



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

Via Certified Mail

Washington, D.C. 20531

January 15, 2014

The Honorable J.B. Van Hollen
Attorney General of Wisconsin
Wisconsin Department of Justice
17 West Main Street
Madison, WI 53707

Re: Compliance Review Report for the Wis. Dep't of Justice
Docket No. 13-OCR-314

Dear Attorney General Van Hollen:

On June 20, 2013, the Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) initiated a compliance review of the Wisconsin Department of Justice (WDOJ), Office of Crime Victim Services (OCVS), as part of our compliance review of all State Administering Agencies, in accordance with federal regulation 28 C.F.R. § 42.206. The focus of the review was on the OCVS' compliance with applicable federal civil rights laws along with the OCVS' monitoring procedures for ensuring the compliance of subrecipients with these laws. Of particular interest to the OCR was the OCVS' implementation and monitoring of the DOJ's regulations, Equal Treatment for Faith-Based Organizations, 28 C.F.R. pt. 38 [hereinafter Equal Treatment Regulations].

On September 11, 2013, the OCR conducted an onsite visit to the OCVS offices to meet with OCVS staff and to conduct a training program on the federal civil rights laws that the OCR enforces. The OCR would like to thank OCVS staff, especially former Grant Specialist Elizabeth Lucas, for assisting OCR attorney Shelley Langguth during her onsite visit.

Based on the OCVS' responses to our data request (Data Response) and the information that the OCR gathered during our onsite visit, the OCR sent the WDOJ a draft Compliance Review Report on November 26, 2013. In a January 14, 2014, email to Ms. Langguth, OCVS Director of Program Assistance & Administration Cindy Grady indicated that the WDOJ does not have any factual corrections to the draft report.

In regard to the limited scope of our review, the OCR concludes that the OCVS has taken steps to substantially comply with the federal civil rights laws that the OCR enforces. Nonetheless, we have reservations about whether the OCVS has adequate complaint procedures in place to respond to discrimination complaints from beneficiaries of the OCVS and from employees and beneficiaries of subrecipients, whether it is sufficiently notifying and training its subrecipients on

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the federal civil rights laws that the OCR enforces, and whether it is sufficiently monitoring for compliance. The following Compliance Review Report includes recommendations for monitoring the civil rights compliance of subrecipients and ensuring compliance with the OCVS' civil rights obligations.

Compliance Review Report: Overview and Recommendations

I. Overview

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

1. Standard Assurances

At the time of the OCR's onsite visit, the OCVS administered subawards under one DOJ grant program, the Victim Assistance Formula Grant Program (Victim Assistance) authorized by the Victims of Crime Act (VOCA) and funded by the DOJ's Office for Victims of Crime (OVC).^{1, 2}

¹ The State of Wisconsin's other State Administering Agency, the Office of Justice Assistance (OJA), has been administering other sources of DOJ funding, including the following grant programs: 1) the OJP's Office of Juvenile Justice and Delinquency Prevention (OJJDP)'s Title VI Community Prevention Grant; 2) OJJDP's Title II Formula Grants; 3) OJJDP's Justice Accountability Block Grants; 4) OJP's Bureau of Justice Assistance's (BJA) Edward Byrne Memorial Justice Assistance Grants; 5) BJA's Project Safe Neighborhoods Grant; 6) BJA's Residential Substance Abuse Treatment Grants; and 7) the Office on Violence Against Women's (OVW) Violence Against Women Act (VAWA) Services, Training, Officers, and Prosecutors Grant. The OCR conducted a review of the OJA's procedures for monitoring its DOJ-funded subrecipients in November 2009 and issued a Compliance Review Report in connection with that review on March 9, 2010. The OCR understands that as of July 1, 2013, the OJA has become part of the WDOJ. Since the OCR has already reviewed the OJA, this Compliance Review Report focuses solely on the VOCA Victim Assistance awards administered by the OCVS.

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When a subrecipient receives VOCA Victim Assistance grant funding, it must agree to abide by a standard *Subgrant Award Agreement*, which contains the *Victims of Crime Act Terms and Assurances of Subgrant Award*. This terms and assurances document contains the following provisions regarding federal civil rights requirements:

IX. K. Non-discrimination. No person shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any activity receiving funds under VOCA on the basis of race, color, religion, national origin, handicap, age or sex. The Subgrantee agrees to comply with all applicable provisions of Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1974, as amended; Subtitle A, Title II of the Americans with Disabilities Act (ADA); and U.S. Department of Justice implementing regulations on disability discrimination, 28 CFR Parts 35, 36 and 39³; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Department of Justice Nondiscrimination Regulations; 28 CFR Part 42, Subparts C, D, E, and G.

