



**U.S. Department of Justice**

Office of Justice Programs

*Office for Civil Rights*

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*Washington, D.C. 20531*

October 15, 2012

VIA E-MAIL AND CERTIFIED MAIL

Cecilia A.Q. Morrison  
Federal Grants Administrator  
Governor's Community Outreach –  
Federal Programs Office  
Office of the Governor  
513 West Marine Drive  
Hagåtña, Guam 96910-4906

Re: Compliance Review of Guam Office of the Governor (12-OCR-0136)

Dear Ms. Morrison:

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 Guam Office of the Governor (GOG or Office). Of particular interest to the OCR is the GOG's 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 May 16, 2012, the OCR conducted an onsite visit with the GOG in Hagåtña, Guam, to interview management and program staff; we also provided a training program for Office 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

proficient 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 you for assisting the DOJ during its onsite visit.

In regard to the limited scope of this Compliance Review, the OCR concludes that the GOG is 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 Office'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) training provided to existing GOG personnel on the Office's employment nondiscrimination policy and procedures, (5) complaint procedures for responding to certain discrimination allegations, and (6) efforts to make subawards to nonprofit organizations that may not be tax exempt under 501(c)(3) of the Internal Revenue Code. The following Compliance Review Report includes recommendations for improving the GOG's methods for monitoring the civil rights compliance of subrecipients and ensuring compliance with its own federal civil rights obligations.

## **Compliance Review Report: Overview and Recommendations**

### **I. Overview**

This Compliance Review Report first examines the GOG's procedures for monitoring whether subrecipients are meeting their obligations to comply with the federal civil rights laws that are a condition for receiving federal financial assistance. The Report then focuses on the Office'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 GOG's general efforts to ensure subrecipients' compliance with their civil rights obligations, the OCR evaluates how the Office uses 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 GOG uses in connection with its administration of the OVW's Violence Against Women Act Services • Training • Officers • Prosecutors Grants (VAWA STOP) program. When an applicant formally seeks VAWA STOP

program funding, it includes in its application package an executed standard assurances document, which contains the following language on civil rights laws:

The applicant also specifically assures and certifies that:

\* \* \*

It will comply (and will require any subgrantees or contractors to comply) with any applicable statutorily-imposed nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d); the Victims of Crime Act (42 U.S.C. § 10604(e)); The Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b)); the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131-34); the Education Amendments of 1972 (20 U.S.C. §§ 1681, 1683, 1685-86); and the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07); *see* Ex. Order 13279 (equal protection of the laws for faith-based and community organizations).

Standard Assurances ¶ 6.

Once the GOG selects VAWA STOP subrecipients, but before it disburses any funds, the Office requires a successful applicant to sign a memorandum of understanding that contains the following provisions regarding civil rights laws:

The subgrantee agrees to comply with all relevant statutory and regulatory requirements which may include, among other relevant authorities . . . the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3711 et seq. . . .

Civil Rights Laws will be enforced, regardless of the particular funding source, the amount of the grant award, or the number of employees in the workforce, subject to the prohibitions against unlawful discrimination. Accordingly, the Office of Civil Rights (OCR) will investigate recipients that are the subject of discriminatory complaints and based on regulatory criteria, e.g., compliance reviews, audits, etc., requiring submission of data showing that services are provided equitably to all segments of the service population and that employment practices meet equal employment opportunity standards.

Memorandum of Understanding (MOU) between the Office of the Governor, Governor's Community Outreach – Federal Programs Office (GCO-FPO) and (Subgrantee Name), at 5-6.

As discussed below in Recommendation A, there are additional federal civil rights obligations that govern all DOJ-funded subrecipients and that should be addressed uniformly in the certified assurances documents the GOG uses to subaward VAWA STOP program funds.

## 2. Onsite Visits and Other Monitoring Methods

The GOG relies on two primary mechanisms to monitor its subrecipients' compliance with applicable financial and programmatic grant requirements. First, the Office requires each subrecipient to submit a quarterly report on their grant-related activities. Second, the Office conducts an average of between two and four site visits each year, which may be unannounced, and seeks to conduct an onsite assessment of each subgrantee at least once during a three-year grant cycle. The GOG prioritizes visits to those subrecipients that report specific problems, seek clarification regarding their subawards, have new executive leadership or personnel, or submit inadequate or untimely quarterly reports. Neither of these monitoring methods evaluates a subgrantee's compliance with applicable federal civil rights requirements.

