U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

Washington, D.C. 20531

Via Certified Mail

April 19, 2010

Lari Koga, Administrator
Crime Prevention and Justice Assistance Division
Department of the Attorney General
235 South Beretania Street, Suite 401
Honolulu, HI 96813

Re: Compliance Review of the Hawaii Department of the Attorney General (09-OCR-0483)

Dear Administrator Koga:

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 Hawaii Department of the Attorney General (DAG), in accordance with federal regulation 28 C.F.R. § 42.206. The focus of the review was on the DAG's compliance with applicable federal civil rights laws along with the DAG's monitoring procedures for ensuring the compliance of subrecipients with these laws. Of particular interest to the OCR was the DAG'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 September 23, 2009, the OCR conducted an onsite visit to the DAG's Crime Prevention and Justice Assistance Division (CPJAD) in Honolulu, Hawaii, to interview CPJAD administrators and to conduct a training program for CPJAD administrators and program staff on the federal civil rights laws that the OCR enforces. The OCR would like to thank CPJAD staff, especially former Chief of the Grants and Planning Branch Adrian Kwock, for assisting OCR attorney Shelley Langguth during her onsite visit.

Based on the DAG's responses to our data request and the information that the OCR gathered during our onsite visit, the OCR sent the DAG a draft Compliance Review Report on March 11, 2010. In response to the draft Compliance Review Report, you sent the OCR a letter on March 30, 2010, providing some clarification on the DAG's procedures for making a particular grant award and on the DAG's grant award documents. Based on this clarification, the OCR slightly revised our discussion of these issues on pages 8 and 10 of this Compliance Review Report.

In regard to the limited scope of our review, the OCR concludes that the DAG has taken steps to substantially comply with the federal civil rights laws that the OCR enforces. Nonetheless, we have reservations about whether the DAG has adequate complaint procedures in place to respond to discrimination complaints from beneficiaries and employees of subrecipients, and whether it is sufficiently monitoring its subrecipients for compliance with applicable federal civil rights laws. The following Compliance Review Report includes recommendations for improving the DAG's methods for monitoring and ensuring the civil rights compliance of subrecipients.

Compliance Review Report: Overview and Recommendations

I. Overview

This Compliance Review Report first examines the DAG'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 DAG'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 DAG's general efforts to ensure subrecipients' compliance with their civil rights obligations, the OCR examined how the DAG 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.

1. Standard Assurances

According to our records and the information that CPJAD staff provided during the OCR's onsite visit, the DAG currently administers numerous subgrant awards funded by the OJP's Bureau of Justice Assistance (BJA), Bureau of Justice Statistics (BJS), National Institute of Justice (NIJ), and the Office for Victims of Crime (OVC), as well as the DOJ's Office on Violence Against Women (OVW) and Office of Community Oriented Policing Services (COPS Office). During the OCR's onsite monitoring visit, CPJAD staff explained that the CPJAD's Grants and Planning Branch administers and monitors these DOJ subawards.

Before the DAG releases funds, subrecipients must sign and agree to abide by a written contract. Paragraph 8 of this contract states the following:

> Grantee shall comply with the non-discrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968 which prohibits discrimination in employment and in the delivery of services or benefits on the basis of race, color, national origin, religion, or sex; Title VI of the Civil Rights Act of 1964 which prohibits discrimination in the delivery of services or benefits on the basis of race, color, or national origin; Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 which prohibit discrimination in employment and in the delivery of services or benefits based on disability; Title IX of the Education Amendments of 1972 which prohibits discrimination on the basis of sex in training or educational programs; and the Age Discrimination Act of 1975 which prohibits discrimination in the delivery of services or benefits on the basis of age; Department of Justice regulations on disability (nondiscrimination on the basis of disability in the state or local government services, public accommodations and commercial facilities, and accessibility standards), 28 C.F.R. Part 35; Exec. Order No. 13279 (equal protection of the laws for faith-based and community organizations); Exec. Order No. 13166 and U.S. Department of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons; the Hawaii State Fair Employment Practices Act, Chapter 378, Hawaii Revised Statutes; and all other applicable federal and state laws, rules, and regulations.

