



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

March 10, 2010

Washington, D.C. 20531

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Dale R. Woolery, Associate Director
Iowa Governor's Office of Drug Control Policy
401 SW 7th Street, Suite N
Des Moines, Iowa 50309

**Re: Compliance Review of the Iowa Governor's Office of Drug Control Policy
(09-OCR-0084)**

Dear Mr. Woolery:

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 Iowa Governor's Office of Drug Control Policy (ODCP), in accordance with federal regulation 28 C.F.R. § 42.206. The review focused on the ODCP's compliance with applicable federal civil rights laws along with the ODCP's monitoring procedures for ensuring that subrecipients comply with these laws. Of particular interest to the OCR was the ODCP's implementation and monitoring of the DOJ's regulations Equal Treatment for Faith-Based Organizations, 28 C.F.R. pt. 38 ["Equal Treatment Regulations"].

In February 2009, the OCR conducted an onsite visit to the ODCP's offices in Des Moines, Iowa to interview ODCP representatives and to conduct a training program for ODCP 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 advisor Michael Thomas during his visit.

On January 19, 2010, we sent you a draft report and asked that you provide any factual inaccuracies within 30-days. Having received none, this letter serves as the final Compliance Review Report.

Based on the limited scope of this compliance review, the OCR concludes that the ODCP appears to be taking measures to comply with the federal civil rights laws that the OCR enforces. Nonetheless, we have reservations about the ODCP's (1) civil rights and nondiscrimination provisions in the certified assurances document and the standard grant conditions document, (2) monitoring of subrecipients' civil rights obligations, (3) training to subrecipients about their legal obligations regarding applicable federal civil rights laws and the Equal Treatment Regulations, and (4) complaint procedures for responding to discrimination allegations. The following Compliance Review Report includes recommendations for improving the ODCP'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 ODCP'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 ODCP'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 ODCP's general efforts to ensure subrecipients' compliance with their civil rights obligations, the OCR examined how the ODCP used the following four tools: (1) certified assurances and standard grant conditions; (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. Certified Assurances and Standard Grant Conditions

The ODCP has a staff of eight employees. The ODCP's mission "is to serve as a leader and a catalyst for improving the health and safety of all Iowans by promoting strategic approaches and collaboration to reduce drug use and related crime." The ODCP receives DOJ funding through the Bureau of Justice Assistance (BJA) Edward Byrne Memorial Justice Assistance Grant (JAG) program, the National Institute of Justice (NIJ) Residential Substance Abuse Treatment (RSAT) program and the Coverdell Forensic Science Improvement program, and the Office of Community Oriented Policing Services (COPS) Methamphetamine Initiatives program.

Regardless of the type of grant the applicant is seeking, the ODCP requires all applicants to sign a Certified Assurances document agreeing to the following nondiscrimination provisions:

NONDISCRIMINATION: The applicant assures that it will comply with the nondiscrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973, as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; the Department of Justice Nondiscrimination Regulations 28 CFR

Dale R. Woolery, Associate Director
Iowa Governor's Office of Drug Control Policy
March 10, 2010
Page 3 of 11

Part 42, Subparts C,D,E and G; and Executive Order 11246, as amended by Executive Order 11375, and their implementing regulations, 41 CFR Part 60.1 et. seq., as applicable to construction contracts.

FINDINGS OF DISCRIMINATION: The applicant assures that in the event a federal or state court or administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, disability, age, or sex against a recipient of funds, the recipient will forward a copy of the findings to the Governor's Office of Drug Control Policy.

EQUAL EMPLOYMENT OPPORTUNITY PROGRAM: The applicant assures that if required to formulate an Equal Opportunity Program (EEO), in accordance with 28 CFR 42.301 et. seq., it will submit a certification that it has a current EEO on file which meets the applicable requirements. A copy of the EEO must be submitted to the Department of Justice, Office of Civil Rights.

(Certified Assurances at ¶¶ 5-7)

The Assurances document requires that a subrecipient designate a civil rights contact person.