## 3. Training and Technical Assistance

The GOG does not provide formal training to its subrecipients on applicable federal civil rights obligations, although it provides ongoing technical assistance to subrecipients on the DOJ's grant requirements, including those related to civil rights. At the inception of a subaward, the Office reviews with each subrecipient those provisions in the memorandum of understanding that address civil rights issues. GOG personnel also highlight a subgrantee's obligations to provide language assistance to limited English proficient persons. To facilitate communication with its subrecipients, the Office meets with them monthly to discuss their successes, challenges, and questions in administering their subawards. It also provides targeted technical assistance to subrecipients that have new leadership or staff. GOG personnel are also available in person, by e-mail, and by 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 GOG, as well as complaints of employment and services discrimination against its subrecipients.

As a part of the Guam government, the GOG is subject to Guam's personnel rules and regulations, which are administered by the Department of Administration (DOA) and prohibit

discrimination in employment based on, among other protected classes, race, color, national origin, religion, sex, and disability. *See* 4 Guam Code Ann. § 4101 (2012); 17 Guam Admin. R. & Regs. § 6102 (1997); Guam Dep't of Administration, Personnel Rules and Regulations, at 1.200. These rules and regulations contain a detailed process for receiving, investigating, and resolving employment discrimination complaints. Personnel Rules and Regulations at F1-F5; *see also* Guam Exec. Order No. 2006-16 (June 19, 2006). All new Office employees participate in an orientation session conducted by the DOA that includes a discussion of applicable equal employment opportunity policies. The DOA also provides employment-related training presentations each quarter on sexual harassment awareness, disability sensitivity awareness, and employee grievance and adverse action procedures. These training sessions are voluntary for current Office employees. Despite the availability of training through the DOA, the GOG does not ensure that current employees receive periodic mandatory in-service training on the Office's nondiscrimination obligations or the process for addressing discrimination complaints. In certain circumstances, a GOG employee can also file an employment discrimination complaint with the U.S. Equal Employment Opportunity Commission (EEOC) or the OCR.

Despite its routine interactions with constituents in various contexts, the GOG does not have a policy that explains how members of the Guam community can file a civil rights complaint involving the Office's provision of services and benefits in its programs and activities.

In monitoring subrecipients, the GOG conducts a limited assessment of a subrecipient's policies, procedures, or protocols regarding the handling of discrimination complaints they receive. Recently, it initiated a review of the employment-related complaint policies of two subrecipients; however, it does not evaluate whether any subrecipient has an adequate system for handling services discrimination complaints. It also does not use any monitoring tool to determine if its subgrantees notify their employees and beneficiaries about either subrecipient processes for handling discrimination complaints or available external avenues for filing such complaints.

#### 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 GOG's equitable treatment of faith-based organizations, the Compliance Review Report focuses on two issues: (1) the review process for making awards to applicant faith-based organizations; and (2) procedures for ensuring that funded faith-based organizations comply with applicable federal civil rights laws.

1. The Process for Making Awards to Applicant Faith-Based Organizations
  - a. Selecting DOJ-Funded Subrecipients

The Office administers the VAWA STOP program on a three-year grant cycle. At the beginning of a new grant period, the GOG uses a request for proposal (RFP) application process to subaward funds to nongovernmental organizations. In a broad effort to disseminate information to potential applicants about this OVW program, the Office issues a press release about the availability of funds, broadcasts RFP-related public service announcements in local radio and television markets, and publishes the RFP in a local newspaper. The GOG also distributes the RFP by e-mail to current subrecipients and members of various coalition groups, and announces new grant application opportunities during its monthly meetings with subrecipients. The Office offers to provide technical assistance to any entity that is interested in applying for funds. Once applicants submit their proposals in response to the RFP, GOG employees review them and provide their recommendations to the Office administrator based on the merits of individual proposals. In order to be eligible to receive any funds, the GOG requires nonprofit applicants to have federal tax exempt status. The administrator selects each successful applicant and determines the amount of their subaward. At the end of the first and second years of each three-year grant period, a subrecipient can receive continuation funding while a new organization can also seek funds for the first time during the grant cycle. The Office makes interim funding decisions based on the effectiveness of the currently funded programs.

- b. Faith-Based Organizations as Subrecipients

The Office undertakes significant efforts to make members of the faith-based community aware of available funding opportunities under the VAWA STOP program. It periodically meets with individual faith-based organizations and the United Faith Coalition, which is a community coalition that includes representatives from various faith traditions. The GOG also reaches out to embassies that may have contacts with local faith-based organizations, and attends the annual International Prayer Service Day, where it provides information about the VAWA STOP program. During fiscal year 2011, four faith-based organizations requested and received VAWA STOP program funds; in fiscal year 2012, three faith-based groups requested and received funds under this program.

