



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

Washington, D.C. 20531

May 8, 2009

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Colonel G. Jerry Russell
Idaho State Police
P.O. Box 700
Meridian, ID 83680-0700

Re: Compliance Review of Idaho State Police (09-OCR-0073)

Dear Colonel Russell:

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 Idaho State Police (ISP), in accordance with federal regulation 28 C.F.R. § 42.206. The focus of the review was on the ISP's compliance with applicable federal civil rights laws along with the ISP's monitoring procedures for ensuring the compliance of subrecipients with these laws. Of particular interest to the OCR was the ISP'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 February 18, 2009, the OCR conducted an onsite visit to the ISP's offices in Meridian, Idaho to interview ISP representatives and to conduct a training program for pertinent ISP management and program staff about the federal civil rights laws that the OCR enforces. The OCR would like to thank Ms. Kara Thompson, Grants/Contracts Officer, for assisting OCR attorney Christopher Zubowicz during his onsite visit.

In regard to the limited scope of this compliance review, the OCR concludes that the ISP appears to be taking measures to comply with the federal civil rights laws that the OCR enforces. Nonetheless, we have reservations about the adequacy of the ISP's (1) guidance to subrecipients about their legal obligations regarding applicable federal civil rights laws, (2) onsite monitoring of subrecipients, (3) training and technical assistance for subrecipients, (4) complaint procedures for responding to certain discrimination allegations involving subrecipients, and (5) efforts to make subawards to nonprofit organizations that may not be tax exempt under 501(c)(3) of the Internal Revenue Code.

Compliance Review Report: Overview and Recommendations

I. Overview

This Compliance Review Report first examines the ISP'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 ISP'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 ISP's general efforts to ensure subrecipients' compliance with their civil rights obligations, the OCR examined how the ISP used the following four tools: (1) standard assurances; (2) onsite visits and other monitoring methods; (3) training programs and technical assistance; and (4) procedures for receiving, investigating, and resolving complaints alleging employment and services discrimination.

1. Standard Assurances

The ISP receives DOJ funds through the Violence Against Women Act (VAWA) Services • Training • Officers • Prosecutors (STOP) program, the Edward Byrne Memorial Justice Assistance Grant (JAG) program, the Residential Substance Abuse Treatment for State Prisoners (RSAT) program, and the Project Safe Neighborhoods (PSN) program. The ISP requires all applicants for these programs to sign the OJP's Standard Assurances along with Certifications Regarding Lobbying; Disbarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements, found at <http://www.ojp.usdoj.gov/funding/forms.htm>. The Standard Assurances document contains the following language regarding civil rights laws:

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

disability discrimination, 28 CFR Part 35 and Part 39.

14. In the event a Federal or State court of [sic] 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.
15. It will provide an Equal Employment Opportunity Program if required to maintain one, where the application is for \$500,000 or more.

(Standard Assurances at ¶¶ 13-15.) The Standard Assurances document must be submitted through the ISP's Grants Management System (GMS) as an attachment to the grant application.

Before the ISP releases VAWA STOP, JAG, RSAT, or PSN program funds, successful applicants receiving new or continuation funding also must sign a General Assurances document, which states in pertinent part the following:

1. The subgrantee will comply with all applicable state, local, and Federal laws; with the non-discrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended; Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Subtitle A, Title II of the Americans with Disabilities Act (ADA) of 1990; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; Department of Justice Non-Discrimination Regulations, 28 CFR Part 42, Subparts C, D, E, and G; and, Department of Justice Regulations on disability discrimination, 28 CFR Part 35 and Part 39 and Regulations on equality for faith-based organizations, 28 CFR Part 38.
2. 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 the subgrantee or any subcontractors, the subgrantee will forward a copy of the findings to the Idaho State Police.

* * *

18. Applicants must certify that Limited English Proficiency persons have meaningful access to the services under this

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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.

(General Acceptances at ¶¶ 1-2, 18.)

The ISP also uses separate, program-specific acceptances documents for recipients of VAWA STOP and RSAT funding. Of these two documents, only the RSAT General Acceptances document includes non-discrimination language and a provision regarding findings of discrimination. (RSAT General Acceptances at ¶ 1.) However, neither document references the Department's Equal Treatment Regulations or summarizes a recipient's obligations to LEP persons.