Regardless of the type of grant the subrecipient receives, before the ODCP will release funds, it requires the subrecipient to sign a Standard Grant Conditions document containing the following language regarding civil rights obligations:

Americans with Disabilities Act: The Grantee hereby assures and certifies compliance with Subtitle A, Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. 12131-12134, and Department of Justice implementing regulation, 28 CFR Part 35.

Limited English Proficiency: Applicants must certify that Limited English Proficiency persons have access to the services under this program(s). National origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI and the Safe Streets Act, recipients are required to take reasonable steps to ensure that LEP persons have meaningful access to their programs. Meaningful access may entail providing language assistance services, including oral and written translation when necessary. The U.S. Department of Justice has issued guidance for grantees to help them

comply with Title VI requirements. The guidance document can be accessed on the internet at www.lep.gov.

EEOP Requirements:

- a. Federal law prohibits employment discrimination on the basis of race, color, age, religion, sex or disability. State law prohibits employment discrimination on the basis of race, color, creed, age, sex, sexual orientation, gender identity, national origin, religion, pregnancy, or disability. State law also prohibits public accommodation (such as access to services or physical facilities) discrimination on the basis of race, color, creed, religion, sex, sexual orientation, gender identity, religion, national origin, or disability.
- b. All grant recipients, including contractors with 50 or more employees must send their Equal Employment Opportunity Plan (EEOP) to the Office of Civil Rights (OCR) within 60 days of receipt of their contract for funding. If they have already submitted an EEOP as part of another award from the Office of Justice Programs (OJP) within this grant period, or if they certified that no EEOP is required, it is not necessary for them to submit another at this time. Simply send a copy of the letter received from OCR showing that your EEOP or certification is acceptable.
- c. In addition, all recipients, regardless of their type, the monetary amount awarded, or the number of employees in their workforce, are subject to the prohibitions against discrimination in any funded program or activity. Therefore, the Office of Civil Rights investigates complaints by individuals or groups alleging discrimination by a recipient of OJP funding; and may require all recipients, through selected compliance reviews, to submit data to ensure their services are delivered in an equitable manner to all segments of the service population and their employment practices are in compliance with equal employment opportunity requirements.
- d. Grant recipients shall comply with all relevant provisions of the Iowa Civil Rights Act of 1965, as amended, Iowa Executive Order #15 of 1973, Federal Executive Order 11246 of 1965 as amended by Federal Executive Order 11375 of 1967, the Equal Employment Opportunity Act of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

- e. Grant recipients, if required, must make available, upon request, its Affirmative Action Program containing goals and time specifications.
- f. This contract may be suspended or terminated, in whole or in part, in the event of the Grant recipient's noncompliance with this section and the recipient may be declared ineligible for further contracts with ODCP. Additionally, ODCP may take further action by imposing other sanctions or invoking other remedies provided by the Iowa Civil Rights Act of 1965 or as otherwise provided by law.

(Standard Grant Conditions at ¶ 24 and ¶¶ 26-27).

In several instances, the ODCP's Certified Assurances and Standard Grant Conditions documents do not consistently address the civil rights requirements that apply to all subrecipients of federal financial assistance. First, the Certified Assurances and Standard Grant Conditions do not address all of the laws with which subrecipients must comply. Further, they do not accurately reflect the EEOP requirements. Finally, the documents do not reference the DOJ's Equal Treatment Regulations.

2. Onsite Visits and Other Monitoring Methods

The ODCP's Policy on Monitoring Procedures states as follows: "All grant funded programs administered by ODCP shall be monitored on an ongoing basis, using each of the following methods: meetings (when applicable); monthly, quarterly, semi-annual and annual program reports (as required of grantees); telephonic and electronic monitoring (as applicable); program visit – a minimum of once per 12-month state fiscal year for new/first-year projects receiving in excess of \$50,000 in ODCP program funds, a minimum of once every 36 months for continuation projects receiving in excess of \$100,000; monitoring visit."