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 its response to the OCR's Supplemental Data Request, the GOG notes that it routinely discusses the

applicability of the Equal Treatment Regulations with its faith-based subrecipients. At the same time, the GOG does not have a formal system in place to monitor whether faith-based organizations that receive VAWA STOP program funds provide services consistent with the restrictions imposed by the Equal Treatment Regulations.

a. Archdiocese of Agana

The OCR conducted an onsite visit to the Archdiocese of Agana (AOA), which has received VAWA STOP funds in fiscal years 2011 (\$54,699.56) and 2012 (\$36,346). The AOA uses these funds to sponsor training sessions and conferences for organizations in Guam that provide services to victims of domestic violence. At a recent training session, participants discussed effective processes for referring victims to service providers. The agenda of a recent conference emphasized issues involving technology and safety in the digital age. These meetings have included participants from Guam governmental agencies, community-based organizations, and faith-based organizations. During the site visit, a representative from the AOA emphasized the importance of encouraging collaborations among all pertinent service providers, regardless of whether they are faith-based. A family ministry coordinator, whose position is supported with VAWA STOP funds, plans and coordinates these programs. In connection with this position, the AOA does not adopt preferential employment policies based on religion.<sup>1</sup> Based on all of the information obtained during the instant compliance review, the OCR concludes that the AOA neither favors nor discriminates against beneficiaries based on their religion or religious belief. We also conclude that the AOA does not use federal resources for inherently religious activities. *Id.* § 38.2(b)(1).

b. Immaculate Heart of Mary Catholic Church

The OCR also conducted an onsite visit to the Immaculate Heart of Mary Catholic Church (IHOM), which has received VAWA STOP funds in fiscal years 2011 (\$82,898) and 2012 (\$37,420). The IHOM uses these funds to enhance the community's awareness of and response to incidents of domestic violence. During the OCR's onsite visit, IHOM representatives repeatedly emphasized that they engage all members of the community, regardless of their religion or religious belief. The subrecipient also sponsors training sessions that are aimed at leaders of the faith- and community-based communities. Through this training program, the IHOM provides an overview of issues related to domestic violence, including victims' rights and available victim resources. A recent training session included participants from the GOG, community-based organizations, and the faith-based community. A program director, a program coordinator, and a program aide, all of whom receive compensation through the VAWA STOP program, support these outreach and training activities. In connection with these positions, the

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<sup>1</sup> The AOA's use of the term "ministry" in this context may suggest that the job position solely involves ecclesiastical responsibilities. As noted above, however, the federally funded programs and activities include a diverse group of participants that represent governmental, secular, and sectarian organizations.

IHOM does not adopt preferential employment policies based on religion. Based on all of the information obtained during the instant compliance review, the OCR concludes that the subrecipient neither favors nor discriminates against beneficiaries based on their religion or religious belief. We also conclude that the IHOM does not use federal resources for inherently religious activities. *Id.* § 38.2(b)(1).

## II. Recommendations

To strengthen the GOG's civil rights monitoring efforts, the OCR concludes that the Office should implement the following six recommendations: (1) modify the civil rights provisions in its grant agreement, (2) develop an appropriate civil rights monitoring protocol, (3) provide consistent training to all subrecipients regarding their obligations to comply with federal civil rights laws, (4) provide training to existing GOG personnel on applicable employment nondiscrimination policy and procedures, (5) develop a comprehensive policy for addressing discrimination complaints, and (6) allow subrecipients to demonstrate their nonprofit status by any of the means identified in the DOJ's Equal Treatment Regulations.<sup>2</sup>

### A. Modify the Civil Rights Provisions in Its Grant Agreement

The GOG 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 Office amend its memorandum of understanding to include 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:<sup>3</sup>

Recipient will comply (and will require any subgrantees or contractors to comply) with any applicable federal nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (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

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<sup>2</sup> Most of these recommendations directly relate to the Methods of Administration that the GOG will need to implement as a condition of administering fiscal year 2012 funds as an SAA under the VAWA STOP program. *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](http://www.ojp.usdoj.gov/funding/other_requirements.htm) (last visited Oct. 15, 2012).

<sup>3</sup> Once the GOG incorporates this language into its memorandum of understanding, the OCR recommends that the Office remove paragraph six from its standard assurances document. As an alternative to this approach, the GOG can replace paragraph six of its standard assurances document with the first paragraph of the OCR's recommended grant agreement language.



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).

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 Guam Office of the Governor (GOG).

Recipient will provide an Equal Employment Opportunity Plan (EEO) to the OCR and the GOG, 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 GOG that it has a current EEO 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 is required. Information about civil rights obligations of grantees can be found at <http://www.ojp.usdoj.gov/ocr/>.

The GOG may also consider including in its grant agreement the following language or substantially similar language regarding language assistance services:

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 Office may also wish to add a sentence to its 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.

**B. Develop Appropriate Civil Rights Monitoring Protocol**

As part of its responsibility to monitor the compliance of subrecipients with applicable federal civil rights laws, the GOG should ensure that its periodic monitoring of subrecipients includes a component on civil rights compliance. To that end, the Office should develop a monitoring instrument that evaluates compliance with the various civil rights requirements that apply to all DOJ-funded subrecipients (e.g., whether the subrecipient has posted nondiscrimination notices as required by section 504 of the Rehabilitation Act of 1973; 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; and whether the subrecipient is taking reasonable steps to provide meaningful access to programs and activities for LEP persons). This monitoring tool should also include questions that evaluate whether a subrecipient is complying with the DOJ's Equal Treatment Regulations, including the prohibitions against using federal funds to engage in inherently religious activities and discriminating against program beneficiaries on the basis of religion. In an effort to assist the GOG in refining its monitoring materials, the OCR has prepared a sample Federal Civil Rights Compliance Checklist, which is enclosed for the Office's review.

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

The GOG should ensure, through periodic and mandatory training, that all subgrantees are aware of their obligations under applicable federal civil rights laws. The Office should provide this training at least once during a grant cycle, whether it provides the training in person, during a teleconference, or through other means. The OCR has developed training modules that explain a

recipient's various civil rights obligations, and which are available at <http://www.ojp.usdoj.gov/about/ocr/assistance.htm>. The Office may wish to incorporate these videos into its own subgrantee training program. The OCR is also available to provide the Office with additional technical assistance in developing its civil rights training program.

D. Provide Information and Training to Existing GOG Personnel on the Office's Employment Nondiscrimination Policy and Procedures

The OCR commends the Office for ensuring that new employees receive training on applicable equal employment opportunity policies; however, the GOG does not provide mandatory refresher training to existing employees on the Office's employment nondiscrimination policy and related procedures. To address this deficiency, the Office, in coordination with the DOA, should provide periodic in-service training to all existing employees on the GOG's nondiscrimination obligations and the applicable complaint process for receiving and resolving employment discrimination complaints.

E. Develop Comprehensive Policy for Addressing Discrimination Complaints

As previously noted, the GOG adopts the DOA's procedures for responding to discrimination complaints from the Office's own employees. While this protocol provides important protections, the Office has the broader obligation as both a recipient of federal financial assistance and an SAA to have in place a policy that comprehensively addresses how it responds to (1) services discrimination complaints that it receives from beneficiaries alleging discrimination based on race, color, national origin, sex, religion, and age, and (2) employment and services discrimination complaints that it receives from subgrantee employees and beneficiaries. Specifically, it should ensure that it has a policy for addressing discrimination complaints that includes at a minimum the following elements:

- designating a coordinator who is responsible for overseeing the complaint process;
- notifying all GOG beneficiaries and subrecipient employees and beneficiaries of all prohibited discrimination in funded programs and activities and the GOG's policy and procedures for handling discrimination complaints;
- establishing written procedures for receiving discrimination complaints from all GOG beneficiaries and subgrantee employees and beneficiaries;
- investigating each complaint internally or referring it to the appropriate agency, such as the EEOC or the OCR, for investigation and resolution;
- notifying the complainant that he or she may also file a complaint with the OCR;

- training GOG program staff members on their responsibility to refer discrimination complaints or potential discrimination issues involving the GOG or subrecipients to the Office's complaint coordinator for processing as soon as the alleged discrimination comes to their attention;
- ensuring that subrecipients have procedures in place for responding to discrimination complaints that employees and beneficiaries file directly with the subrecipient; and
- ensuring that subrecipients notify their employees and beneficiaries of prohibited discrimination and the procedures for filing a complaint of discrimination.

To assist the GOG in developing an appropriate complaint policy, the OCR encloses discrimination complaint procedures that were adopted by three other SAAs. While the Office'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. Additional information about the applicable laws, complaint forms, and the investigative process can be found at <http://www.ojp.usdoj.gov/ocr/crc>.

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

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

**III. Conclusion**

We find that the GOG 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 Office in addressing the concerns raised in this

Cecilia A.Q. Morrison, Federal Grants Administrator  
Governor's Community Outreach – Federal Programs Office, Office of the Governor  
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**Report. Immediately upon receipt of this letter, we ask that a responsible GOG 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