While the OCR commends the ISP for seeking to ensure that all applicants and subrecipients are notified of their federal civil rights obligations, the Standard Assurances, General Acceptances, and program-specific General Acceptances documents do not consistently represent several of those civil rights requirements, which may confuse subgrantees. (*Compare* Standard Assurances at ¶ 13, *with* General Acceptances at ¶ 1, *with* RSAT General Acceptances at unnumbered ¶; *compare* Standard Assurances at ¶ 14, *with* General Acceptances at ¶ 2.) As discussed below, in an effort to resolve any uncertainty among subgrantees about their obligations, the OCR recommends that the ISP require all DOJ subrecipients to sign one set of civil rights assurances.

Moreover, the documents generally fail adequately to address certain additional applicable civil rights requirements. Specifically, they do not but should comprehensively address applicable Equal Employment Opportunity Plan (EEO) requirements governing subrecipients by, for instance, requiring the subrecipient to submit a copy of an EEO or an EEO exemption certification to the OCR and the ISP so that both agencies can monitor subrecipient compliance with the DOJ's EEO regulations at 28 C.F.R. § 42.301-.308.

2. Onsite Visits and Other Monitoring Methods

The ISP conducts site visits of new subrecipients at least once every two years and seeks to perform site visits of subrecipients that received continuation funding at least once during a three-year grant cycle. If the ISP learns that a subrecipient has particular problems, such as financial irregularities or reporting gaps, then it will place a greater emphasis on site visits for

those organizations. The ISP maintains a schedule of site visits for DOJ-funded subrecipients, which is designed to include information about planned and completed site reviews. In fiscal year 2008, the ISP appears to have conducted site visits of sixteen subrecipients of DOJ funds; since the beginning of fiscal year 2009, the ISP does not appear to have conducted any such site visits. While the ISP uses a fiscal compliance review checklist in conducting site visits, the checklist does not assess whether a subrecipient is complying with its federal civil rights obligations. Within fifteen days of the end of each quarter, the ISP also conducts desk reviews of all subrecipients. The Planning, Grants, and Research (PG&R) program manager reviews desk review reports and either approves or disapproves them. Information about the desk review process is shared with staff members through GMS.

3. Training and Technical Assistance

The ISP makes an introductory visit to all new subgrantees within six months of the fund award. While staff members cover various items involving grant management and the GMS system, they do not address the civil rights obligations of subrecipients. The ISP also provides frequent technical assistance to subrecipients in response to their telephonic questions.

4. Complaint Procedures

In reviewing complaint procedures, the OCR evaluated the processes in place for individuals to pursue complaints of employment and services discrimination against the ISP and its subrecipients. The ISP has an internal discrimination complaint procedure that is available for ISP employees and which requires the ISP to investigate allegations of sexual harassment or other illegal discrimination based on race, color, gender, national origin, religion, age, or disability. The ISP does not require subrecipients to have any similar policies or procedures regarding the handling of employment complaints they receive and has no mechanism in place to receive notice of any such complaints. However, a subrecipient employee can file a charge of discrimination with the Idaho Commission on Human Rights (ICHR) or the Equal Employment Opportunity Commission (EEOC). The ICHR is responsible for enforcing the provisions of Idaho law that prohibit employment discrimination on the basis of race, color, religion, sex, national origin, disability, or age. Idaho Code § 67-5901(2) (2008).

The ISP also has procedures regarding the handling and investigation of services complaints from its beneficiaries. Under those procedures, individuals are encouraged to submit any complaints they have in writing. Throughout the complaint process, the ISP emphasizes that “[p]ersons filing complaints are treated respectfully and accusations against employees are taken seriously.” *Complaint*, ISP, at <http://www.isp.state.id.us/Complaint.html> (last visited Feb. 18, 2009). As explained to the public on its Web site, once the ISP receives a complaint, it forwards it to the appropriate supervisor for review. If the complaint cannot be resolved informally, then the ISP’s Office of Professional Standards conducts an administrative investigation. The assigned investigator will interview the complainant, employees alleged to have engaged in

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wrongdoing, and any witnesses. At the conclusion of the investigation, the manager of the accused employee(s) will classify each allegation as sustained, not sustained, unfounded, or exonerated and will notify the complainant of the outcome. The ISP does not require subrecipients to have any similar policies or procedures regarding the handling of services complaints they receive and has no mechanism in place to receive notice of any such complaints. However, in some cases, a subrecipient beneficiary may be able to file a services complaint with the ICHR, which prohibits discrimination on the basis of race, color, religion, sex, or national origin in providing public accommodations. *Id.*