According to ODCP's associate director, in monitoring a subrecipient, the ODCP generally does not monitor its compliance with applicable federal civil rights laws other than by asking two questions during a site monitoring visit: (1) whether the subrecipient has a current EEOP and Affirmative Action Plan on file; and (2) whether facilities are accessible to disabled individuals or whether a policy is in place outlining how disabled individuals can gain access to the facility.

3. Training and Technical Assistance

The ODCP conducts an annual pre-application workshop for prospective grantees to address changes in grant requirements and procedures and to answer questions from participants. Attendance at these workshops is voluntary. During these workshops, the ODCP addresses the provisions of the Certified Assurances document, including the provisions related to civil rights laws and regulations.

4. Complaint Procedures

The ODCP has no procedures in place for receiving, investigating, and resolving discrimination complaints from ODCP employees or from the subrecipients' employees and beneficiaries.

According to the ODCP's associate director, although the ODCP has received no discrimination complaint, if it did, it would refer the complaint to the OCR and the Iowa Civil Rights Commission (ICRC), an Iowa state agency that enforces state and federal statutes prohibiting discrimination based on race, color, national origin, sex, religion, creed, disability, age, sexual orientation, gender identity, marital status, or familial status in the areas of employment, housing, education, credit, and public accommodation.¹ The ODCP's associate director indicated that ODCP would monitor the progress of the investigation, and take any appropriate action that was recommended or required by the OCR or the ICRC.

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 funded recipients from discriminating either for or against an organization on the basis of the organization's religious character or affiliation. *Id.* In evaluating the ODCP's equitable treatment of faith-based organizations, the Compliance Review Report 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

The ODCP announces the availability of funds by issuing news releases to the press, posting information on its website, and sending e-mails to organizations that ODCP identifies either because of a past history with the organization or based on the work of the organization. As previously discussed, the ODCP holds an annual pre-application workshop for prospective grantees to discuss grant requirements and procedures, and to answer questions from participants. The ODCP does not require nonprofit applicants to obtain federal tax exempt status in order to participate in programs for which they are eligible to receive funding.

¹ ICRC's definition of "public accommodation" includes private entities and each state and local government unit or tax-supported district of whatever kind, nature, or class that offers services, facilities, benefits, grants or goods to the public, gratuitously or otherwise. See Iowa Code, §216.2(12).

The ODCP coordinates the review and evaluation of all applications for funding. According to the ODCP, its process for making awards to applicant faith-based organizations is no different from its process for making awards to any other applicant, and that it neither favors nor disfavors faith-based organizations in the awards process. The grant evaluation process is a two-step process. The first step is to convene a peer review panel consisting of community members who work in criminal justice. The ODCP selects reviewers based on their area of expertise. For example, if drug task funding is available, the peer reviewers will be individuals who work in this area. The reviewers, who are unpaid, cannot be affiliated with any of the proposals. Generally there are three peer reviewers per proposal. The peer reviewers judge the proposals only on the merits. The peer reviewers review, score and comment independently on each proposal, and then submit their responses to the ODCP. The second step is an ODCP staff review. The ODCP staff reviewers score each applicant on the merits of each proposal; however, the ODCP reviewer may also consider prior interaction with the agency. For example, if there is a proposal from an agency that ODCP had problems with in the past, the reviewer can take that into consideration. The ODCP staff makes recommendations to the Director based on the peer reviewers' assessments and based on their own assessments and the Director makes the final selection. Under Iowa law, an unsuccessful applicant has two weeks to appeal ODCP's decisions. If an appeal occurs, the Director makes a final ruling either upholding or overturning the initial decision. The ODCP attempts to make all funding awards by July first, which is the beginning of Iowa's fiscal year.

For fiscal years 2006, 2007, 2008, and 2009, the ODCP received no applications from faith-based organizations for funding.

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

The ODCP has no procedures in place for ensuring that faith-based organizations comply with applicable civil rights laws. The ODCP's Certified Assurances and Standard Grant Conditions documents do not reference DOJ's Equal Treatment Regulations, nor does the ODCP monitor whether a subrecipient is in compliance with these regulations.

II. Recommendations

To strengthen the ODCP's monitoring efforts to ensure compliance with their civil rights obligations, the OCR offers the following four recommendations: (1) amend the civil rights provisions in the Certified Assurances document and the Standard Grant conditions document, (2) monitor for compliance with federal civil rights laws during monitoring encounters, (3) refine its training for subrecipients regarding their obligations to comply with federal civil rights laws, and (4) develop a written policy for addressing discrimination complaints.

**A. Amend the Civil Rights Provisions in the Certified Assurances Document
and the Standard Grant Conditions Document**

To ensure the accuracy of the information ODCP provides to recipients regarding their EEOP obligations, the OCR recommends that ODCP amend the EEOP section in its certified assurances document by striking the current language and inserting the following or similar language:

EQUAL EMPLOYMENT OPPORTUNITY PROGRAM: The applicant will determine whether it is required to formulate an Equal Opportunity Program (EEOP), in accordance with 28 CFR 42.301 *et. seq.* If the applicant is not required to formulate an EEOP, it will submit a certification form to the U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights (OCR), indicating that it is not required to develop an EEOP. If the applicant is required to develop an EEOP, but is not required to submit the EEOP to the OCR, the applicant will submit a certification form to the OCR certifying that it has an EEOP 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 EEOP to the OCR and the ODCP. Non-profit organizations, Indian Tribes, and medical and education institutions are exempt from the EEOP requirement, but are required to submit a certification form to the OCR to claim the exemption.

The OCR recommends that the ODCP ensure that all DOJ subrecipients agree to standard grant conditions that accurately reflect their federal civil rights obligations. To that end, the ODCP should incorporate, at a minimum, the following language in standard grant conditions documents, regardless of the amount of federal financial assistance:

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. 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).

Dale R. Woolery, Associate Director
Iowa Governor's Office of Drug Control Policy
March 10, 2010
Page 9 of 11

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 Iowa Governor's Office of Drug Control Policy (ODCP).

Recipient will provide an Equal Employment Opportunity Plan (EEO Plan) to the U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights (OCR), if required to submit one; otherwise, it will provide a certification to the OCR and the ODCP that it has a current EEO Plan on file, if required to maintain one. Grantee agencies receiving less than \$25,000; grantee agencies with less than 50 employees, regardless of the amount of the award; and non-profit organizations, Indian Tribes, and medical and education institutions, are exempt from the EEO Plan requirement, but the grantee is required to submit a certification form to the OCR to claim the exemption. A copy of the certification form should also be submitted to the ODCP. Information about civil rights obligations of grantees can be found at <http://www.ojp.usdoj.gov/ocr/>.

Finally, the ODCP also may wish to add a sentence in its certified assurances or standard grant conditions document 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. Monitoring of Subrecipients Using a Federal Civil Rights Compliance Checklist

As part of its responsibility to monitor the compliance of subrecipients with applicable federal civil rights laws, the ODCP should ensure that it continues to conduct periodic onsite monitoring of DOJ subrecipients. The ODCP's current monitoring checklist addresses only two issues related to civil rights compliance, and does not evaluate various civil rights requirements that apply to recipients of federal funding. The OCR recommends that the ODCP amend its checklist to ensure that it evaluates the various civil rights requirements that apply to recipients of federal funding (e.g., whether the subrecipient has an EEO Plan on file or has sent one to the OCR for review; whether the subrecipient has findings of discrimination to report to the ODCP or the OCR; whether the subrecipient has posted nondiscrimination notices as required by section 504 of the Rehabilitation Act; whether the subrecipient has a grievance procedure and a designated coordinator as required by section 504 of the Rehabilitation Act; and whether the subrecipient is taking reasonable steps to provide meaningful access to programs and activities for LEP persons). Additionally, the checklist should include specific 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 beneficiaries on the basis of religion. To assist the ODCP in

amending its checklist, the OCR has prepared a sample Federal Civil Rights Compliance Checklist, enclosed as Attachment A, for the ODCP's review. The ODCP may use or modify this Checklist, or develop its own Checklist to monitor a subrecipient's compliance with applicable civil rights statutes and regulations.

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

While the ODCP periodically provides training and technical assistance to subrecipients, the training on subrecipients' civil rights obligations is minimal. The ODCP should refine its training program to ensure that subrecipients are aware of their obligations under federal civil rights laws and regulations, including their obligation not to discriminate either in favor of or against faith-based organizations as set forth in DOJ's Equal Treatment Regulations, and their obligation to have procedures in place to receive and evaluate complaints alleging discrimination from employees and beneficiaries. The ODCP should have mandatory periodic civil rights training at least once during a grant cycle for subrecipients, whether the training is provided in person, by teleconference, or by other means. The OCR can provide technical assistance to the ODCP in designing a civil rights training program.

D. Develop a Comprehensive Policy for Addressing Discrimination Complaints

As previously noted, the ODCP does not have internal discrimination complaint policies or procedures in place available to ODCP employees and beneficiaries, or to employees and beneficiaries of subrecipients. Although the associate director indicated that if the ODCP received a complaint of discrimination, it would refer it to the OCR and the ICRC and monitor the progress of the investigation, the ODCP has an obligation as a recipient of federal financial assistance to have a policy that comprehensively addresses how it responds to employment and services discrimination complaints that it receives from its own employees and beneficiaries, as well as from the employees and beneficiaries of subrecipients. Specifically, the ODCP should ensure that it has a policy for addressing discrimination complaints that includes at a minimum the following elements:

- designating a coordinator who is responsible for overseeing the complaint process;
- notifying employees of the ODCP, as well as beneficiaries and subrecipients, of prohibited discrimination in funded programs and activities and the ODCP's policy and procedures for handling discrimination complaints;
- establishing written procedures for receiving discrimination complaints from subrecipient employees and beneficiaries;

Dale R. Woolery, Associate Director
Iowa Governor's Office of Drug Control Policy
March 10, 2010
Page 11 of 11

- referring each complaint to the appropriate agency for investigation and resolution, such as the ICRC or the EEOC; or referring the complaint to the OCR, which will review the complaint and work with the ODCP to resolve it;
- notifying the OCR in writing when the ODCP refers a discrimination complaint to another agency or when ODCP investigates the complaint internally; and
- training ODCP program staff on their responsibility to refer discrimination complaints or potential discrimination issues to the ODCP's complaint coordinator for processing as soon as the alleged discrimination comes to their attention.

To assist the ODCP in developing written complaint procedures to address discrimination complaints, a sample policy entitled *Procedures for Responding to Discrimination Complaints from Employees of the [State Administering Agency's] Subrecipients under U.S. Department of Justice Grant Programs* is enclosed as Attachment B, and a sample policy entitled, *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* is enclosed as Attachment C. The ODCP may use or modify these policies or develop its own policies for addressing discrimination complaints. Additional information about applicable laws, complaint forms, and the OCR's investigative process is available at OCR's website at <http://www.ojp.usdoj.gov/ocr/crc>.

III. Conclusion

The ODCP 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 ODCP in addressing the concerns raised in this Report.

Immediately upon receipt of this letter, a responsible ODCP official should contact attorney advisor Michael Thomas to develop a timeline and goals for implementing the OCR's recommendations. Thank you for your cooperation and the assistance of your staff during the compliance review process. If you have any questions, please contact Mr. Thomas at [REDACTED]

Sincerely,



Michael L. Alston
Director

Enclosures

cc: Gary W. Kendell, Director (with enclosures)

ATTACHMENT A

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:

ATTACHMENT B

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.]

ATTACHMENT C

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.]