



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

Washington, D.C. 20531

Via Certified Mail

September 18, 2012

Iris Bell, Executive Director
Youth Development Council
775 Court Street NE
Salem, OR 97301

RE: Oregon Commission on Children and Families Civil Rights Compliance Review
(11-OCR-0493)¹

Dear Ms. Bell:

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 Oregon Commission on Children and Families (OCCF), in accordance with federal regulation 28 C.F.R. § 42.206. The focus of the review was on the OCCF's compliance with applicable federal civil rights laws along with the OCCF's monitoring procedures for ensuring the compliance of subrecipients with these laws. Of particular interest to the OCR was the OCCF's implementation and monitoring of the DOJ's regulations, Equal Treatment for Faith-Based Organizations, 28 C.F.R. pt. 38 (Equal Treatment Regulations).

On September 27, 2011, the OCR conducted an onsite visit to the OCCF's offices in Salem, Oregon, to interview OCCF administrators and to conduct a training program for OCCF administrators and program staff on the federal civil rights laws that the OCR enforces. The OCR would like to thank the OCCF staff, especially Anya Sekino, for assisting OCR attorney Debra Murphy during the onsite visit.

In regard to the limited scope of our review, the OCR concludes that the OCCF has taken steps to comply substantially with the federal civil rights laws that the OCR enforces. Nonetheless, we have concerns about the accuracy of the certified assurances, the monitoring and training of subrecipients' compliance with civil rights, and the complaint procedures for beneficiaries of subrecipients. The following Compliance Review Report includes recommendations for

¹ Since the OCR's Compliance Review, the Oregon Commission on Children and Families (OCCF) was eliminated. Funds from DOJ's Office on Juvenile Justice and Delinquency Prevention are now administered by the Oregon Youth Development Council. Throughout this Compliance Review Report, the OCR will continue to refer to the OCCF as the agency that was the subject of this Compliance Review. However, the OCR will work with the Youth Development Council to ensure that the applicable recommendations in this Compliance Review Report are implemented.

improving the OCCF's methods for monitoring the civil rights compliance of subrecipients and ensuring that it meets its obligations under federal law.

I. Overview

This Compliance Review Report first examines the OCCF'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 Compliance Review Report then focuses on the OCCF's implementation of the DOJ's Equal Treatment Regulations.

The OCCF was established by state statute, and is comprised of Governor-appointees, heads of select state agencies, and a non-voting member from each chamber of the state legislature. *See* Or. Rev. Stat § 717.730 (1993). The OCCF coordinates statewide planning and policy development in several key areas affecting children and families, and advises localities on research-based best practices. Each of the thirty-six counties in Oregon operates a local Commission on Children and Families (Local Commission) that develops a local coordinated comprehensive plan, pursuant to the OCCF's planning guidelines. *Id.* § 717.755 and .775. Once the thirty-six Local Commissions develop their plans, the OCCF reviews them, and reaches a consensus on the funding priorities. Neither the OCCF nor the Local Commissions directly provide any services to beneficiaries. As a State Administering Agency, the OCCF currently administers funding from the OJP's Office of Juvenile Justice and Delinquency Prevention (OJJDP), including the Title V Delinquency Prevention Grants (Title V), Title II Formula Grants (Title II), and Juvenile Accountability Block Grants (JABG).

A. General Monitoring Procedures

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

1. Standard Assurances

The OCCF uses two documents to notify applicants and subrecipients of the applicable civil rights laws: (1) Applicant Assurances and Certifications, and (2) Grant Award, Conditions and Certifications. As part of the grant application, applicants sign a form entitled Applicant Assurances and Certifications, which includes a statement that the grantee agrees to comply with "all Federal statutes, regulations, policies, guidelines and requirements listed in the attached [OJP] Form 4000/3 'Assurances'." The attached form contains the OJP standard assurances that have been approved by the Office of Management and Budget. U.S. Office of Mgmt. and Budget, No. 1121-0140 (1993).

The second document is an OCCF document entitled Grant Award, Conditions and Certifications. This is signed by OFFC and the subrecipient, and includes the approved program budget, reimbursement and record-keeping conditions, reporting requirements, termination of funding contingencies, and civil rights requirements. It also includes a general agreement on

page five of the document to comply with 28 C.F.R. Part 42, Non-Discrimination/Equal Employment Opportunity Policies and Procedures, and on page six to not discriminate on the basis of race, color, age, religion, national origin, handicap, or gender. Also on page six, the document includes an agreement to comply, and to ensure that all contractors and subcontractors comply, with several enumerated civil rights statutes and regulations, including: The Omnibus Crime Control and Safe Streets Act of 1968, as amended; Title VI² of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Title II of the Americans with Disabilities Act (ADA) of 1990; Title IX of the Education Amendments of 1972; The Age Discrimination Act of 1972; The Department of Justice Nondiscrimination Regulations, 28 C.F.R. Part 42, Subparts C, D, E, and G; The Department of Justice regulations on disability discrimination, 28 C.F.R. Part 35 and Part 39; The Department of Justice regulation, Equal Treatment for Faith-Based Organizations, 28 CFR Part 38.³ This document re-lists the statutes above in another paragraph which, while correct, is redundant.

This document also contains the following, and slightly contradictory, provisions about the procedures to follow in the event of a discrimination finding:

In the event that a Federal or State court or administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, age, religion, national origin, handicap or gender against the Grantee or any of its contractors or subcontractors, the Grantee or any of its contractors or subcontractors will forward a copy of the finding to the Oregon Commission on Children and Families (OCCF). OCCF will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs.

....

The Grantee agrees that the person in its agency or unit of government who is responsible for reporting civil rights findings of discrimination will submit a copy of any findings made within the last three years prior to the grant award and findings made during the project period to the federal Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice.

The Grant Award, Conditions and Certifications next contains a paragraph explaining the requirements for maintaining and submitting an Equal Employment Opportunity Plan. This provision is stated incorrectly as follows:

If the Grantee, or any of its contractors or subcontractors, has 50 or more employees, is receiving more than \$25,000 pursuant to this agreement, and has a service population with a minority representation of three percent or more, the Grantee, or any of its contractors or subcontractors, agrees to formulate, implement and maintain an equal employment opportunity program relating to

² On page 6 of the Grant Award, Conditions and Certifications, this statute is incorrectly listed as “Title IV”, while in other parts of the document, it is correctly identified as “Title VI.” The OCCF should correct this typographical error wherever it appears.

³ This requirement is described as “The Department of Justice regulation, Participation in Justice Department Programs by Religious Organizations; Providing for Equal Treatment of all Justice Department Program Participants, and known as the Equal Treatment Regulations 28 CFR Part 38.” The correct name of the Equal Treatment regulations is simply “Equal Treatment for Faith-Based Organizations.”

employment practices affecting minority persons and women. If the Grantee, or any of its contractors or subcontractors, has 50 or more employees, is receiving more than \$25,000 pursuant to this agreement, and has a service population with a minority representation of less than three percent, the Grantee or any of its contractors or subcontractors, agrees to formulate, implement and maintain an equal employment opportunity program relating to its practices affecting women. The Grantee, and any of its contractors and subcontractors, certifies that an equal employment opportunity program as required by this section will be in effect on or before the effective date of this agreement. Any Grantee, and any of its contractors or subcontractors, receiving more than \$500,000, either through this agreement or in aggregate grant funds in any fiscal year, shall in addition submit a copy of its equal employment opportunity plan at the same time as the application submission, with the understanding that the application for funds may not be awarded prior to approval of the Grantee's, or any of its contractors or subcontractors, equal employment opportunity program by the Office for Civil Rights, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

There are several errors in this description of the EEOP requirements. Section II.B. of this Compliance Review Report provides the correct EEOP standard for subrecipients of DOJ funding, and provides recommendations for ensuring subrecipients' compliance with EEOP requirements.