B. Monitoring Compliance with Faith-Based Regulations

The purpose of the Equal Treatment Regulations is to ensure that “[r]eligious organizations are eligible, on the same basis as any other organization, to participate in any [Justice] Department program for which they are otherwise eligible.” 28 C.F.R. § 38.1(a). The Regulations prohibit the DOJ and DOJ funding recipients from discriminating either for or against an organization on the basis of the organization’s religious character or affiliation. *Id.* In evaluating the ISP’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 ISP uses its GMS system as a grant management tool for all federal awards. It issues RFPs announcing new federal grant programs, which it places on GMS, distributes through a listserv, and posts on its Web site. The ISP does not take measures to reach out specifically to faith-based organizations. Generally, the ISP requires nonprofit applicants to have federal tax exempt status.

The ISP participates in the VAWA STOP program, which promotes a coordinated, multidisciplinary approach to improving the criminal justice system’s response to violent crimes against women, and the JAG program, which allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system. After organizations apply for these program funds through GMS, several individuals within the PG&R office, including the grants/contracts officer, grants operations analysts, and administrative assistant, review the applications to determine whether they contain sufficient needs assessment, abstract, and budget information. Next, the staff members provide a technical review of each proposal to the seventeen-member Idaho Criminal Justice Grant Review Board (Board). As part of that assessment, staff members may highlight an applicant entity’s standing, the timeliness of previously submitted reports, budget calculation errors, and perceived weaknesses in the proposal’s goals and objectives. After Board members individually evaluate the applications, the Board makes its final funding decisions. In its response to the OCR’s data

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requests, the ISP noted that one faith-based organization, Catholic Charities of Idaho (Catholic Charities), successfully applied for VAWA STOP funds in fiscal years 2006, 2007, and 2008. At this point, however, no faith-based organizations receive JAG funds from the ISP.

The ISP also participates in the RSAT program, which assists states and local governments to develop and implement substance abuse treatment programs in state and local correctional detention facilities and to create and maintain community-based aftercare services for offenders. During the OCR's site visit, an administrator correctly noted that it cannot distribute RSAT funds directly to nonprofit organizations. *See Residential Substance Abuse Treatment (RSAT) for State Prisoners Program FY 2008 Formula Grant Announcement, OJP*, at <http://www.ojp.usdoj.gov/BJA/grant/09RSATsol.pdf> (last visited Apr. 8, 2009) at 1 ("The state office may award subgrants to state agencies, units of local government, and Native American tribes."). However, nonprofit groups are eligible to receive RSAT funds by partnering with, for instance, units of local government to implement specific programs. *See, e.g., id.* at 2. At this point, no faith-based organizations receive RSAT funds through the ISP's subaward process.

Finally, as previously discussed, the ISP subawards DOJ funds through the PSN program, which is a nationwide network designed to create safer neighborhoods by reducing gun violence and gun crime, and sustaining that reduction. During the OCR's site visit, an administrator suggested that faith-based organizations are not eligible to apply for or receive any of these federal funds. However, consistent with the Department's Equal Treatment Regulations, faith-based groups should be encouraged to apply for assistance awards to fund eligible grant activities. *See Project Safe Neighborhoods (PSN) FY 2008 Grant Announcement, Bureau of Justice Assistance*, at <http://www.ojp.usdoj.gov/BJA/grant/08PSNsol.pdf> (last visited Apr. 6, 2009) at 1. At this point, no faith-based organizations receive PSN funds through the ISP's subaward process.

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

The ISP subawards VAWA STOP funds to Catholic Charities, a faith-based subrecipient based in Boise, Idaho. The ISP performs the same monitoring of Catholic Charities as it does of other, non-faith based organizations. The OCR conducted an onsite visit to Catholic Charities, which is a nonprofit, tax-exempt organization affiliated with the Roman Catholic diocese of Boise. The particular Catholic Charities project that the OCR visited in Boise was a domestic violence immigration program. Catholic Charities has no preferential employment policies based on religion and also has no policy favoring beneficiaries based on religion.¹ Based on the information collected during its onsite visit, the OCR found no evidence that federal resources were being used for inherently religious purposes. 28 C.F.R. § 38.2(b)(1).