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, age or handicap against the project, the project will forward a copy of the finding to the Office of Justice Programs, U.S. Department of Justice, Office of Civil Rights Compliance (OCRC)⁴.

Additionally, the application materials for the VOCA Victim Assistance grants reference the OCVS' *Victims of Crime Act (VOCA) Program Guidelines*, which are located on the OCVS' website. These *Guidelines* contain the following language under Section VII, Additional

² In a November 7, 2013, e-mail from Ms. Grady to Ms. Langguth, Ms. Grady indicated that the OCVS is now administering DOJ funding authorized by the VAWA. The OCVS should apply any recommendations contained in this Report to the VAWA-authorized programs that it now administers funding under.

³ Please be advised that 28 C.F.R. pt. 36 implements Title III of the ADA and 28 C.F.R. pt. 39 relates solely to activities conducted by the DOJ, and that the OCVS should not include references to these regulations in its VOCA terms and assurances.

⁴ We are presuming that the OCVS is referring to our office, which is called the Office for Civil Rights (OCR).

Requirements:

A. Civil Rights

VOCA requires that no person shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any activity receiving funds under VOCA on the basis of race, color, religion, national origin, handicap, age or sex. Subgrantees are also subject to Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1974, as amended; Subtitle A, Title II of the Americans with Disabilities Act (ADA); and U.S. Department of Justice implementing regulations on disability discrimination, 28 CFR Parts 35, 36 and 39⁵; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; the Department of Justice Nondiscrimination Regulations; 28 CFR Part 42, Subparts C, D, E, and G, and Section 3789(d) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended⁶.

In certain cases VOCA subgrant recipients must develop an Equal Employment Opportunity Plan (EEO). Submission requirements vary depending on the entity type, number of employees and funding level of a grantee agency. The following guidelines should be used to determine what information, if any, must be submitted to the Office for Civil Rights (OCR) in the U.S. Department of Justice.

An agency is exempt and need only submit Section A of the **federal Certification Form** to OCR if it:

- is a nonprofit organization, educational institution, Indian tribe or Medical institution

OR

- has less than 50 employees

OR

- is receiving a single grant or subgrant award of less than \$25,000

An agency must submit Section B of the **federal Certification Form**

⁵ Please see footnote 3.

⁶ The nondiscrimination provision of the Omnibus Crime Control and Safe Streets Act of 1968 does not apply to programs authorized under VOCA; therefore, the OCR recommends omitting reference to this provision from the OCVS' *Victims of Crime Act (VOCA) Program Guidelines*.

to OCR, verifying that it has an acceptable EEOP on file for review if it:

- is receiving a single award for at least \$25,000 but less than \$500,000

AND

- has 50 or more employees

An agency must submit a copy of its EEO Plan (or the EEOP Short Form) to OCR if it:

- is receiving a single grant award for \$500,000 or more

OR

- an aggregate of grant awards for \$1,000,000 or more during any 18 month period⁷

AND

- has 50 or more employees

The federal Certification Form is sent to subgrantees along with the Subgrant Award Agreement at the beginning of the grant year.

The Office of Crime Victim Services (OCVS) in the WI Department of Justice is responsible for ensuring that VOCA subgrantees comply with the civil rights requirements related to receiving federal financial assistance. In order to monitor compliance with these requirements, VOCA subgrantees need to submit a **state Certification of Compliance Form** to OCVS. The signature on this form certifies that an agency's EEOP requirement has been met. It also certifies that the responsible person in this agency or unit of government will submit any adverse findings of discrimination made against the agency (within the past 5 years) to the Office of Civil Rights (OCR) within 45 days of the finding (or for a prior occurrence, within 45 days of the beginning date of the grant) and notify the OCVS. The state Certification of Compliance Form is sent to subgrantees with the Standard Subaward Agreement at the beginning of the grant year.

In its Data Response, the OCVS provided the OCR with the *Certification of Compliance Form* developed by the OCVS and the *Certification Form* developed by the OJP⁸ that the OCVS

⁷ Please note that the OCR no longer requires grantees who receive an aggregate of grant awards for \$1,000,000 to submit an EEOP to the OCR; the OCVS should delete reference to the \$1,000,000 in its *Victims of Crime Act (VOCA) Program Guidelines* and in its state *Certification of Compliance Form*.