Lastly, the Grant Award, Conditions and Certifications informs subrecipients of their obligation to take reasonable steps to provide meaningful access to their programs and activities to persons who are limited in their English proficiency. This provision refers readers to DOJ's website, www.lep.gov, which is an excellent resource. The OCCF might also consider referring subrecipients to DOJ's guidance entitled Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. 67 Fed. Reg. 41,455 (June 18, 2002).

2. Onsite Visits and Other Monitoring Methods

The OCCF reported that its primary tool for monitoring subrecipients is requiring them to submit quarterly reports. These quarterly reports solicit information about program participation, fiscal management, and other performance measures. This report also asks the following two questions about civil rights:

Civil Rights Findings

Were any finding of civil rights violations made against your agency or unit of local government during the quarter?

Yes* No

*If yes, was a copy of the finding submitted to the Office of Justice Programs, U.S. Department of Justice?

Yes No

There are no other questions on the quarterly report forms that relate to civil rights. In its Data Response, the OCCF reported that if a subrecipient reported a civil rights finding on its quarterly

report, the OCCF staff would conduct a follow up visit and conduct an investigation. However, during the onsite portion of the compliance review, the OCCF staff reported that this had not occurred to date.

The OCCF also reported that it conducts annual or biannual onsite visits to subrecipients, and visits each subrecipient at least once every two years. The OCCF staff does not specifically ask subrecipients for civil rights compliance during the onsite visit, but may learn of civil rights issues in several ways. First, the OCCF monitor would review the quarterly reports prior to the visit, and if the subrecipient had been the subject of a civil rights finding, that would be discussed during the onsite interviews. Additionally, the OCCF monitor would ask key staff about any policy or system changes that have occurred during the project period that could impact the fair and equitable treatment of youth. Finally, the onsite visit includes interviews with juvenile participants, if possible, and the OCCF staff reported that they could learn of civil rights issues by talking with youth. During the onsite portion of this compliance review, the OCCF staff said that they would ask subrecipients what steps they are taking to ensure meaningful access to their programs and services by juveniles who are limited in their English proficiency. However, this line of inquiry is not memorialized on any kind of monitoring form, so there is no record of how subrecipients are addressing this issue. Following the onsite monitoring visit, the OCCF sends a report to the subrecipient containing recommendations for improvement. The OCCF staff reported that it has not uncovered a civil rights problem through onsite monitoring in recent memory.

While not specifically related to the OCR's jurisdiction, the formula grant programs require states to address the disproportionate number of juvenile members of minority groups who come into contact with the juvenile justice system. Consequently, the OCCF staff ask subrecipients to describe the youth and families that are served, outreach efforts, orientation and recruitment, and program outcomes, in light of the state's goals to reduce disparities within the juvenile justice system.

In addition, the OCCF employs a Tribal Juvenile Crime Prevention Coordinator, who reviews each of the nine federally recognized tribal subrecipients at least once per year, or more frequently if technical assistance is required. This person conducts onsite monitoring reviews similarly to the process described above. OCCF staff also meets quarterly with Tribal Prevention Coordinators, during which funded tribes provide an update on their programs' operations, successes, emerging issues, and financial status.

3. Training and Technical Assistance

The OCCF provides an annual training to its own staff entitled "Diversity, Cultural Competency and Civil Rights," and submitted the slides used in this training to the OCR in its Data Response. This training addresses several dimensions of diversity and cultural identification, and gives an overview of Title VI and Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency. While this program is not specifically designed to train OCCF staff to monitor subrecipients' civil rights compliance, it is an excellent foundation for staff with monitoring responsibility. In addition, the OCCF's Affirmative Action Plan states that staff is updated monthly with information from the Governor's Affirmative Action Office

The OCCF holds a conference for prospective applicants prior to the deadline for submitting applications for funding. This conference primary reviews the eligibility requirements, funding

priorities, and application process, and other than reviewing the standard assurances, does not specifically address civil rights. According to the OCCF's Affirmative Action Plan, the OCCF employs a Cultural Competency Coordinator, who has developed a training curriculum based on the work of OJJDP. During the onsite portion of the OCR's review, the OCCF staff reported that civil rights training for subrecipients is primarily accomplished by providing this training to subrecipients upon request. Staff reported that this is one of the most requested topics for technical assistance.