¹ The organization only considers religion in connection with hiring its Parish and Community Partnership Coordinator (Coordinator), who is responsible for coordinating parish and community partnership activities through parish social ministry, advocacy, and community engagement activities. The Coordinator does not participate in any client services that involve the use of federal financial assistance.

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During the OCR's site visit, Catholic Charities provided a copy of the assurances document it signed in exchange for receiving 2008 VAWA STOP funds. Under the terms of that agreement, Catholic Charities agreed not to "utilize federal funds provided under the terms of this award to provide direct victim services to individuals other than women who have been or are in danger of becoming victims of domestic violence or sexual assault." (VAWA STOP Assurances 2008 at ¶ 3.) Paragraph 3 did not accurately reflect the class of individuals who are eligible to receive STOP program assistance. Under the anti-discrimination provision of the Omnibus Crime Control and Safe Streets Act of 1968, which applies to VAWA STOP-funded programs, subrecipients may not exclude any person receiving grant-funded services on the basis of sex. *See* 42 U.S.C. § 3789d(c)(1). As a result, VAWA STOP subrecipients must provide services to a similarly-situated male victim in need who requests services. In responding to the draft Compliance Review Report, the ISP notified the OCR that it removed paragraph 3 from its 2009 VAWA STOP assurances document.

II. Recommendations

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

A. Modify the Civil Rights/Nondiscrimination Provisions in Grant Assurances, Agreements, and Conditions

The ISP should ensure that all DOJ subrecipients agree to grant contracts that accurately reflect their federal civil rights obligations. To that end, the OCR recommends that the ISP consistently incorporate in one assurances document the following language or substantially similar language, which would continue to apply to all DOJ subrecipients, regardless of the grant program or the amount of federal financial assistance at issue:

² In its response to the OCR's draft Compliance Review Report, the ISP asked the OCR to provide references to pertinent legal authority for its five recommendations. In exchange for its receipt of federal financial assistance from the DOJ, the ISP has agreed to several express contractual, statutory, and administrative obligations, several of which directly relate to its duties to monitor the civil rights compliance of its subrecipients. While the OCR is amenable to providing technical assistance to the ISP about how it can effectively ensure substantial compliance with its various obligations, it declines to provide a summary recitation of each and every pertinent legal provision about which the ISP already has actual or constructive notice.

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. 35 (U.S. Department of Justice Regulations – Nondiscrimination on the Basis of Disability in State and Local Government Services); 28 C.F.R. pt. 42 (U.S. Department of Justice Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Ex. Order 13279 (equal protection of the laws for faith-based and community organizations); and 28 C.F.R. pt. 38 (U.S. Department of Justice Regulations – Equal Treatment for Faith-Based Organizations).

In the event a federal or state court or federal or state administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, 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 the Idaho State Police (ISP).

Recipient will provide an Equal Employment Opportunity Plan (EEOP) to the Office for Civil Rights, Office of Justice Programs and the ISP, if required to maintain one; otherwise, it will provide a certification to the Office for Civil Rights, Office of Justice Programs and the ISP that it has a current EEOP on file, if required to maintain one. For grantee agencies receiving less than \$25,000; or grantee agencies with less than 50 employees, regardless of the amount of the award, no EEOP is required. Information about civil rights obligations of grantees can be found at <http://www.ojp.usdoj.gov/ocr/>.³

³ In addition, the OCR reminds the ISP that certain grantees receiving \$500,000 or more must acknowledge that failure to submit an acceptable EEOP, which the OCR must approve, is a violation of its Certified Assurances and may result in the suspension of funding obligation authority. *See* 28 C.F.R. § 31.202(b)(2).

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

Finally, the ISP also 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.

B. Conduct Onsite Monitoring of All Subrecipients and Use Federal Civil Rights Laws Compliance Checklist

As part of its responsibility to monitor the compliance of subrecipients with applicable federal civil rights laws, the ISP should continue to ensure that it conducts onsite monitoring of its subrecipients. Going forward, however, it should refine its site visit process by including deadlines for completing any compliance recommendations. In addition, the ISP should develop and utilize a federal civil rights laws compliance checklist that evaluates the various civil rights requirements that apply to recipients of federal funding (e.g., whether the subrecipient has an EEOC on file or has sent one to the OCR for review; whether the subrecipient has findings of discrimination to report to the ISP or the OCR; whether the subrecipient has posted nondiscrimination notices as required by section 504 of the Rehabilitation Act; and whether the subrecipient has a grievance procedure and a designated coordinator as required by section 504 of the Rehabilitation Act and Title IX of the Education Amendments of 1972). Additionally, the checklist should include questions that evaluate whether the subrecipient is complying with the DOJ's Equal Treatment Regulations, including the prohibitions against using federal funds to engage in inherently religious activities and discriminating against program beneficiaries on the basis of religion.

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

The ISP does not appear to provide any training or technical assistance to its subrecipients about their civil rights obligations. To ensure that subrecipients are aware of their obligations under applicable federal civil rights laws, such as to provide services to LEP individuals and to have procedures in place to receive and evaluate complaints alleging discrimination from employees and beneficiaries, the ISP should provide periodic, mandatory training programs for subgrantees. The ISP should provide this training at least once during a grant cycle, whether it provides the training in person, during a teleconference, or through other means. The OCR is available to provide the ISP with technical assistance in developing civil rights training programs. In addition, the ISP should encourage subrecipients to seek technical assistance from ISP staff regarding their statutory and contractual obligations.

D. Develop Comprehensive Policy for Addressing Discrimination Complaints Involving Subrecipients

As previously noted, the ISP has procedures in place regarding its response to discrimination complaints from its own employees and beneficiaries, and the ICHR and the EEOC provide forums for resolving employment and certain services discrimination complaints filed by ISP and subrecipient employees. Nonetheless, the ISP has an obligation as a recipient of federal financial assistance to have in place a policy that comprehensively addresses how it responds to employment and services discrimination complaints that it receives from the employees and beneficiaries of subrecipients. Specifically, it should ensure that it has a policy for addressing discrimination complaints involving subrecipients that includes at a minimum the following elements:

- designating a coordinator who is responsible for overseeing the subrecipient complaint process;
- notifying subrecipients of prohibited discrimination in funded programs and activities and the ISP's policy and procedures for handling discrimination complaints involving subrecipients;
- establishing written procedures for receiving discrimination complaints from subrecipient employees and beneficiaries;
- referring each complaint to the appropriate agency for investigation and resolution, such as the ICHR or the EEOC; or referring the complaint to the OCR, which will review the complaint and work with the ISP to resolve the complaint;

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- notifying the OCR in writing when the ISP refers a discrimination complaint to another agency or when the ISP investigates the complaint internally; and
- training ISP program staff on their responsibility to refer discrimination complaints or potential discrimination issues involving subrecipients to the ISP's 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 can be found at <http://www.ojp.usdoj.gov/ocr/crc>.

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

The ISP generally requires non-profit organizations to obtain federal tax exempt status under 26 U.S.C. § 501(c)(3) to be eligible for funding. Unless 501(c)(3) status is required under the particular grant program (e.g., programs funded under the federal Juvenile Justice and Delinquency Prevention Act), the ISP should be mindful that applicants can also demonstrate nonprofit status by any of the following means identified in the DOJ's Equal Treatment Regulations: (1) proof that the Internal Revenue Service recognizes the organization as being tax exempt under 501(c)(3) of the Internal Revenue Code; (2) a statement from a state taxing body or state secretary of state certifying that the organization is a nonprofit organization and that no part of the organization's net earnings may benefit any private shareholder or individual; (3) a certified copy of a certificate of incorporation or similar document establishing nonprofit status; and (4) any of the above, if it applies to a state or national parent organization, with a statement by the state or national parent organization that the applicant is a local nonprofit affiliate. 28 C.F.R. § 38.1(g).

III. Conclusion

We find that the ISP 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 ISP in addressing the concerns raised in this Report. **Immediately upon receipt of this letter, we ask that a responsible ISP official contact Attorney Advisor Christopher Zubowicz to develop a timeline and goals for implementing the OCR's recommendations.**

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Thank you for your cooperation and the assistance of your staff during the compliance review process. If you have any questions, please contact Mr. Zubowicz at 202.305.9012.

Sincerely,

/S/

Michael L. Alston
Director

Enclosure

cc: Kara Thompson, Grants/Contracts Officer
Idaho State Police