excluded, denied benefits to, or discriminated against a client due to the client's actual or perceived religion.

IV. Findings

The OCR's investigation included a review of the postings on the GOH's website and other materials that the OCR received, including the GOH's policy statements, manuals, handbooks, staff and client documents, and financial and other records. As part of its review, the OCR had all Chinese texts that the GOH submitted independently translated into English. In the course of the Compliance Review, the OCR found that the GOH's clients are of various religious backgrounds, internal GOH policies do not allow discrimination on the basis of religion, and GOH counselors do not initiate prayer or religious discussions with clients. The GOH's religious mission statement,⁷ which appears on the GOH's website, is permissible under the Equal Treatment Regulation's express allowance for funded faith-based organizations to

⁵ GOH Outreach and Services Program Award, *supra* note 1, Special Condition No. 34.

⁶ GOH Outreach and Services Program Award, *supra* note 1, Special Condition No. 13.

⁷ The GOH's mission statement is as follows: "Through the love of God, Garden of Hope dedicates itself to serving, caring for and rebuilding the lives of people who have been exposed to domestic violence, sexual assault and human trafficking."

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maintain their religious character, which includes having plainly religious mission statements.⁸ After a careful review of all relevant information, the OCR concluded that there was no basis for a violation.⁹

This Letter addresses only the specific facts of this Compliance Review and does not preclude the DOJ from taking additional action to evaluate the GOH's compliance with any of the laws the DOJ enforces. The closure of this Compliance Review does not affect the GOH's obligation to comply with all applicable federal laws and regulations.

This Compliance Review Report is a public document that the OCR will post on its website.

Thank you for the cooperation and assistance that you provided to OCR Attorney Advisor Mona Mafi in the course of this Compliance Review.

Sincerely,

X

Michael L. Alston
Director

⁸ The Equal Treatment Regulation states that "a religious organization . . . may . . . include religious references in its organization's mission statements and other governing documents." 28 C.F.R. § 38.1(c) (2015).

⁹ Although, as discussed in footnote 3, the Compliance Review addressed only the GOH's compliance with the Equal Treatment Regulation; it appears, however, that the GOH is taking steps to comply with Part 38 as well.