4. Complaint Procedures

The Civil Rights Division of Oregon's Bureau of Labor and Industries (BOLI) enforces all of Oregon's civil rights laws, which collectively prohibit discrimination on the basis of race, color, religion, sex, sexual orientation, national origin, marital status, age, and disability in employment, public accommodations, housing, and professional/trade schools. These statutes would apply to employees of the OCCF and subrecipients, and may apply to beneficiaries if the service for which they are applying qualifies as a public accommodation. BOLI's website describes in detail the complaint, investigation, conciliation and hearing processes. BOLI's website also informs potential complainants of their right to file with the U.S. Equal Employment Opportunity Commission or to use their employer's internal grievance procedures.

In addition to the BOLI's civil rights enforcement services, the OCCF maintains an Affirmative Action Plan, which governs how the OCCF will ensure that all employees and applicants for employment receive fair treatment in hiring and employment. According to this document, if an employee or applicant for employment with the OCCF wishes to file a complaint, they have the option of filing with the OCCF's own Affirmative Action Officer, BOLI's Civil Rights Division or the Governor's Affirmative Action Office. As discussed in Section I.A.3. of this report, the Affirmative Action Plan also provides for staff training on non-discrimination and equal employment opportunity. The OCCF Affirmative Action Plan does not address civil rights in the services of subrecipients.

The OCCF does not have complaint procedures for beneficiaries of subrecipients who believe they have been discriminated against. As mentioned in Section I of this Compliance Review Report, the services funded through the OCCF are implemented by thirty-six Local Commissions. During the onsite portion of the OCR's compliance review, the OCCF staff reported that any complaints of discrimination from employees or beneficiaries of subrecipients would be evaluated and handled by those Local Commissions; OCCF is not involved in how a Local Commission would handle a discrimination complaint. The OCCF staff was not aware of any complaints, filed either internally or externally from beneficiaries, prospective beneficiaries, applicant organizations, subrecipients alleging discrimination in any program or activity funded by the OCCF or alleging discrimination in the OCCF's grant making process.

B. Monitoring Compliance with Faith Based Regulations

The purpose of the Equal Treatment Regulations is to ensure that "[r]eligious organizations are eligible, on the same basis as any other organization, to participate in any [Justice] Department program for which they are otherwise eligible." 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 OCCF's equitable treatment of faith-based organizations, the Compliance Review focused on two issues:

(1) the process for making awards to applicant faith-based organizations, and (2) the 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 of this Compliance Review Report, the OCCF administers the Title II, Title V, and JABG programs. Specific funding priorities are informed by a process that grows from the comprehensive plans of Local Commissions, and culminates in a statewide three-year plan. In addition, there are two statewide advisory groups that make recommendations for the distribution of federal juvenile justice funds: the Governor's Juvenile Justice Advisory Committee (JJAC) reviews applications for funding under the Title II and Title V programs, and the Juvenile Crime Prevention Advisory Committee (JCPAC) oversees the allocation of JABG funds.

a. Title V

Funding under Title V is awarded to qualified units of local government, federally-recognized tribes, and faith-based and other community organizations partnering with their units of local government. In order for an applicant to receive funding, its program must align with the priorities in Oregon's three-year plan. Currently, two of those priorities are among the Title V eligible program areas: Disproportionate Minority Contact (DMC), and American Indian Programs. Consequently, JJAC only considered applicants who proposed programming in those two areas. The request for proposals was then posted on the OCCF's website, announced in the OCCF's newsletter, and sent via e-mail to a list of approximately 200-300 OCCF partners; these partners included all local commissions, all state agencies, tribes, past recipients, and past applicants. JJAC then convenes a committee of reviewers, drawing from JJAC membership, Indian tribes, and urban, rural and frontier regions. Each reviewer scores each application using a scoring rubric, and the committee of reviewers makes funding recommendations to JJAC based on those scores. JJAC votes on the recommendations, and can grant partial funding. Dissatisfied applicants can appeal to the Governor's office. During the onsite portion of the OCR's review, OCCF staff stated that civil rights issues are not captured in this review process.

Faith-based organizations are eligible for funding only if partnered with a unit of local government. However, within that constraint, the OCCF staff told the OCR that it treats faith-based organizations the same as any other applicant and evaluates grant applications solely on the merits of the program. The OCCF reported that during the review period of FY 2009 and FY 2010, there were no faith-based applicants or recipients

b. Title II

Funding under Title II is awarded to states based on their population under age eighteen. At least two-thirds of the funds awarded to each state must be given to units of local government, federally-recognized tribes, and not-for-profit agencies performing law enforcement functions. In 2008, JJAC selected addressing DMC as its number one funding priority under Title II, and only considered applications from programs addressing DMC. The application and review process for Title II funds is similar to the process described above. However, because the eligibility is slightly more limited, notification of the request for proposals is tailored accordingly.

Despite the limited eligibility for the Title II grants, the awards may be further sub-awarded to faith-based organizations. Prior to the OCR's visit, the OCR requested information on the faith-based organizations that had applied for DOJ funding through the OCCF or its subrecipients in FY 2009 and FY 2010. The OFFC reported that the Malheur County Commission on Children and Families gave a sub-award to a faith-based organization, the Harvest House Missions. Harvest House received \$56,250 in FY 2009 and \$37,500 in FY 2010. The OCCF does not play a large role in the process by which the County distributed its subawards.

c. JABG

Funding under JABG goes to units of local government, and is designed to assist juvenile justice systems in holding youth offenders accountable in seventeen different purpose areas. Because the pool of eligible applicants is so limited, the JABG are not widely advertised and distribution does not vary much from year to year. Faith-based organizations are not eligible to apply.

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

The OCCF publishes a resource guide entitled "Strengthening Neighborhoods through Faith-Based and Community Partnerships," which describes the Equal Treatment Regulations in detail. This resource guide is geared toward entities that are interested in partnering with faith-based organizations to provide social services to children and families, which could include subrecipients under the Title II and Title V programs. The resource guide provides tips on identifying faith-based partners, developing meaningful collaborations, and resolving common problems. The resource guide also provides a directory of successful faith-based and community partnerships in Oregon, and information about state and national resources. The OCCF should be commended for developing such a useful guide, and for comprehensively advising its subrecipients about the requirements for such partnerships under existing federal law

As mentioned in Section I.B.1.b. of this Compliance Review Report, Harvest House Missions in Ontario, Oregon received a Title II subaward from the Malheur County Commission on Children and Families in FY 2009 and FY 2010. The OCR interviewed Renee Cummings, Executive Director of Harvest House, on June 26, 2012 about its programs and compliance with the Equal Treatment Regulations. Harvest House was founded as an organization to provide temporary assistance to women and children who are homeless or at risk of becoming homeless. Ms. Cummings told the OCR that Harvest House considers itself faith-based because of its motivation to provide services to the community, but that religious beliefs are not overtly woven into its services. She said that Harvest House provides its services to all eligible beneficiaries, and does not inquire about an individual's religious faith. Additionally, none of Harvest House's programs involve religious instruction or any other inherently religious activities. Harvest House does not consider religion in making hiring decisions. Although Harvest House is a subrecipient of the Malheur County Commission on Children and Families, Ms. Cummings reported that she has received a site-visit from OCCF, although the visit did not include any questions specific to the Equal Treatment Regulations.

The Title II grant supports staff salaries for Harvest House's after-school drop-in center (Youth Center), a program of Harvest House's Safety, Education, Advocacy, Support, Outreach and Networking (SEASON) program. The Youth Center is open between 3:00 pm and 5:00 pm on

school days and is located within walking distance of both the local Junior High School and High School. Ms. Cummings said that the Youth Center has activities such as games, computers, and field trips; past field trips include bowling, skating and visiting a corn maze. Ms. Cummings described the services as casual, fun, and unstructured; they are designed to provide constructive activities for at-risk youth between the ages of eleven and eighteen in an adult-supervised environment. There are no formal services, such as counseling, support groups, or instruction, and none of the services involve inherently religious messages or activities.

II. Recommendations

The OCCF already has some procedures in place for monitoring the civil rights compliance of its subrecipients, such as referencing the laws that the OCR enforces in its assurance documents. To strength the OCCF's monitoring efforts, the OCR offers the following recommendations: (1) correct errors in the assurance documents; (2) provide the correct description for the EEOP obligations; (3) monitor subrecipients for compliance with federal civil rights laws during onsite monitoring visits; (4) provide comprehensive training for subrecipients on federal civil rights laws; and (5) develop complaint procedures for beneficiaries of subrecipients who allege discrimination.

A. Correct Errors in the Assurance Documents

As mention in Section I.A.1. of this Compliance Review Report, the OCCF requires applicants to sign the Applicant Assurances and Certifications, to which is attached to an OMB-approved form summarizing the federal civil rights laws. The OCCF is using a 1993 version of this form, and the OCR recommends that the OCCF use the latest version of this form. That can be found at OJP's website at http://www.ojp.usdoj.gov/funding/forms/std_assurances.pdf.

As discussed in this Compliance Review Report, the Grant Award, Conditions and Certifications provides contradictory instruction on how findings of discrimination are to be submitted to the OCR; on the bottom of page six, subrecipients are instructed to submit findings to the OCCF who will forward them to the OCR, and on page seven, subrecipients are instructed to submit findings directly to the OCR. The OCR recommends that the OCCF require subrecipients who have been the subject if a finding of discrimination on the basis of race, color, religion, national origin, or sex by a Federal or state court, or a Federal or state administrative body, after a due process hearing submit the finding directly to the OCR. 28 C.F.R. § 42.204(c). The OCCF may wish to require subrecipients to send findings to the OCCF as well. Note that this regulation does not require findings based on age or disability to be reported, as stated in the OCCF's Grant Award, Conditions and Certifications.

The OCR also recommends that the OCCF correct the typographical error on page six which identifies Title VI as Title IV, and correct the name of the Equal Treatment Regulations in the Grant Award, Conditions and Certifications. *See supra* notes 1-2. The OCCF may also wish to consider not repeating the list of federal civil rights statutes with which subrecipients must comply.

B. Provide the Correct Description of the EEOP Requirements

As mentioned in Section I.A. of this Compliance Review Report, the description of the EEOP requirements in the Grant Award, Conditions and Certifications document is incorrect. The

correct criteria for those subrecipients that must maintain an EEOP are as follows: (1) the subrecipient is a state or local government agency or any business; and (2) the subrecipient has 50 or more employees; and (3) the recipient receives a single award of \$25,000 or more. A recipient that is required to *maintain* an EEOP must *submit* it to the OCR if it receives a single award of \$500,000 or more. Once a subrecipient determines its EEOP obligations, the OCCF should ensure that the appropriate documentation is submitted to the OCR. If a subrecipient is exempt from maintaining an EEOP, that exemption must be certified to the OCR. Additionally, if a subrecipient must maintain an EEOP, but is exempt from submitting it, that exemption must be certified to the OCR as well. The OCR has a sample EEOP Certification Form available for subrecipients, which can be accessed at <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf>. The OCR recommends that the OCCF requires subrecipients to use the OCR's Certification Form when certifying their exemption from the requirement to complete an EEOP or their exception from the requirement to submit an EEOP. We further recommend that the OCCF instructs subrecipients to submit certifications or EEOPs directly to the OCR, although the OCCF may wish to receive a copy for monitoring purposes. Note that these certifications are not to be submitted to OJJDP, as currently stated in the OCCF's Grant Award, Conditions and Certifications. OCR requires that subrecipients complete their EEOP obligations within sixty days of receiving an award, and renew these obligations every two years after that.

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

The OCCF is taking steps to ensure that OCCF subrecipients are complying with grant requirements by conducting periodic onsite monitoring visits. These onsite monitoring visits, however, do not fully address federal civil rights laws. Pursuant to the OCCF's responsibility to monitor the compliance of subrecipients with applicable federal civil rights laws, the OCCF should expand the civil rights component of its onsite monitoring visits to encompass more than its current questions about litigation, EEOC complaints, and LEP plans. The OCCF should be sure to evaluate a number of civil rights requirements that are binding on recipients of federal funding (e.g., whether the subrecipient has an EEOP on file or has sent one to the OCR for review, whether the subrecipient has findings of discrimination to report to the OCR, whether the subrecipient has posted nondiscrimination notices as required by section 504 of the Rehabilitation Act, or 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 OCCF should ask questions on whether the subrecipient is complying with DOJ's Equal Treatment Regulations, including the prohibitions against using federal funds to engage in inherently religious activities and discriminating against program beneficiaries on the basis of religion. The OCR has developed the enclosed Federal Civil Rights Compliance Checklist that contains relevant questions regarding civil rights compliance; the OCCF may wish to adapt the checklist in creating its own monitoring tools.

D. Provide Comprehensive Training for Subrecipients on Federal Civil Rights Laws

The OCCF provides several training opportunities to its own staff members, and technical assistance on cultural diversity to subrecipients upon request. To ensure that subrecipients fully understand their obligations under federal civil rights laws, such as the obligation to comply with the DOJ's Equal Treatment Regulations, to provide services to LEP individuals, and to provide the OCR with findings of discrimination issued by a federal or state court or federal or state administrative agency on the basis of race, color, religion, national origin, or sex, the OCCF

should provide periodic training programs for its subrecipients on the applicable federal civil rights laws. The OCCF should provide this mandatory training for every subrecipient at least once during a grant cycle, whether the OCCF provides the training in person, during a teleconference, or through other means. The OCR is available to provide the OCCF with technical assistance in developing civil rights training programs. Toward that end, the OCR has developed several online training modules that the OCCF may use or adapt to train its staff and subrecipients. This can be found at the OCR website at <http://www.ojp.usdoj.gov/about/ocr/assistance.htm>.

E. Develop Comprehensive Complaint Procedures

While the state of Oregon has written policies in place for receiving and investigating discrimination complaints in employment, housing, public accommodations and trade schools, there are no procedures in place for addressing discrimination complaints from beneficiaries of subrecipients of the OCCF. Additionally, although employees of subrecipients may access the procedures of BOLI, the OCCF should notify employees of subrecipients of this right. Accordingly, the OCCF should adopt 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 subrecipients' employees and beneficiaries of prohibited discrimination in funded programs and activities and the OCCF's policy and procedures for handling discrimination complaints;
- establishing written procedures for receiving discrimination complaints from subrecipients' employees and beneficiaries;
- referring each complaint to the appropriate agency for investigation and resolution, such as the U.S. Equal Employment Opportunity Commission or the Oregon Bureau of Labor and Industries, or referring the complaint to the OCR, which will review the complaint and work with the OCCF to resolve the complaint;
- notifying the OCR in writing when the OCCF refers a discrimination complaint to another agency or when the OCCF investigates the complaint internally; and
- training OCCF program staff members on the responsibility to refer discrimination complaints, or potential discrimination issues, to the OCCF'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 is available at the OCR's website at www.ojp.usdoj.gov/ocr/crc. Additionally, the OCR has drafted the enclosed template complaint procedures that the OCCF may find helpful as it develops procedures for addressing discrimination complaints from employees and beneficiaries of subrecipients. Developing a comprehensive policy for addressing discrimination complaints should be a top priority for the OCCF.

III. Conclusion

We find that the OCCF has taken steps to comply substantially with the federal civil rights laws that the OCR enforces. However, it should implement the recommendations set forth above to

ensure it is in compliance with all federal civil rights laws. On request, the OCR is available to provide technical assistance to the OCCF in addressing the concerns raised in this Report. Immediately upon receipt of this letter, we ask that a responsible OCCF official contact Attorney-Advisor Debra Murphy to develop a timeline 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. Murphy at 202-305-0667.

Sincerely,

/s/

Michael L. Alston
Director

Enclosures