⁸ Please note that the OJP has updated its EEOP *Certification Form*, which may be found on the OCR's website at www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf.

provides to subrecipients during the application process. According to the forms, subrecipients must submit the OCVS form to the OCVS and must submit OJP's form to the OCR upon completion. The OCVS form explains the EEOP requirements in the same manner as in the Program Guidelines, and requires the subrecipient to certify that it will maintain data to ensure its services are delivered in an equitable manner and will submit any civil rights findings of discrimination to the OCVS.

2. Onsite Visits and Other Monitoring Methods

In the OCVS' Data Response, it indicated that it conducts onsite monitoring visits of VOCA Victim Assistance subrecipients once every three years, or more frequently if issues present themselves. The OCVS provided the OCR with its *Grant Program Visit Form* that it utilizes during onsite visits. This checklist contains several questions regarding civil rights compliance, including questions on whether a subrecipient's facility meets the ADA's standards regarding handicap accessibility; whether the subrecipient has written nondiscrimination policies, complaint procedures, and policies on providing services to non-English speaking clients, including deaf and hard of hearing clients⁹; how the subrecipient notifies program participants and employees that it does not discriminate; whether the subrecipient has complied with the requirement to submit to the OCR any findings of discrimination; whether the subrecipient has taken any steps to provide meaningful access to its activities to individuals who have limited English proficiency; and whether the subrecipient conducts any training for its employees on federal civil rights requirements.

3. Training and Technical Assistance

During the OCR's onsite review, OCVS staff told the OCR that the OCVS does not conduct any annual training for VOCA Victim Assistance subrecipients, including training on civil rights requirements. The OCVS staff stated that when the OCVS funds a new subrecipient, it schedules an onsite visit with the subrecipient to provide an overview of all of the grant guidelines and requirements; similarly, if a subrecipient hires a new program director, the OCVS schedules a phone call or onsite visit with the new program director to provide information on general grant requirements.

4. Complaint Procedures

If an OCVS or other WDOJ employee wishes to file an employment discrimination complaint against the WDOJ, the procedures are set forth in the WDOJ's *Discrimination and Harassment*

⁹ Please note that limited English proficiency (LEP) does not include being deaf or hard of hearing; rather, being deaf or hard of hearing is a disability issue.

Prevention Policy and Complaint Procedures. Based on program material submitted by the OCVS, it appears that the OCVS provides some direct services to crime victims including advocacy, referral, and mediation. The OCVS does not have written procedures in place discussing how to respond to discrimination complaints filed by beneficiaries of these services.¹⁰ During the OCR's onsite visit, OCVS staff told the OCR that it has never received a complaint alleging discrimination in the OCVS' provision of services.

The OCVS does not have any written procedures in place governing complaints filed by employees or beneficiaries of VOCA Victim Assistance subrecipients. According to OCVS staff, the OCVS has received at least one phone call from an individual wishing to complain that a Victim Assistance subrecipient discriminated against the beneficiary in the provision of services; in that particular case, the individual alleged that the subrecipient's facilities were not accessible to individuals with disabilities. The OCVS staff indicated that the OCVS spoke with the subrecipient about the complaint and developed an action plan for the subrecipient to remedy the complaint and ensure compliance with applicable law.

B. Monitoring Compliance with Equal Treatment Regulations

The purpose of the Equal Treatment Regulations is to ensure that "[r]eligious organizations are eligible, on the same basis as any other organization, to participate in any [Justice] Department program for which they are otherwise eligible." 28 C.F.R. § 38.2(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.* Additionally, the regulations state that recipients may not engage in inherently religious activities as part of the DOJ-funded programs or services, and shall not discriminate against a program beneficiary on the basis of religion. *Id.* at §§ 38.2(b)(1), (d). In evaluating the OCVS' equitable treatment of faith-based organizations, the Compliance Review focuses on two issues: (1) the review process for making awards to applicant faith-based organizations; and (2) procedures for ensuring that funded faith-based organizations comply with applicable federal civil rights laws.

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

As discussed in Section I.A.1 of this Compliance Review Report, the OCVS currently administers Victim Assistance grant funds authorized by VOCA and funded by the DOJ's OVC. According to the OVC's *Victim Assistance Guidelines*, available at <http://www.ojp.usdoj.gov/ovc/voca/vaguide.htm>, Victim Assistance grant funds may be used by

¹⁰ It is not clear whether other components of the WDOJ also provide any direct services to individuals. It appears that the newly-integrated OJA does provide services to individuals, and has developed written complaint procedures setting forth the procedures for OJA to respond to discrimination complaints filed by beneficiaries and program participants.

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public and private nonprofit organizations throughout a state to provide direct services to crime victims.

Based on the information contained in the OCVS' Data Response, the OCR understands that to solicit applications from potential subrecipients, the OCVS sends a funding announcement to victim services agencies throughout the State of Wisconsin, including current subrecipients; to statewide victim service agencies so that they may distribute the information to member programs; and to programs who have contacted the OCVS to express an interest in receiving information regarding funding opportunities. Additionally, the OCVS posts information on current funding opportunities on its website.

Upon receipt of applications, the OCVS geographically divides the applications into regions with ten to twelve applications in each region. Applications for each region are reviewed and ranked by professionals involved in the field of victim services; there are typically two reviewers for each region. The reviewers from each region then meet as a group to discuss the applications and determine a final group ranking. The OCVS staff then reviews the rankings and the reviewers' comments and makes funding determinations, taking into consideration any funding priorities and federal guidelines. During the OCR's onsite visit, OCVS staff explained that the initial grant award period is one year in length (October 1 through September 30), and that subrecipients may subsequently apply for two one-year continuation awards, for a possible overall grant period of three years.

In its Data Response, the OCVS said that it is the policy of the OCVS to treat all subrecipients equally. The OCVS indicated that in Fiscal Years 2011, 2012, and 2013, it received and funded an application from one faith-based organization, Lutheran Social Services of Wisconsin and Upper Michigan, Inc. (Lutheran Social Services). Each year, Lutheran Social Services received a grant in the amount of \$77,500.00 for the provision of services to victims of sexual assault.

According to its Data Response, the OCVS does not require nonprofit applicants to have federal tax exempt status under 26 U.S.C. § 501(c)(3).

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

In its Data Response, the OCVS said that during program monitoring visits OCVS staff ensure that faith-based organizations are in compliance with the Equal Treatment Regulations. However, the OCVS' *Grant Program Visit Form* currently does not contain any questions regarding a subrecipient's compliance with the Equal Treatment Regulations. Additionally, neither the *Victims of Crime Act Terms and Assurances of Subgrant Award* nor the *Victims of Crime Act (VOCA) Program Guidelines* reference the Equal Treatment Regulations. The OCVS

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does not provide any training to staff, application reviewers, or subrecipients on the Equal Treatment Regulations.

As part of the OCR's review, the OCR reviewed information available on the Lutheran Social Services' website at <http://www.lsswis.org/LSS.htm> regarding the Lutheran Social Services' mission, programs, and activities, including its Sexual Assault Services Program that is partially funded with Victim Assistance funds. Based on this information, the OCR did not see any indication that Lutheran Social Services is expending Victim Assistance funds on inherently religious activities or is otherwise violating the Equal Treatment Regulations.

II. Recommendations

The OCVS currently has some procedures in place for monitoring the civil rights compliance of its Victim Assistance subrecipients, such as referencing some of the laws that the OCR enforces in its standard subgrant award agreement and program guidelines and monitoring for compliance with several civil rights requirements during onsite monitoring visits. To strengthen the OCVS' monitoring efforts, the OCR offers the following recommendations: (1) develop written complaint procedures for addressing discrimination complaints from beneficiaries/clients of the OCVS and DOJ and from employees and beneficiaries of subrecipients; (2) revise the OCVS' subgrant award agreement and VOCA program guidelines to accurately discuss all of the laws that the OCR enforces, including the Equal Treatment Regulations; (3) expand its *Grant Program Visit Form* to monitor for compliance with additional civil rights requirements; (4) develop a training program to train subrecipients on the applicable civil rights requirements; (5) require subrecipients to complete the OCR's updated *EEOP Certification Form* and more accurately discuss the EEOP requirements in its subgrant materials; and (6) incorporate the nondiscrimination provisions of the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) into all civil rights monitoring tools of subrecipients implementing funding subject to this Act.

A. Develop Comprehensive Complaint Procedures

While the WDOJ has written procedures in place for receiving and investigating discrimination complaints from WDOJ employees, including OCVS employees, it does not have any procedures in place for addressing discrimination complaints from beneficiaries of OCVS or from employees and beneficiaries of Victim Assistance subrecipients. Accordingly, the OCVS should adopt a policy for addressing discrimination complaints that includes at a minimum the following elements:

- 1) designating a coordinator who is responsible for overseeing the complaint process;

- 2) notifying employees and subrecipients of prohibited discrimination in funded programs and activities and the OCVS' policy and procedures for handling discrimination complaints;
- 3) establishing written procedures for receiving discrimination complaints from beneficiaries of the OCVS and from employees and beneficiaries of Victim Assistance subrecipients;
- 4) a process for investigating the complaint internally, or referring the complaint to the appropriate agency for investigation and resolution, such as the OCR or a local or state human rights commission;
- 5) notifying the complainant that he or she may also file a complaint directly with the OCR at 810 Seventh Street NW, Washington, DC 20531; and
- 6) training OCVS program staff on their responsibility to refer discrimination complaints, or potential discrimination issues, to the OCVS' 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. In response to the OCR's prior compliance review of the OJA, the OJA developed written procedures for receiving and responding to discrimination complaints filed by beneficiaries of the OJA and DOJ-funded subrecipients and by employees of DOJ-funded subrecipients, which the OCR has reviewed and approved; the OCVS may find those procedures helpful in developing its own complaint procedures.

Additionally, as noted previously in this Compliance Review Report, it is not clear whether any other WDOJ components provide direct services to beneficiaries. If so, the WDOJ should ensure that such components have or develop written procedures for receiving and investigating complaints alleging discrimination by the WDOJ in the delivery of services.

- B. Revise the OCVS' Subgrant Agreement and Program Guidelines to Accurately Cite the Laws that the OCR Enforces, Including the Equal Treatment Regulations

The OCR should revise the civil rights language contained in its *Victims of Crime Act Terms and Assurances of Subgrant Award* and *Victims of Crime Act (VOCA) Program Guidelines* to accurately discuss and cite the federal civil rights laws that the OCR enforces and which are binding on Victim Assistance subrecipients. The OCR recommends that the OCVS use the following language or substantially similar language:

The nondiscrimination provision of the Victims of Crime Act

of 1984 (42 U.S.C. § 10604(e)) prohibits the Subgrantee from discriminating in both employment and the delivery of services or benefits on the basis of race, color, national origin, religion, sex, and handicap in its programs or activities. Subgrantee will also comply (and will require any subcontractor to comply) with any additional applicable federal nondiscrimination requirements, including Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681); the Age Discrimination Act of 1975 (42 U.S.C. § 6102); 28 C.F.R. pt. 42 (U.S. Department of Justice Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); 28 C.F.R. pt. 54 (U.S. Department of Justice Regulations – Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance); 28 C.F.R. pt. 38 (U.S. Department of Justice Regulations – Equal Treatment for Faith-Based Organizations); Ex. Order 13279 (Equal Protection of the Laws for Faith-Based and Community Organizations); and Ex. Order 13559 (Fundamental Principles and Policymaking Criteria for Partnerships with Faith-Based and Other Neighborhood Organizations). In accordance with these laws, the Subgrantee will not retaliate against individuals for taking action or participating in action to secure rights protected by these laws.

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, national origin, religion, sex, or disability against a recipient of funds, the recipient will forward a copy of the finding to the U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights, and the OCVS.

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 Title VI of the Civil Rights Act of 1964, a recipient must take reasonable steps to ensure that LEP persons have meaningful access to its

programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. The recipient is encouraged to consider the need for language services for LEP persons served or encountered both in developing its budgets and in conducting its programs and activities. Additional assistance and information regarding your LEP obligations can be found at www.lep.gov.

C. Monitor for Compliance with Relevant Civil Rights Laws

The OCVS is taking steps to ensure that Victim Assistance subrecipients are complying with grant requirements by conducting annual onsite monitoring visits and by asking questions regarding several civil rights requirements. However, the OCVS' *Grant Program Visit Form* does not evaluate several pertinent civil rights requirements that are binding on recipients of DOJ funding (e.g., whether the subrecipient has complied with the EEOP requirements, whether the subrecipient has complied with administrative requirements of Section 504 of the Rehabilitation Act and Title IX of the Education Amendments of 1972, as applicable, or whether the recipient is in compliance with the Equal Treatment Regulations). The OCR has developed the attached Federal Civil Rights Compliance Checklist that contains relevant questions regarding civil rights compliance; the OCVS should incorporate into its *Grant Program Visit Form* any questions that are not currently included.

D. Train Subrecipients on Federal Civil Rights Laws

Currently, the OCVS does not train Victim Assistance subrecipients on the federal civil rights laws that the OCR enforces. The OCVS should develop a formal training program to educate its Victim Assistance subrecipients on the laws that the OCR enforces. At a minimum, the OCVS should require all subrecipients to review the relevant civil rights training videos found on the OCR's website at www.ojp.usdoj.gov/about/ocr/assistance.htm at least once during a grant cycle. The OCVS may also wish to provide in-person training for Victim Assistance subrecipients on relevant civil rights requirements, perhaps using the OCR's civil rights PowerPoint presentation as a template.

E. Utilize the OCR's Revised EEOP *Certification Form* and Revise Grant Materials to Accurately Discuss the EEOP Requirements

As discussed in Section I.A.1 of this Compliance Review Report, the OCVS requires subrecipients to complete the EEOP *Certification Form* developed by the OJP, along with a *Certification of Compliance Form* developed by the OCVS. The OCVS should start requiring Victim Assistance subrecipients to complete the OJP's updated *Certification Form*, found at www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf, and should revise the discussion of EEOP

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requirements contained in the *Victims of Crime Act (VOCA) Program Guidelines* to indicate that agencies who are required to submit an EEOP to the OCR must complete Section C of the updated *Certification Form*. Additionally, the OCVS should remove from the *Victims of Crime Act (VOCA) Program Guidelines* and the OCVS' *Certification of Compliance Form* any reference to the former requirement that subrecipients who receive an aggregate of grant awards for \$1,000,000 must submit an EEOP to the OCR.

F. Incorporate the Nondiscrimination Provisions of the VAWA 2013 into all Civil Rights Monitoring Tools of Subrecipients Subject to VAWA 2013

As noted in footnote 2 of this Compliance Review Report, the OCVS recently notified the OCR that it is now administering funding authorized by the VAWA. Please be advised that VAWA 2013, which amends the VAWA of 1994, adds a new nondiscrimination provision to VAWA grants. Beginning in Fiscal Year 2014 (October 1, 2013 to September 30, 2014), recipients of federal financial assistance from the OVW must comply with the civil rights provisions of VAWA 2013, which include the following:

No person in the United States shall, on the basis of actual or perceived race, color, religion, national origin, sex, gender identity (as defined in paragraph 249(c)(4) of title 18, United States Code), sexual orientation, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under the [VAWA], and any other program or activity funded in whole or in part with funds appropriated for grants, cooperative agreements, and other assistance administered by the Office on Violence Against Women.

Beginning with OVW grants that the OCVS receives in Fiscal Year 2014, the OCVS must incorporate this nondiscrimination requirement into all of its civil rights monitoring tools relating to recipients of financial assistance from the OVW. This means, at a minimum, adding sexual orientation and gender identity to the list of classes protected from discrimination in the OCVS' standard assurance documents, monitoring visit forms, training for subrecipients, and complaint procedures.

Conclusion

Except for the concerns we have raised in Section II of this Compliance Review Report, we find that the OCVS has taken steps to substantially comply with the federal civil rights laws that the OCR enforces. On request, the OCR is always available to provide technical assistance to the

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OCVS in addressing the concerns raised in this Report. **Immediately upon receipt of this letter, we ask that a responsible OCVS official contact Ms. Langguth at (202) 305-2353 to develop a timeline and goals for implementing the OCR's recommendations.**

On a related matter, as the OCR discussed during our onsite visit, beginning in Fiscal Year 2013 the OCVS' Victim Assistance grant award contains a special condition that requires the OCVS to develop written Methods of Administration (MOA) summarizing the policies and procedures that it has in place to ensure civil rights compliance of its Victim Assistance subrecipients. The OCVS is required to submit the MOA to the OCR within 90 days of receiving the Victim Assistance award, and the required elements of the MOA are set forth at http://www.ojp.usdoj.gov/funding/other_requirements.htm. The OCVS should prepare its MOA summarizing the policies and procedures that it currently has in place and intends to develop, and the OCR will work with the OCVS to modify the MOA as necessary as the OCVS takes actions to implement the recommendations contained in this Compliance Review Report. Additionally, as the OCVS is now administering funding authorized by VAWA, the OCVS' MOA should also address the procedures it has in place to ensure the civil rights compliance of VAWA subrecipients.

Thank you for your cooperation and the assistance of your staff throughout the compliance review process. If you have any questions, please contact Ms. Langguth at (202) 305-2353.

Sincerely,


Michael L. Alston
Director

Attachment

cc: Jill Karofsky, Director, Office of Crime Victim Services

Cindy Grady, Director of Program Assistance & Administration, Office of Crime Victim Services

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: