



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

Washington, D.C. 20531

March 26, 2013

VIA E-MAIL AND CERTIFIED MAIL

Ronald Angel
Director
Division of Youth Services
Arkansas Department of Human Services
700 Main Street
Little Rock, AR 72203

Re: Compliance Review of Ark. Dep't of Human Servs. (13-OCR-0041)

Dear Mr. Angel:

The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) is responsible for ensuring that recipients of federal financial assistance from the Office of Community Oriented Policing Services, the Office on Violence Against Women (OVW), the OJP, and OJP components comply with federal civil rights laws. As you know, recipients of federal financial assistance have an obligation not to discriminate against protected classes of people either in employment or in the delivery of services.

In carrying out the OCR's civil rights enforcement responsibilities, the OCR is conducting a broad compliance review of all state administering agencies (SAA) in accordance with federal regulation 28 C.F.R. § 42.206. The focus of this review is to determine both compliance with applicable federal civil rights laws and SAA monitoring procedures for ensuring the compliance of subrecipients with these laws. As part of that review, the OCR is evaluating the Arkansas Department of Human Services (DHS or Department) and the Division of Youth Services (DYS or Division), which is part of the DHS. Of particular interest to the OCR is the DHS' compliance with the federal regulations that the DOJ issued in January of 2004, Equal Treatment for Faith-Based Organizations, 28 C.F.R. pt. 38. The regulations advise SAAs not to discriminate either in favor of or against faith-based organizations. The regulations also instruct funded faith-based organizations not to discriminate in the delivery of services or benefits based on religion or to use federal funds for inherently religious activities.

On January 14, 2013, the OCR conducted an onsite visit with the DHS in Little Rock, Arkansas, to interview management and program staff; we also provided a training program for DHS representatives about the OCR and the federal civil rights laws that the OCR enforces, how the OCR enforces civil rights laws, a recipient's obligations to provide services to limited English

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proficient (LEP) individuals, civil rights laws that affect faith-based organizations, and effective ways to monitor subrecipient compliance with applicable civil rights obligations. The OCR would like to thank your personnel for assisting the DOJ during its onsite visit.

In regard to the limited scope of this Compliance Review, the OCR concludes that the DHS and the DYS are not fully in compliance with the requirements of the federal civil rights laws that the OCR enforces. Specifically, we have reservations about the adequacy of the Department's and the Division's (1) guidance to subrecipients about their legal obligations regarding applicable federal civil rights laws, (2) monitoring of subgrantee compliance with their civil rights duties, (3) civil rights training for subrecipients, (4) complaint procedures for responding to certain discrimination allegations, and (5) confirmation of federal tax exempt status of nonprofit subrecipients of funds under the Juvenile Justice and Delinquency Prevention Act of 2002 (JJDP). The following Compliance Review Report includes recommendations for improving the DHS' and the DYS' methods for monitoring the civil rights compliance of subrecipients and ensuring compliance with its federal civil rights obligations.

Compliance Review Report: Overview and Recommendations

I. Overview

This Compliance Review Report first examines the DHS' and the DYS' 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 Division'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 DHS' and the DYS' general efforts to ensure subrecipients' compliance with their civil rights obligations, the OCR evaluates how the Department and the Division use 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 OCR examines the standard assurances that the DYS uses in connection with its administration of the following programs, all of which are implemented by the OJP's Office of Juvenile Justice and Delinquency Prevention (OJJDP): (1) Title II Formula Grants (Title II),

(2) Title V Community Prevention Grants (Title V), and (3) Juvenile Accountability Block Grants (JABG). In applying for Title II or Title V funds, an organization must sign an assurances document that contains the following language on civil rights compliance:

3. The Grantee shall comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975.
4. The Grantee shall comply with Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990.
5. The Grantee shall comply with the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, the Juvenile Justice and Delinquency Prevention Act, The Victims of Crime Act, and the federal regulations for Equal Treatment for Faith-Based Organizations (ETR), 28 C.F.R. part 38.
6. The Grantee assures that services will provided without regard to race, color, national origin, religion, sex disability or age.
7. The Grantee assures that it will develop an Equal Employment Opportunity Plan (EEO) in accordance with 28 C.F.R. Part 42.301-.308.
8. The Grantee assures that it will provide services to limited English-proficient beneficiaries in accordance with Department of Justice guidance under Title VI of the Civil Rights Act of 1964.
9. Facilities, programs, and services supported through these funds will be located so as to be readily accessible, available, and responsive to the needs of the population without discrimination because of sex, creed, race, or duration of residence.

DHS, Title II and Title V Assurances and Certification by Applicant.

An organization applying for JABG funds also signs an assurances document, although it contains only two provisions that address a subrecipient's federal civil rights obligations:

3. The sub grantee will comply with Titles IV and VI of the Civil Rights Act of 1964 and with Section 504 of the Rehabilitation Act of 1973, in that no person shall, on the grounds of race, color, national origin or handicap, be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity receiving

federal financial assistance. Equal opportunity will also be assured in all employment practices.

4. Facilities, programs, and services supported through these funds will be located as to be readily accessible, available, and responsible to the needs of the population without discrimination because of sex, creed, race, or duration of residence.

DHS, JABG Assurances and Certification by Applicant.¹ As discussed below in Recommendation A, there are basic federal civil rights obligations that govern all DOJ-funded subrecipients and that should be addressed uniformly in the certified assurances documents the DYS uses to subaward Title II, Title V, and JABG grant funds.

The DYS also requires applicants to sign an Equal Employment Opportunity Program Certification. The DYS prepared this form in an effort to ensure that subrecipients comply with the OCR's Equal Employment Opportunity Plan (EEOP) requirements. The Division's certification, however, does not adequately describe a subrecipient's EEOP-related obligations. To ensure that the DYS accurately communicates the OCR's EEOP requirements to applicants, it should begin to use the OCR's EEOP Certification Form, which is available at <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf>.

2. Onsite Visits and Other Monitoring Methods

The DYS, through a formula-grants coordinator, conducts a quarterly site visit of each DOJ-funded subrecipient. During these site visits, the coordinator completes a monitoring worksheet that includes several questions about the subrecipient's compliance with applicable federal civil rights requirements. In particular, the worksheet elicits information about whether a subrecipient (1) is in compliance with the OCR's EEOP requirements, (2) notifies members of the public and employees of its nondiscrimination policies, (3) has discrimination grievance procedures in place, (4) adheres to the nondiscrimination requirements of section 504 of the Rehabilitation Act of 1973 and Title IX of the Education Amendments of 1972, (5) takes reasonable steps to provide meaningful access to its programs and activities to LEP persons, and (6) conducts employee training on applicable federal civil rights laws. If the coordinator identifies deficiencies during the site visit, she provides written notice to the subrecipient of those problems and requires the organization to remedy them within thirty days. At the end of that

¹ In connection with all three JJDPA programs, the DYS also requires applicants to execute a document that addresses compliance with regulations promulgated by the U.S. Department of Health and Human Services (HHS) under section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. As written, this document only applies to recipients of federal financial assistance from the HHS. Because the Title II, Title V, and JABG programs are administered by the DOJ, this particular assurances document, which does not reference applicable DOJ regulations, is misleading and should not be included in future applications for DOJ-funded programs.

thirty-day period, the coordinator follows up with the subrecipient to ensure that it fully implemented its corrective action plan. The formula-grants coordinator also conducts monthly desk reviews of DOJ-funded subrecipients to review their financial performance.

3. Training and Technical Assistance

The DYS provides training to its Title II, Title V, and JABG subrecipients on the civil rights obligations that apply to the receipt of federal financial assistance from the DOJ. The presentation includes segments on the definition of federal financial assistance, applicable federal civil rights laws and covered protected classes, prohibited discriminatory acts, theories of discrimination, a recipient's obligations to provide services to LEP individuals, pertinent civil rights laws that affect faith-based organizations, a person's right to file a discrimination complaint, and the importance of notifying the public of both a recipient's nondiscrimination obligations and its process for handling discrimination complaints. The training also summarizes civil rights laws that apply to DHS subrecipients of federal financial assistance from the U.S. Department of Health and Human Services. In contrast, the presentation is silent on applicable DOJ regulations that similarly proscribe discrimination in federally assisted programs and activities. All DOJ-funded subrecipients are required to participate in the DYS' training, which the Division conducts at the beginning of each grant cycle. The DYS, primarily through its formula-grants coordinator, also provides ongoing technical assistance to subrecipients. This employee is available by e-mail and telephone to respond to subrecipient questions about grant requirements that arise at any point during the grant cycle.

4. Complaint Procedures

In reviewing complaint procedures, the OCR evaluates those processes that are in place for individuals to pursue complaints of employment and services discrimination against the DHS, as well as complaints of employment and services discrimination against its DOJ-funded subrecipients. The Department clearly recognizes its broad obligation as both a recipient of federal financial assistance and an SAA to have in place policies that address how it responds to (1) discrimination complaints that it receives alleging prohibited discrimination in its employment and services practices, and (2) discrimination complaints that it receives alleging prohibited discrimination in its subrecipients' employment and services practices. To effectuate these obligations, the DHS developed various policy documents, all of which apply to the DYS, emphasizing the importance of preventing discrimination in these contexts.² In addressing civil rights complaints, the materials issued by the Department contain the following important elements:

² The DHS also issued policy guidance on the importance of providing programs, services, and activities to disabled persons. Policy No. 1078, Americans with Disabilities Act (Jan. 20, 2012); *see also* Policy No. 3003.0 – I, Section “504” Compliance (Nov. 14, 1979).

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- designation of the DHS Employee Relations Office Administrator as the coordinator who is responsible for overseeing the DHS' complaint process;³
- notification to DHS employees of prohibited employment and services discrimination and the DHS' policy and procedures for handling discrimination complaints;⁴ and
- establishment of protocols for receiving and evaluating discrimination complaints from DHS beneficiaries and employees, as well as subgrantee employees.⁵

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) (2012). The Regulations prohibit the DOJ and DOJ-funded recipients from discriminating either for or against an organization on the basis of the organization’s religious character or affiliation. *Id.* In evaluating the DHS’ 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
 - a. Selecting DOJ-Funded Subrecipients

The DYS subawards Title II, Title V, and JABG funds. Under the JJDP, these grant programs require eligible nonprofit organizations to obtain federal tax exempt status under 26 U.S.C. § 501(c)(3) in order to apply for funds. Despite the OCR’s repeated requests, the DHS has, to

³ Policy No. 1009, Equal Opportunity/Affirmative Action Policy (July 27, 2011). This policy applies to the DHS and its DOJ-funded subrecipients.

⁴ *Id.*; PUB-284, Discrimination is Prohibited. The DHS also suggests that, according to its Contract Manual for Professional and Consultant Services Contracts, Intra-agency Agreements, and Inter-agency Agreements (Contract Manual), it is required to provide notice to subrecipients of certain civil rights obligations. For two reasons, we conclude that the Contract Manual does not, in fact, apply to JJDP-funded subrecipients, which execute grant assurances – not contracts – with the DHS. First, the Contract Manual states unambiguously that “[s]ub-grants are not within the scope of this Manual.” Contract Manual at 9. Second, none of the Title II, Title V, or JABG grant application materials provided to the OCR by the DHS reference any of the civil rights provisions contained in the Contract Manual.

⁵ Policy No. 1009 at 1; DCO-110, Complaint Report (Apr. 2010); DHS-2808, Complaint of Employment Discrimination (Oct. 2006); DHS-3328, DHS County Office Client Complaint Report (Mar. 1993).

date, declined to provide information about whether it requires a nonprofit group to be exempt from taxation under federal law in order to receive Title II, Title V, or JABG funds.

For each of these grant programs, the Division selects subrecipients through a formal request for application (RFA) process. To announce the availability of grant funds, the DYS publishes a notice about the RFA in the *Arkansas Democrat Gazette*, which is a statewide newspaper, and posts the RFA on the Web sites of the DHS and the Arkansas Coalition for Juvenile Justice (ACJJ), which is Arkansas' designated State Advisory Group, an advisory body that is required under the JJDP. The ACJJ consists of twenty-three individuals who represent key stakeholders in the juvenile justice system, including the faith-based community. Once applicants submit their proposals, the applications are reviewed by the ACJJ. In evaluating applications, grant review committees of the ACJJ rate the proposals on a 100-point scale to assess the overall merits of the proposed program. At the end of this process, the ACJJ makes funding recommendations to the DYS Director, who in turn makes the final award decisions.

b. Faith-Based Organizations as Subrecipients

This section of the Report discusses the DYS' efforts to include faith-based organizations in the Title II, Title V, and JABG programs. In reviewing the inclusion of faith-based organizations in the Division's subaward process, it is important to emphasize that these juvenile justice programs limit the ability of such groups to apply to the OJJDP or the Division for specific funds as follows:

- **Title II Program:** Faith-based organizations are statutorily ineligible to apply directly to the OJJDP for Title II funds. *See* 42 U.S.C.A. §§ 5631-33 (West 2013). The OJJDP, however, encourages faith-based organizations to respond to requests for proposal from an SAA.
- **Title V Program:** Faith-based groups are statutorily ineligible to apply directly to the OJJDP or an SAA for Title V funds. *See id.* § 5783(a). The OJJDP, however, encourages faith-based organizations to access such funds by partnering with governmental subrecipients in developing the required local delinquency prevention plan and implementing the proposed prevention activities.
- **JABG Program:** Faith-based organizations are statutorily ineligible to apply directly to the OJJDP or the DHS for funding under the JABG program; however, section 1806 of the Omnibus Crime Control and Safe Streets Act of 1968 permits governmental subrecipients to contract with such groups to implement appropriate JABG purpose areas. *Id.* § 3796ee-6.

In responding to the OCR's data request, the DHS did not identify any faith-based organizations that provide services under the Title II, Title V, or JABG programs in Arkansas.

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

The Equal Treatment Regulations circumscribe how faith-based subrecipients may use federal financial assistance. Specifically, such subgrantees may not engage in inherently religious activities with federal funds; nor can they discriminate against potential or actual program beneficiaries on the basis of religion or religious belief. 28 C.F.R. § 38.2(b)(1), (d). In administering its DOJ program funds, the DYS does not have a system in place to monitor whether faith-based organizations that may receive Title II, Title V, or JABG funds would provide services consistent with these restrictions.

II. Recommendations

To strengthen their civil rights monitoring efforts, the OCR concludes that the DHS and the DYS should implement the following five recommendations: (1) modify the civil rights and nondiscrimination provisions in its grant application materials, (2) refine its monitoring protocols to include additional items regarding federal civil rights laws, (3) refine its training to Title II, Title V, and JABG subrecipients regarding applicable DOJ civil rights requirements, (4) develop comprehensive protocols for addressing discrimination complaints, and (5) confirm federal tax exempt status of nonprofit subrecipients of JJDPA funds.⁶

A. Modification of the Civil Rights/Nondiscrimination Provisions in Grant Application Materials

The DYS should ensure that all DOJ subrecipients agree to grant agreement assurances that accurately reflect their federal civil rights obligations. To that end, the OCR recommends that the Division incorporate into its Title II, Title V, and JABG assurances documents the following language or substantially similar language, which would apply to all applicants for and subrecipients of DOJ funding, regardless of the amount of federal financial assistance at issue:⁷

Recipient will comply (and will require any subgrantees or contractors to comply) with any applicable federal nondiscrimination requirements, which may include

⁶ Most of these recommendations directly relate to the Methods of Administration that the DHS will need to implement as a condition of administering fiscal year 2012 funds as an SAA under the Title II, Title V, and JABG programs. See Letter from M. Alston, Director, to SAA Points of Contact (Aug. 1, 2012); Other Requirements for OJP Applications, http://www.ojp.usdoj.gov/funding/other_requirements.htm (last visited Mar. 25, 2013).

⁷ In making these modifications, the OCR recommends that the DYS replace paragraphs three through nine of its Title II and Title V assurances documents and paragraphs three and four of its JABG assurances document.

the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act) (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. 31 (U.S. Department of Justice Regulations – OJJDP Grant Programs); 28 C.F.R. pt. 42 (U.S. Department of Justice Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Exec. Order No. 13279 (equal protection of the laws for faith-based and community organizations); Exec. Order No. 13559 (fundamental principles and policymaking criteria for partnerships with faith-based and other neighborhood organizations); and 28 C.F.R. pt. 38 (U.S. Department of Justice Regulations – Equal Treatment for Faith-Based Organizations).

Recipient will designate a civil rights contact person who has lead responsibility in insuring that all applicable civil rights requirements, assurances, and conditions are met and who shall act as a liaison in all civil rights matters with the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs and the Office for Civil Rights (OCR), Office of Justice Programs.

Recipient will inform the public and subgrantees of affected persons' rights to file a complaint of discrimination with the OCR for investigation.

In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the recipient will forward a copy of the finding to the OCR and the Division of Youth Services (DYS), Arkansas Department of Human Services.

Recipient will provide an Equal Employment Opportunity Plan (EEO Plan) to the OCR and the DHS, if it is a state government, a local government, or a for-profit entity that has 50 or more employees and receives a single award for \$500,000 or more that is subject to the administrative provisions of the Safe Streets Act; otherwise, it will provide a certification to the OCR and the DHS that it has a current EEO Plan on file, if it has 50 or more employees and receives a single award for \$25,000 or more, but less than \$500,000, that is subject to the administrative provisions of the Safe Streets Act. For state governments, local governments, and for-profit entities receiving less than \$25,000, or for state governments, local governments, and for-profit entities with fewer than 50 employees, regardless of the amount of the award, no EEO Plan is required. Information about civil rights

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obligations of grantees can be found at <http://www.ojp.usdoj.gov/ocr/>.

The DYS may also consider including in the grant agreement the following language or substantially similar language regarding language assistance services, which would apply to all DOJ programs:

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 Safe Streets Act and Title VI of the Civil Rights Act of 1964, Recipient must take reasonable steps to ensure that LEP persons have meaningful access to its programs and activities. 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 its budgets and in conducting its programs and activities. Additional assistance and information regarding your LEP obligations can be found at <http://www.lep.gov>.

The DYS may also wish to add a sentence to the grant agreement 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. Finally, in revising its grant application materials for DOJ grants, the Division should replace its Equal Employment Opportunity Program Certification with the OCR's EEOP Certification Form and refrain from using any assurances document issued by the U.S. Department of Health and Human Services.

B. Refine the DYS' Civil Rights Monitoring Protocol

The OCR commends the DYS for the development of its civil rights monitoring program and encourages the Division to continue to conduct quarterly site visits of its subrecipients. To strengthen its monitoring worksheet, the OCR recommends that the DYS include questions that evaluate whether a subrecipient (1) notifies beneficiaries how to file discrimination complaints, (2) has a discrimination complaint procedure for employees, (3) notifies employees how to file a discrimination complaint, (4) has submitted pertinent findings of discrimination to the OCR, and (5) 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. In an effort to assist the DYS in refining its monitoring materials, the OCR has prepared a sample Federal Civil Rights Compliance Checklist, which is enclosed for the Division's review.

C. Refine Training to Title II, Title V, and JABG Subrecipients Regarding Applicable DOJ Civil Rights Requirements

While the DYS is making a concerted effort to provide extensive and detailed training to subrecipients about various civil rights obligations that apply to federally assisted programs and activities, it should refine its training program for Title II, Title V, and JABG subrecipients to ensure that they are aware of applicable DOJ civil rights requirements, such as those imposed by the DOJ's Equal Treatment Regulations. The OCR is available to provide the DYS with technical assistance in revising its civil rights training programs.

D. Develop Comprehensive Protocols for Addressing Discrimination Complaints

The DHS has developed several procedures for handling discrimination complaints involving its own employment and services practices, as well as the employment practices of its subrecipients. To improve its protocols, the Department should revise them to include the following elements:

- notify DHS beneficiaries and subrecipient employees and beneficiaries of all prohibited discrimination in DOJ-funded programs and activities and the DHS' policy and procedures for handling discrimination complaints;
- establish written procedures for receiving discrimination complaints from DHS beneficiaries and subgrantee beneficiaries;
- investigate each complaint internally or refer it to the appropriate agency, such as the U.S. Equal Employment Opportunity Commission or the OCR, for investigation and resolution;
- notify the complainant that he or she may also file a complaint with the OCR;
- train DHS program staff members on their responsibility to refer discrimination complaints or potential discrimination issues involving the DHS or subrecipients to the Department's complaint coordinator for processing as soon as the alleged discrimination comes to their attention;
- ensure that subrecipients have procedures in place for responding to discrimination complaints that employees and beneficiaries file directly with the subrecipient; and
- ensure that subrecipients notify their employees and beneficiaries of prohibited discrimination and the procedures for filing a complaint of discrimination.

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In responding to this recommendation, the OCR encourages the DHS to revise its equal opportunity/affirmative action policy statement (Policy No. 1009), its poster regarding prohibited discrimination (PUB-284), and its discrimination complaint form (DHS-2808). To assist the DHS in strengthening its complaint policy, the OCR encloses discrimination complaint procedures that were adopted by several other SAAs. While the Department's adoption of these procedures would satisfy the instant recommendation, the OCR also recognizes that there may be other, equally effective complaint procedures that accomplish the same objectives.

E. Confirm Federal Tax Exempt Status of Nonprofit Subrecipients of JJDPA Funds

In subawarding Title II, Title V, and JABG funds, the DHS should be mindful that a nonprofit applicant is only eligible to receive such funds if it provides proof that the Internal Revenue Service classifies the organization as exempt under section 501(c)(3) of the Internal Revenue Code. The Department should also ensure that governmental subrecipients under these programs are aware that, while they may retain faith-based organizations to provide services under their grant awards, each contracted faith-based group must have federal tax exempt status.

III. Conclusion

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

Thank you for your cooperation and assistance during the Compliance Review process. If you have any questions, please contact Mr. Zubowicz at 202.305.9012.

Sincerely,

/s/ Michael L. Alston

Michael L. Alston
Director

Enclosures

cc: Lisa Hutchinson, Assistant Director, Division of Youth Services
Arkansas Department of Human Services (Via E-Mail)