Additionally, paragraph 9 of the contract provides that "[g]rantee assures Agency that if it is required to formulate an Equal Employment Opportunity Program in accordance with 28 C.F.R. §§ 42.301 et. seq. it will submit a certification to Agency that a current program is on file."

Subrecipients are also required to sign a Certification of Non-Discrimination, whereby they certify that they will comply and will insure compliance by any subgrantees and contractors with the nondiscrimination statutes referenced in paragraph 8 above, along with Section 1407 of the Victims of Crime Act, the DOJ's implementing regulations, and 28 C.F.R. pt. 38.[1] Additionally,

[1] The Certificate of Non-Discrimination lists the legal citation for Title IX of the Education Amendments of 1972 as 20 U.S.C. § 1681 and 34 C.F.R. pt. 106; please be advised the DOJ regulations implementing Title IX are at 28 C.F.R. pt. 54, and not 34 C.F.R. pt. 106. The DAG should modify this citation accordingly.

if a subrecipient is claiming a partial or complete exemption from the DOJ's equal employment opportunity plan (EEOP) requirements the subrecipient must complete and return to the DAG the OJP's Certification Form. According to the CJPAD staff with whom the OCR spoke, subrecipients do not also submit this form to the OCR.

In its response to the OCR's data request, the DAG also provided the OCR with a document entitled "Certification for Faith-Based Organizations" whereby agencies must certify in accordance with Executive Order 13279 and 28 C.F.R. pt. 38 that federal funds will not support any inherently religious activities and that the funded program will not discriminate against a beneficiary on the basis of religion. During the OCR's onsite visit, CPJAD staff explained that the DAG has not used this certification form yet but intends to require any faith-based organizations that receive future DOJ funding to complete the form.

During the OCR's onsite visit, CJPAD staff provided the OCR with the manual that the CPJAD provided to subrecipients funded under the 2009 Edward Byrne Memorial Justice Assistance (JAG) Program. This manual contains a section on civil rights, listing and discussing the statutes that the OCR enforces;[2] Executive Order 13166, 65 Fed. Reg. 50121 (2000), and the DOJ Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455 (2002); and Executive Order 15279[3] and 28 C.F.R. pt. 38 concerning equal protection of the laws for faith-based organizations. This section also discusses the EEOP requirements;[4] discusses the requirement that recipients forward to the OCR any finding of discrimination issued by a federal or state court or federal or state administrative agency after a due process hearing on the grounds of race, color, religion, national origin, sex, age, or disability; and explains that individuals may file a complaint of discrimination with the OCR, who investigates all complaints of discrimination filed against recipients of OJP funding.[5] Subsequent to the OCR's onsite visit,

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[2] As in the DAG's Certification of Non-Discrimination, the manual contains an incorrect citation to the regulations implementing Title IX of the Education Amendments of 1972. Please see footnote 1 of this Compliance Review Report.

[3] The correct citation is Executive Order 13279; the DAG should revise this citation accordingly.

[4] Please be advised that the section on the EEOP requirements contains some incorrect or incomplete information. The section appears to state that all agencies that receive $25,000.00 or more in funding and have 50 or more employees must formulate an EEOP, and does not explain that non-profit organizations, educational institutions, Indian tribes, or medical institutions are exempt from the EEOP requirements. Additionally, the section states that agencies that receive more than one million dollars in funding within an 18-month period must submit an EEOP to the OCR for review. However, only covered recipients or subrecipients who receive a single award of $500,000.00 or more are required to submit an EEOP to the OCR; agencies that do not meet this requirement but receive one million dollars or more in cumulative funding are no longer required to submit an EEOP to the OCR. The DAG should clarify these issues when discussing the EEOP requirements.

[5] Please be advised that the OCR also has jurisdiction to investigate complaints of discrimination against recipients of funding from the DOJ's OVW and the COPS Office. The DAG should add references to the OVW and the COPS

CJPAD staff said that this nondiscrimination section is also included in the manuals for recipients of funding programs authorized by the Violence Against Women Act (VAWA) and the Victims of Crime Act (VOCA).

The JAG manual also contains Special Conditions that are binding on subrecipients under the JAG Program; paragraph 12 of the Special Conditions is entitled "Funds Subcontracted to Faith-Based Organizations" and discusses the prohibitions contained in 28 C.F.R. pt. 38 against using DOJ funding on inherently religious activities and against discriminating in the provision of services based on a beneficiary's religion. Subsequent to the OCR's onsite visit, CPJAD staff explained that this language is included in the Special Conditions for all DOJ grant programs in which there is a possibility that funds will be directly awarded or sub-contracted to a faith-based organization.

2. Onsite Visits and Other Monitoring Methods

In the DAG's response to the OCR's data request, it said that the DAG performs fiscal and programmatic desk and onsite monitoring of subrecipients to evaluate compliance with grant requirements. During the OCR's onsite visit, CPJAD staff said that the DAG has historically performed annual onsite monitoring visits of each subrecipient, but that it is moving toward a more risk-based approach to performing onsite visits. The DAG's data response contained a monitoring checklist which requires the DAG to review compliance with limited English proficiency requirements, disabilities access, faith-based regulations, EEOP requirements, and drug free workplace requirements and provides a space for the grant monitor to write comments or recommendations. During the OCR's onsite visit, CPJAD staff said that they are still deciding how to implement this checklist.

The CPJAD staff said that they perform desk reviews of subrecipients on an ongoing basis, which consist of answering questions from subrecipients and communicating via telephone and email. The CPJAD staff further explained to the OCR that the DAG requires periodic programmatic progress reports from subrecipients, and provided the OCR with a copy of the annual performance report that is required of subrecipients receiving funding under VOCA; this report requests demographic information on clients that the subrecipient has served including race or national origin, sex, handicap status, and age.

Office in this paragraph.

3. Training and Technical Assistance

The DAG said in its data response that it includes a discussion of civil rights requirements in the Grant Administrative Training that the CPJAD normally provides for subrecipients every other year. During the OCR's onsite visit, CPJAD staff provided the OCR with the CPJAD's training slides relating to civil rights; these slides reference Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IV[6] of the Education Amendments of 1972, and the Age Discrimination Act of 1975. The slides also contain a discussion of the EEOP requirements, the requirement to ensure meaningful access to individuals with limited English proficiency, and the OCR's jurisdiction to investigate complaints of discrimination against recipients of funding from the OJP and the COPS Office. During the OCR's onsite visit, CPJAD staff explained that approximately four years ago the CPJAD had also arranged a training for its subrecipients that the DOJ had recommended on disability discrimination. The DAG's data response also indicates that the CPJAD provides technical assistance on civil rights requirements during orientation provided to new subrecipients.

4. Complaint Procedures

In regard to discrimination complaints from employees of the DAG, the DAG's General Office Manual sets forth the procedures for DAG employees to follow when making a complaint of sexual harassment along with complaints of discrimination based on race, color, religion, sex, age, national origin, disability, or sexual orientation. During the OCR's onsite visit, the DPJAD explained that the DAG does not have any direct clients, beneficiaries or program participants.

As for discrimination complaints by beneficiaries or employees against DOJ subrecipients, during the OCR's onsite visit CPJAD staff provided the OCR with an excerpt from the Branch Manual for CPJAD employees that addresses discrimination complaints against subrecipients. The Branch Manual indicates individuals can submit a written complaint to the DAG and that CPJAD will conduct an initial investigation into the allegations; if it appears that the complaint has merit, the CPJAD will refer the complaint to the Attorney General, who may further investigate the matter or refer the complaint to the DAG's Affirmative Action Officer or to the Hawaii Civil Rights Commission (HCRC). The CPJAD staff told the OCR that the DAG has never received a discrimination complaint against a DOJ subrecipient.

Based on the OCR's research, it appears that the HCRC's Department of Labor and Industrial Relations has jurisdiction over complaints alleging discrimination in employment and public

[6] This citation should be Title IX of the Education Amendments of 1972.

accommodations on the bases of race, color, ancestry, sex, sexual orientation, religion, and disability, along with employment discrimination complaints on the basis of age, marital status, and arrest record. The HCRC also investigates complaints against state agencies and recipients of state funding on the basis of disability. Accordingly, it appears that employees of the DAG and employees of DAG subrecipients may file discrimination complaints based on a variety of protected classes with the HCRC. It further appears that beneficiaries of DAG subrecipients may file certain types of discrimination complaints with the HCRC if a subrecipient's program or activity qualifies as a place of public accommodation or if the subrecipient receives state funding.

B. Monitoring Compliance with Equal Treatment 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 DAG's equitable treatment of faith-based organizations, the Compliance Review focuses on two issues: (1) the review process for making awards to applicant faith-based organizations; and (2) procedures for ensuring that funded faith-based organizations comply with applicable federal civil rights laws.

1. The Process for Making Awards to Applicant Faith-Based Organizations

As discussed in Section I.A.1 of this Compliance Review Report, the CPJAD's Grants and Planning Branch currently administers numerous subgrant awards funded by the BJA, the BJS, the NIJ, the OVC, the OVW, and the COPS Office. During the OCR's onsite visit, CPJAD staff explained that the process for soliciting and reviewing subgrant applications varies depending on the type of grant award. For the JAG Program, the DAG posts funding solicitations on the DAG's website, and applications are initially reviewed and scored by CPJAD staff members along with individuals from other criminal justice agencies. The CPJAD staff reviews the scores and makes funding recommendations to the Governor's Committee on Crime, who then makes final funding recommendations to the Attorney General.

For grants authorized under VAWA, the process depends on the type of funding applicant. For VAWA grants to non-profit agencies and for VAWA grants designed to assist rural communities, the DAG posts a Request for Funding Proposal (RFP) on the DAG's website and on the state procurement website; applications are reviewed by several CPJAD staff members along with individuals from external agencies who have relevant subject matter expertise, and the reviewers make funding recommendations to the Attorney General. The VAWA grants to police and

prosecutors are either competitive among the four county law enforcement agencies or four county prosecutors within the State of Hawaii, or are allocated to the county prosecutors based on a formula. Applications for the competitive VAWA grants to county law enforcement agencies and prosecutors are reviewed by several CPJAD staff members along with personnel from a local criminal justice agency, who then make funding recommendations to the Attorney General. For the VAWA grants to the judiciary, the DAG circulates the funding solicitation to the four judicial circuits in the State of Hawaii, and the Administrator of the Courts then determines which project application to submit to the DAG.

Based on the information provided during the OCR's onsite visit, the OCR understands that the DAG's BJA-funded Project Safe Neighborhoods and Anti-Gang Initiative grant programs are administered by the U.S. Attorney's Office, and that the remaining DOJ subgrants that the DAG administers are targeted to particular subrecipients.

The excerpt from the CPJAD's Branch Manual contains language advising CPJAD planning specialists that that faith-based organizations will be treated the same as any other applicant or recipient and that award decisions shall not be made on the basis of an organization's religious character or affiliation. Based on the information contained in the DAG's data response, the OCR understands that in Fiscal Year 2006, two faith-based organizations directly applied for and received OVW funding under the VAWA; The Salvation Army applied for $135,412.00 in funding under the Services, Training, Officers and Prosecutors Violence Against Women Formula Grant Program (STOP Program) and received $55,759.00, and the Island of Hawaii YMCA applied for and received $173,869.00 in funding under the Safe Havens: Supervised Visitation and Safe Exchange Grant Program (Safe Havens Program). In Fiscal Year 2007, two faith-based organizations applied for a total of three grants, and two of these proposals were funded. The Salvation Army applied for and received $68,885.00 in funding under the STOP Program, and the Island of Hawaii YMCA applied for and received $348,854.00 in funding under the Safe Haven Program; The Salvation Army also applied for a separate grant $132,596.00 under the STOP Program, but the DAG did not approve the application because the application did not identify a priority need for domestic violence services.

During the OCR's onsite visit, CPJAD staff said that since Fiscal Year 2007 two faith-based organizations have directly applied for funding, Catholic Charities and The Salvation Army. However, CPJAD staff told the OCR that the DAG did not fund these applications because they did not score well.

In the DAG's data response, the DAG said that nonprofit organizations applying for DOJ subawards do not need to have tax exempt status under 26 U.S.C. § 501(c)(3) to be eligible to

receive funds. During the OCR's onsite visit, CPJAD staff said that most nonprofit applicants are well-established nonprofit agencies.

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

The DAG said in its data response that if a faith-based organization receives a subgrant a CPJAD planning specialist will inform the organization of the Equal Treatment Regulations at 28 C.F.R. pt. 38. The DAG also said that if a subrecipient contracts with a faith-based organization for services under the grant a planning specialist will instruct the subrecipient to advise its contractor of the prohibition against engaging in inherently religious activity. As discussed in Section I.A.1 of this Compliance Review Report, a reference to 28 C.F.R. pt. 38 is contained in the DAG's Certification of Non-Discrimination that all subrecipients must sign, as well as in the manuals and Special Conditions for various DOJ grant programs. The CPJAD has also prepared a monitoring checklist that address compliance with faith-based regulations; however, the CPJAD has not yet used this checklist.

II. Recommendations

The DAG has some procedures in place for monitoring the civil rights compliance of its subrecipients, such as referencing many of the laws that the OCR enforces in its standard contract with subrecipients and Certification of Non-Discrimination and including a discussion of civil rights requirements in its bi-annual training for subrecipients. To strengthen the DAG's monitoring efforts, the OCR offers the following six recommendations: (1) expand on its written procedures for addressing discrimination complaints from employees and beneficiaries of subrecipients; (2) add a citation referring to DOJ's Equal Treatment Regulations to the standard contract with subrecipients; (3) modify existing Certification for Faith-Based Organizations and Special Conditions; (4) modify existing subgrant documents to contain an accurate explanation of and citation to federal civil rights laws; (5) monitor for compliance with federal civil rights laws during onsite monitoring visits; and (6) expand on its training for subrecipients on their obligations to comply with federal civil rights laws.

A. Expand on Existing Complaint Procedures

The DAG has written procedures in place for addressing discrimination complaints by DAG employees, and the CPJAD Branch Manual contains a section on addressing discrimination complaints against subrecipients. Specifically, the Branch Manual states that individuals can submit a written discrimination complaint against a subrecipient directly to the DAG, and that the CPJAD will conduct an initial investigation into the allegations. These procedures further

state that if it appears that the complaint has merit, the CPJAD will refer the complaint to the Attorney General, who may further investigate the matter or refer the complaint to the DAG's Affirmative Action Officer or to the HCRC. However, these complaint procedures do not address what a subrecipent should do if a beneficiary or employee submits a discrimination complaint directly to a subrecipient, such as whether the subrecipient may investigate the complaint itself or whether it should forward the complaint to the DAG. The OCR recommends that the DAG expand upon these complaint procedures to include the following elements: 1) a designation of a coordinator who is responsible for overseeing the complaint process; 2) an explanation of what a subrecipient should do if a beneficiary or employee submits a discrimination complaint directly to the subrecipient, and how the DAG will notify the subrecipient of these procedures; 3) an explanation of how the DAG will ensure that beneficiaries or employees of funded subrecipients are aware that they may complain of discrimination directly to a subrecipient, to the DAG, or to the OCR; and 4) a provision for notifying the OCR in writing when the DAG receives or becomes aware of a discrimination complaint against a subrecipient.

Information about the applicable laws, complaint forms, and the investigative process is available at the OCR's website at www.ojp.usdoj.gov/ocr/crc.

B. Add a Citation Referring to the Faith-Based Regulations to the DAG's Contract with Subrecipients

Currently, paragraph 8 of the DAG's standard contract with subrecipients references Executive Order 13279 on the equal protection of the laws for faith-based organizations, but it does not reference the DOJ's Equal Treatment Regulations at 28 C.F.R. pt. 38. The DAG should include a reference to 28 C.F.R. pt. 38 in paragraph 8 of its contract with subrecipients. While the DAG does include reference to 28 C.F.R. pt. 38 in the Special Conditions for certain grant programs and in the Certification of Non-Discrimination, which is an exhibit of the standard contract, it should include a citation to the Equal Treatment Regulations in paragraph 8 of the contract as well.

C. Modify Existing Certification for Faith-Based Organizations and Special Conditions

During the OCR's onsite visit, CPJAD staff provided the OCR with a document entitled "Certification for Faith-Based Organizations" whereby agencies must certify in accordance with Executive Order 13279 and 28 C.F.R. pt. 38 that federal funds will not support any inherently religious activities and that the funded program will not discriminate against a beneficiary on the basis of religion. During the OCR's onsite visit, CPJAD staff explained that the DAG has not

used this certification form yet but intends to require any faith-based organizations that receive future DOJ funding to complete the form. However, please be advised that in accordance with the Equal Treatment Regulations at 28 C.F.R. § 38.1(e), a State Administering Agency shall not use any subgrant agreements or conditions that only require faith-based organizations to provide assurances that they will not use funding for inherently religious activities; any such restrictions shall apply equally to religious and non-religious organizations. Therefore, if the CPJAD is going to require subrecipients to sign a certification form such as this one, it should require all subrecipients to abide by the certification form and not just faith-based organizations. Similarly, if the CPJAD is going to discuss the Equal Treatment Regulations in its Special Conditions, it should include this discussion in the Special Conditions for all of its grant programs and not just the grant programs under which a faith-based organization may be a subrecipient.

D. Modify Existing Subgrant Documents to Accurately Discuss the Federal Civil Rights Laws that the OCR Enforces

As discussed on pages 3-6 of this Compliance Review Report, the DAG's Certification of Non-Discrimination, Special Conditions for the JAG Program, and civil rights training slides all contain some inaccurate citations to or discussion of the federal civil rights laws that the OCR enforces. The DAG should make the changes to these documents that the OCR recommends in footnotes 1-6.

D. Monitor for Compliance with Federal Civil Rights Laws During Onsite Monitoring Visits

The DAG has prepared a monitoring checklist that inquires into a subrecipient's compliance with several civil rights requirements; however, the DAG has not yet implemented this checklist. The OCR recommends that the DAG use this monitoring checklist during onsite monitoring visits and that it expand this checklist to address additional civil rights requirements. The OCR has developed the attached Federal Civil Rights Compliance Checklist that contains relevant questions regarding civil rights compliance; the OCR recommends that the DAG utilize this checklist during onsite monitoring visits or incorporate these questions into its existing checklist.

The DAG has also indicated that while it historically performed annual onsite monitoring visits of each subrecipient, it is moving toward a more risk-based approach to performing onsite visits. The OCR encourages the DAG to continue conducting onsite monitoring visits on an annual basis or at least once during a grant award period to ensure that its subrecipients are complying with federal civil rights laws and other grant requirements.

E. Expand Existing Training on Federal Civil Rights Laws

Currently, the DAG includes some discussion of civil rights requirements in the Grant Administrative Training that it provides to subrecipients every other year. This discussion covers the federal civil rights statutes that the OCR enforces, the EEOP requirements, the requirement to provide services to LEP individuals, and the OCR's jurisdiction to investigate complaints of discrimination. The DAG should incorporate a discussion of the Equal Treatment Regulations into this training program to ensure that subrecipients are aware of the relevant requirements. Additionally, to ensure that the DAG's discussion of civil rights requirements is as detailed as possible, the DAG may wish to incorporate into its training presentation some of the slides from the OCR's recent training of CPJAD grant administrators.

Conclusion

Except for the concerns we have raised in Section II of this Compliance Review Report, we find that the DAG has taken steps to substantially comply with the federal civil rights laws that the OCR enforces. On request, the OCR is available to provide technical assistance to the DAG in addressing the concerns raised in this Report. **Immediately upon receipt of this letter, we ask that a responsible DAG official contact Attorney Advisor to develop a timeline and goals for implementing the OCR's recommendations.**

Thank you for your cooperation and the assistance of your staff throughout the compliance review process. If you have any questions, please contact Ms. Langguth at [redacted]

Sincerely,

Michael L. Alston
Director

Enclosure

cc: Attorney General Mark J. Bennett

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: