



**U.S. Department of Justice**

Office of Justice Programs

*Office for Civil Rights*

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*Washington, D.C. 20531*

**Via Certified Mail**

August 7, 2012

Melissa Hook, Director  
Government of the District of Columbia  
Executive Office of the Mayor  
Office of Victim Services  
1350 Pennsylvania Avenue N.W., Suite 407  
Washington, DC 20004

Re: Compliance Review Report for the D.C. Office of Victim Serv.  
Docket No. 10-OCR-0017

Dear Director Hook:

On August 16, 2010, the Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) initiated a compliance review of the Office of Victim Services (OVS), Executive Office of the Mayor, Government of the District of Columbia, 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 OVS' compliance with applicable federal civil rights laws along with the OVS' monitoring procedures for ensuring the compliance of subrecipients with these laws. Of particular interest to the OCR was the OVS' 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 June 6, 2012, the OCR conducted an onsite visit to the OVS' offices to meet with you and your staff and to conduct a training program on the federal civil rights laws that the OCR enforces. The OCR would like to thank you for assisting OCR attorney Shelley Langguth during her onsite visit.

Based on the OVS' responses to our data request and the information that the OCR gathered during our onsite visit, the OCR sent the OVS a draft Compliance Review Report on July 3, 2012. In an August 6, 2012, email to Ms. Langguth, you indicated that the OVS does not have any factual corrections to the draft report.

In regard to the limited scope of our review, the OCR concludes that the OVS has taken steps to substantially comply with the federal civil rights laws that the OCR enforces. Nonetheless, we

have reservations about whether the OVS has adequate complaint procedures in place to respond to discrimination complaints from beneficiaries and employees of subrecipients and whether it is sufficiently training and educating its subrecipients on the federal civil rights laws that the OCR enforces. The following Compliance Review Report includes recommendations for improving the OVS' methods for ensuring the civil rights compliance of subrecipients.

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

### **I. Overview**

This Compliance Review Report first examines the OVS' 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 OVS' 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 OVS' general efforts to ensure subrecipients' compliance with their civil rights obligations, the OCR examined how the OVS 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**

According to our records and the information that the OCR gathered during our onsite visit, the OVS currently administers subawards under the following DOJ grant programs: 1) the Services, Training, Officers and Prosecution (STOP) Program funded by the DOJ's Office on Violence Against Women (OVW); 2) the Sexual Assault Services Program (SASP) funded by the OVW; and 3) the Crime Victim Assistance Program funded by the OJP's Office for Victims of Crime (OVC).

During and subsequent to the OCR's onsite visit, you explained that the OVS issues a consolidated Request for Applications (RFA) to solicit subgrant applications under the STOP Program and the Crime Victim Assistance Program. You further explained that only one service provider is eligible for funding under the SASP, and therefore the OVS does not include the SASP in the consolidated RFA. During the OCR's onsite visit, you provided the OCR with the consolidated RFA that the OVS intends to issue for subgrants awarded during Fiscal Year 2014

(October 1, 2013 to November 30, 2014)<sup>1</sup>; the RFA contains several sections pertaining to federal civil rights requirements. Specifically, the General Information section of the RFA contains the following language:

***Civil Rights Requirements***

A successful applicant must agree to comply with all applicable federal civil rights laws. Sub grantees should be able to provide accessible programming to individuals with Limited English Proficiency. Sub grantees must comply with federal regulation 28 C.F.R. Part<sup>2</sup> 38, governing “Equal Treatment for Faith based<sup>3</sup> Organizations” (the Equal Treatment Regulation). The Equal Treatment Regulation provides that Department of Justice grant awards of direct funding may not be used to fund any inherently religious activities, such as worship, religious instruction or proselytization. Recipients of direct grants may still engage in inherently religious activities, but such activities must be separate in time or place from the DOJ funded program, and participation in such activities must be voluntary. The Equal Treatment Regulation also makes clear that organizations participating in programs directly funded by the Department of Justice are not permitted to discriminate in the provision of services on the basis of the beneficiary’s religion. Notwithstanding any other special condition of the award, faith based organizations may in some circumstances consider religion as a basis for employment. See [http://www.ojp.gov/about/ocr/equal\\_fbo.htm](http://www.ojp.gov/about/ocr/equal_fbo.htm).

Sub grantees will be required to successfully complete the DC Office of Human Rights web-based Equal Employment Opportunity, Diversity & Learning Access E-Learning Program available at <http://ohr.dc.gov/ohr/cwp/view,A,3,Q,635337.asp> and must post and display the *District of Columbia Equal Employment Opportunity* poster in a

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<sup>1</sup> The OVS has already posted the RFA for Fiscal Year 2013 subgrants and applications were due by May 17, 2012. The OCR understands that since this posting, the OVS has slightly revised some of the language contained in the RFA based on recommendations that the OCR has made in connection with our compliance review of the District of Columbia Justice Grants Administration. For the purposes of this Compliance Review Report, the OCR is reviewing and analyzing the revised language provided during our onsite visit.

<sup>2</sup> To ensure proper legal citation, the OCR recommends that the OVS change “Part” to “pt” whenever citing to a regulation. Similarly, “Parts” should be listed as “pts.” and “Subparts” should be listed as “subpts.” throughout the OVS’ grant award documents.

<sup>3</sup> To be consistent with 28 C.F.R. pt. 38, the OCR recommends inserting a hyphen to change this to “Faith-based” whenever the OVS references these regulations.

conspicuous area accessible to employees<sup>4</sup> Additionally, <sup>5</sup>grantees must establish a process for addressing civil rights complaints within the organization and must appoint an Equal Opportunity (EO) Coordinator within the organization who will provide support and oversight to staff and service beneficiaries.

***Non-discrimination in hiring and/or delivery of services and discrimination reporting***

In accordance with the below listed applicable federal statutes as well as District non-discrimination requirements, grantees agree not to discriminate in their hiring practices and/or provision of services against any and all protected populations. In addition, grantees agree to notify JGA<sup>6</sup> within 48 hours of any and all employee or beneficiary formal complaints of discrimination against their organization, and to more generally comply with all civil rights hiring and beneficiary service policies and procedures as identified in the below listed applicable statutes. Applicable statutes 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)<sup>7</sup>; 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); Ex. Order 13279 (equal protection of the laws for faith-based and community organizations).

The RFA also contains a Standard Assurances document that all subrecipients, including those under the SASP, must sign and agree to abide by before the OVS releases funds. Paragraph 4 of the Standard Assurances requires a subrecipient to certify that “[i]t will comply with all applicable federal civil rights laws; and comply with federal regulation 28 C.F.R. Part 38, governing “Equal Treatment for Faith based Organizations” (the Equal Treatment Regulation);” the paragraph then contains the same explanatory language regarding the Equal Treatment Regulation that is contained in the General Information section of the RFA. Additionally, paragraph 6 of the Standard Assurances provides the following:

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<sup>4</sup> Please note that there is a period missing after this sentence.

<sup>5</sup> Please note that there is an extra space here.

<sup>6</sup> The reference to “JGA” should be changed to “OVS.”

<sup>7</sup> Please note that there is a parenthesis missing at the end of this citation.

6. It will comply (and will require any sub-grantees or contractors to comply) with any applicable statutorily-imposed nondiscrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. § 3789(d)<sup>8</sup>; the Victims of Crime Act (42 U.S.C. § 10604(e))<sup>9</sup>; The<sup>10</sup> Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b))<sup>11</sup>; the Civil Rights Act of 1964 (42 U.S.C. § 2000d)<sup>12</sup> the Rehabilitation Act of 1973 (29 U.S.C. § 794)<sup>13</sup>; 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.) It will provide meaningful access to their programs and activities for persons with Limited English Proficiency (LEP) Pursant<sup>14</sup> to the DC Language Access Act of 2004.<sup>15</sup>

Additionally, in the section of the RFA discussing Sub-recipient Organization and Eligibility Requirements for the Crime Victims Assistance Program, the RFA states that religiously-affiliated organization receiving funds must ensure that services are offered to all crime victims without regard to religious affiliation and that the receipt of services is not contingent upon participation in a religious activity or event.

Once the OVS decides to subaward DOJ funding to an applicant, the subrecipient must sign and enter into a Grant Agreement with the OVS. Section F of this Grant Agreement, entitled

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<sup>8</sup> There should be a parenthesis before this citation, and the correct citation is “42 U.S.C. § 3789d” (there is no parenthesis around the “d”).

<sup>9</sup> There is a parenthesis missing at the end of this citation.

<sup>10</sup> This word should not be capitalized.

<sup>11</sup> There is a parenthesis missing at the end of this citation.

<sup>12</sup> There is a semi-colon missing after this citation.

<sup>13</sup> There is an extra space in this citation.

<sup>14</sup> This word should be “pursuant.”

<sup>15</sup> In addition to the DC Language Access Act of 2004, the OCR recommends that the OVS add references in this sentence to Title VI of the Civil Rights Act of 1964 and the Omnibus Crime Control and Safe Streets Act (as applicable).

“Compliance and Assurances,” contains the following federal civil rights provision setting forth the laws that the OCR enforces:

1. In accordance with the applicable federal statutes listed below, as well as, District non-discrimination requirements, the grantee or sub grantee agrees not to discriminate against any protected populations, in hiring or the provision of services. In addition the grantee or subgrantee agrees to notify OVS within 48 hours of any and all employee or beneficiary formal complaints of discrimination against any and all employee units within their organization, and to more generally comply with all civil rights hiring and beneficiary service policies and procedures as identified in the below listed applicable statutes. Applicable statutes may include the Omnibus Crime Control and Safe Streets Act 1968, as amended, and 42 U.S.C. 3789(d)<sup>16</sup>; the Victims of Crime Act (42 U.S.C. 10604(e)); Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation act of 1973, as amended; Title II of the Americans with Disabilities Act (ADA) of 1990; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1973; 28 CFR Part 38 – Equal Treatment for Faith-Based Organizations; the Department of Justice Nondiscrimination Regulations 28 CFR Part 42; Subparts C, D, E, and G; and Department of Justice regulations on disability discrimination, 28 CFR Parts 35 and 39<sup>17</sup>. The grantee or sub-grantee should post non-discrimination notices, have a complaint process in place that is visible and understood by staff and volunteers; appoint a complaint coordinator to process grievances; and have a written policy that prevents retaliation against individuals for taking action to secure rights afforded by law.<sup>18</sup>

2. In the event that a Federal or District court or administrative agency makes a finding of discrimination after a due process

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<sup>16</sup> Please see footnote 8.

<sup>17</sup> Please be advised that 28 C.F.R. pt. 39 applies to programs or activities conducted by the *DOJ*, and does not apply to programs or activities conducted by recipients of DOJ financial assistance. Accordingly, the OVS should omit the reference to 28 C.F.R. pt. 39.

<sup>18</sup> The OCR recommends that the OVS include the legal citation for all of the statutes that it references, as it does in its Standard Assurances. The OCR also recommends that the OVS add references to the DOJ’s regulations on sex discrimination in educational programs, 28 C.F.R. pt. 54.

hearing on the grounds of race, color, religion, national origin, disability, or sex against the grantee or sub-grantee, the grantee or sub-grantee must forward a copy of the finding to the 1) DC Office of Victim Services, 1350 Pennsylvania Ave NW, Suite 407, Washington, DC 20004, 2) DC Office of Human Rights, 441 4<sup>th</sup> St NW, Suite 570N, Washington, DC 20001 and the 3) US Office for Civil Rights,<sup>19</sup> 810 7<sup>th</sup> Street, NW, Washington, DC 20531.

3. The grantee or sub-grantee is required to complete the DC Office of Human Rights web-based Equal Employment Opportunity, Diversity & Language Access E-Learning Program available at <http://ohr.dc.gov/ohr/cwp/view,A,3,Q,635337.asp>. Additionally, the grantee or sub grantee agrees to post and display the *District of Columbia Equal Employment Opportunity* poster in a conspicuous area accessible to employees. Grantee or sub-grantee must certify that it will provide meaningful access to services that are individuals with Limited English Proficiency.<sup>20</sup>

Additionally, Section F of the Grant Agreement contains a paragraph on the Equal Treatment Regulations that is similar to the paragraphs contained in the RFA and the Standard Assurances, along with a paragraph stating that the sub-grantee will have a current Equal Employment Opportunity Program (EEOP) plan in accordance with 28 C.F.R. § 42.301 *et seq.* and will submit to the OCR an EEOP or a certification form indicating that they are eligible for a full or partial exemption from the EEOP requirement. During the OCR's onsite visit, you stated that OVS grant managers verify compliance with the EEOP requirements during on-site monitoring visits, but that you are unaware whether subrecipients are utilizing the EEOP certification form that the OCR developed and which is located on our website at <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf> or are using another type of certification form.

## 2. Onsite Visits and Other Monitoring Methods

During the OCR's onsite visit, you indicated that OVS grant managers generally conduct one desk review and one onsite review of DOJ-funded subrecipients each year, but that if a subrecipient has received funding in the past the OVS is more likely to conduct these reviews

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<sup>19</sup> When referencing the OCR, we recommend that the OVS list the full name of our office, which is the Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice.

<sup>20</sup> For clarity, this last sentence should read, "Grantee or sub-grantee must certify that it will provide meaningful access to its services to individuals who have Limited English Proficiency."

every two years. Prior to the onsite visit, the OVS provided the OCR with a site visit checklist that it utilizes during onsite monitoring visits to check for compliance with various programmatic, financial, and legal requirements. This checklist requires a grant manager to verify whether the subrecipient has “[s]taff training that includes understanding of applicable civil rights under 28 C.F.R. 42.301; that organization does not discriminate in hiring or services based on race, color, national origin, religion, sex, and/or disability;<sup>21</sup> and Equal Treatment for Faith Based Organizations Regulations.” The checklist further inquires whether the subrecipient has appointed a designated person to handle the grievance process and coordinate compliance with federal civil rights; whether it provides notice of nondiscrimination on the basis of color, race, national origin, religion, sex, disability, and age in hiring and services; whether it has written policies and procedures for filing grievances, and to provide language access services pursuant to the DC Language Access Act; whether it has an EEOP in accordance with 28 C.F.R. 42-301-48<sup>22</sup> and whether the EEOP is on file for review and submitted to the OCR; and whether it has filed findings of discrimination issued by a state or federal court or the DC Office for Human Rights. In regard to compliance with the Equal Treatment Regulations, the checklist inquires whether federal funds are kept separate from and not used for inherently religious activities, and whether such activities are kept separate in time and<sup>23</sup> place from federally funded activities; whether religious activities are provided with grant funds; and whether participation in religious activities is voluntary for beneficiaries of the federally funded program. The checklist provides a space for the grant manager to note a reason for noncompliance and any comments and recommendations, and provides examples of materials that the grant manager may wish to review to determine compliance.

### 3. Training and Technical Assistance

During the OCR’s onsite visit, you indicated that the OVS provides a training for all new subrecipients, which includes a segment on general civil rights requirements such as diversity, language access requirements, the regulations pertaining to faith-based organizations, and EEOP requirements. You said that in the future, the OVS will probably have subrecipients first review the OCR’s PowerPoint presentation on federal civil rights requirements and then will discuss this presentation at this training. Additionally, as referenced in the OVS’ consolidated RFA and its Grant Agreement with subrecipients, subrecipients are required to view the DC Office of Human Rights’ (OHR) web-based *Equal Employment Opportunity, Diversity & Language Access E-Learning Program*. During the onsite visit, you explained that this training program covers

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<sup>21</sup> The OVS should add the protected class “age” to this list.

<sup>22</sup> Please note that this reference should be 28 C.F.R. §§ 42.301-.308.

<sup>23</sup> Please note that the requirement is that religious activities be kept separate in time *or* place from federally-funded activities.



language access requirements, diversity, sexual harassment in the workplace, and the procedures for filing a discrimination complaint with the OHR. In the OVS' September 29, 2010, reply to the OCR's Data Request (Data Response), the OVS stated that if a subrecipient requires additional training on civil rights requirements, the OVS would work with the OHR to develop a specialized training program. According to information provided during the onsite visit, to date none of the OVS' subrecipients have required additional training.

#### 4. Complaint Procedures

According to information that the OVS provided in its Data Response and subsequent to the OCR's onsite visit, if an OVS employee wishes to file an employment discrimination complaint against the OVS, the procedures are set forth in D.C. Mun. Regs. tit. 4, § 1 (2012). The OCR understands that these regulations govern complaints of discrimination in the District of Columbia Government, and state that employees must first file a complaint with the Equal Employment Opportunity Counselor for the employee's agency in an attempt to informally resolve the complaint; if the complaint cannot be informally resolved, then the employee has fifteen days to file a complaint with the OHR. During the OCR's onsite visit, you stated that the OVS does not have any direct clients, beneficiaries or program participants.

As for discrimination complaints by beneficiaries or employees against DOJ subrecipients, the OVS' *Policies and Procedures Manual* contains a brief section indicating that OVS assigns a grant program specialist to coordinate all discrimination complaint oversight and trains staff on their responsibility to refer discrimination complaints to this complaint coordinator, and that the complaint coordinator refers the complaint to the OHR and works with the OHR to resolve the complaint. This section further states that the OVS notifies the OCR once it has referred a complaint to the OHR, and that when a subrecipient is not implementing funding in accordance with the subaward, the program manager must work with the subrecipient to develop a corrective action plan. According to information contained on the OHR's website at <http://ohr.dc.gov/page/about-ohr>, the OHR has jurisdiction to investigate complaints of unlawful discrimination in employment (private companies and government), housing, public accommodations, and educational institutions. During the OCR's onsite visit, you stated that the OHR's jurisdiction may encompass complaints alleging discrimination in the delivery of services by subrecipients, and that if OHR and OVS are not able to resolve a complaint against a subrecipient, the OVS will refer the complaint to the OCR.

Additionally, as stated in the Grant Agreement, subrecipients are required to notify the OVS within 48 hours of any complaints of discrimination that are filed against the subrecipient. During the OCR's onsite visit, you indicated that subrecipients notify the OHR as well, and that the OHR investigates the complaint with possible assistance from the OVS. You stated that you are aware of several employment discrimination complaints that employees have filed against

subrecipients during the past several years, and that all of these complaints have been resolved by the OHR or internally by the subrecipient.

## 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. § 38.1(a). The Regulations prohibit the DOJ and DOJ funding recipients from discriminating either for or against an organization on the basis of the organization's religious character or affiliation. *Id.* In evaluating the OVS’ 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 OVS currently administers the STOP Program and the SASP funded by the OVW, and the Crime Victim Assistance Program funded by the OVC; the STOP Program and the Crime Victim Assistance Program are competitive, and the SASP is targeted to the one eligible recipient in the District of Columbia. According to information contained in the OVS’ *Policies and Procedures Manual* and the information provided during the OCR’s onsite visit, the OVS initially publishes a Notice of Funding Availability (NOFA) on the OVS’ website, the website of the District of Columbia Office of Partnerships and Grants Development, and in the *District of Columbia Register*, which interested individuals or agencies can sign up to receive. The NOFA notifies individuals that the OVS will be posting a RFA on its website within a few weeks. After the RFA is posted, the OVS frequently holds a meeting with interested stakeholders to discuss any questions regarding the applicable grant program. Once the OVS receives subgrant applications, it establishes a review panel which is comprised of volunteers from outside the District of Columbia who are experts in the relevant field such as sexual assault, domestic violence, and victim services. The OVS provides the review panel with a scoring sheet and educates them on what the OVS is looking for under the relevant grant program; after the review panel reviews and scores the applications, OVS staff meets with the reviewers and determines an average score for each application. The OVS program managers then conduct an internal review of the applications, taking into consideration an applicant’s past performance on any grant awards, and the Director of OVS makes a final funding determination.

According to the information contained in the OVS’ Data Response, one faith-based organization, the East of the River Clergy Police Community Partnership, applied for funding under the Crime Victim Assistance Program in Fiscal Year 2009. The peer reviewers scored the

application extremely low due to concerns regarding excessive budget, failure of the stated objective to support goals, failure to demonstrate a justification of need or to clearly describe the services to be provided, and a lack of assurances that services would be non-religious, and the OVS declined to fund the application. During the OCR's onsite visit, you stated that no faith-based organizations have applied for funding since Fiscal Year 2009.

The OVS stated in its Data Response that it does not require nonprofit applicants to obtain 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 the OVS' Data Response, the OVS stated that faith-based organizations that apply for DOJ funding are given full consideration during both the peer review and OVS review process. According to the OVS, an application from a faith-based organization prompts a verbal reminder from OVS staff to the peer reviewers that applicants should demonstrate an understanding of the Equal Treatment Regulations. The OVS said that faith-based applicants that do not explicitly address compliance with the Equal Treatment Regulations in their applications would be asked to do so as a special condition if they are selected for funding.<sup>24</sup> During the OCR's onsite visit, you stated that if it is unclear from a faith-based organization's application whether they understand the requirements and restrictions imposed by the Equal Treatment Regulations, the OVS would request that they comment on their understanding and how they intend to comply. As discussed in Section I.A.1 of this Compliance Review Report, the OVS references and discusses the Equal Treatment Regulations in its RFA, the Standard Assurances, and the Grant Agreement.

During the onsite visit, you stated that other than explaining who is eligible to apply for a grant award, you do not believe that any recent grant solicitations for DOJ-funded programs included language encouraging faith-based organizations to apply.

## II. Recommendations

The OVS currently has several procedures in place for monitoring the civil rights compliance of its subrecipients, such as referencing the laws that the OCR enforces in its RFA, Standard Assurances, and Grant Agreement, inquiring about compliance with civil rights requirements during onsite monitoring visits, and providing general training on civil rights requirements. To

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<sup>24</sup> Please be advised that the Equal Treatment Regulations at 28 C.F.R. §§ 38.1(e) and 38.2(e) prohibit agencies from utilizing a grant document, agreement, memorandum of understanding, policy, or regulation that requires only faith-based organizations to provide assurances that they will not use funding for inherently religious activities, and that any such restrictions shall apply equally to religious and non-religious organizations. Accordingly, the OVS should not require such a special condition solely from faith-based organizations.

strengthen the OVS' monitoring efforts, the OCR offers the following recommendations: (1) expand on the information contained in the OVS' *Policies and Procedures Manual* and develop a stand-alone document setting forth the procedures for addressing discrimination complaints from employees and beneficiaries of subrecipients; (2) revise the OVS' RFA, Standard Assurances, and Grant Agreement to incorporate the OCR's minor recommendations discussed in footnotes 2-20 of this Compliance Review Report; (3) verify that subrecipients claiming a partial or complete exemption from the EEOP requirements are completing the OJP's EEOP certification form or a substantially similar form and submitting it to the OCR, and require that they submit a copy to the OVS as well; (4) revise the OVS' site visit checklist to incorporate the OCR's minor revisions; and (5) expand on the training provided to subrecipients on their obligations to comply with federal civil rights laws.

A. Develop Comprehensive Complaint Procedures

Currently, the OVS' *Policies and Procedures Manual* contains a brief section explaining how it will respond to discrimination complaints by employees and beneficiaries of DOJ-funded subrecipients. The OVS should expand upon this section and develop a comprehensive, stand-alone document that may be disseminated to OVS staff, subrecipients, and members of the public and which sets forth the procedures for receiving and responding to discrimination complaints against subrecipients. This document should include 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 OVS' policy and procedures for handling discrimination complaints;
- 3) establishing written procedures for receiving discrimination complaints from employees and beneficiaries of OVS-funded subrecipients;
- 4) referring each complaint to the appropriate agency for investigation and resolution, such as the OHR or the OCR, which will review the complaint and work with the OVS to resolve the complaint;
- 5) notifying complainant that they may also file a complaint directly with the OCR at 810 Seventh Street NW, Washington, DC 20531; and
- 6) training OVS program staff on their responsibility to refer discrimination complaints, or potential discrimination issues, to the OVS' complaint coordinator for processing as soon as the alleged discrimination comes to their attention.

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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](http://www.ojp.usdoj.gov/ocr/crc). During the OCR's review of the District of Columbia Justice Grants Administration, the OCR provided you with proposed complaint procedures for your consideration. The OCR recommends that you review those proposed complaint procedures and modify them accordingly to reflect the procedures that the OVS has in place to receive and respond to discrimination complaints against subrecipients.

B. Revise the OVS' Grant Documents to Accurately Cite the Laws that the OCR Enforces

The OCR should slightly revise its RFA, Standard Assurances, and Grant Agreement to incorporate the OCR's minor recommendations discussed in footnotes 2-20 of this Compliance Review Report. These revisions will ensure that the OVS is accurately discussing and citing the laws that the OCR enforces and that the information is presented to subrecipients in a clear and understandable manner.

C. Verify that Subrecipients Are Completing an EEOP Certification Form and Submitting the Form to the OCR

While some of the OVS' subrecipients that receive funding from the DOJ may be required to prepare and submit an EEOP to the OCR, many others will be partially or completely exempt from the EEOP requirements. In accordance with the EEOP regulations at 28 C.F.R. §§ 42.301-.308, only agencies that receive funding authorized under the Safe Streets Act are subject to the EEOP requirements, and if an agency has less than 50 employees; is receiving an award of less than \$25,000.00; or is a non-profit organization, a medical institution, an Indian tribe, or an educational institution; it is exempt from the EEOP requirements. Also, if a covered agency is receiving an award for \$25,000.00 or more, but less than \$500,000.00, it is required to formulate an EEOP but is not required to submit the EEOP to the OCR. However, agencies who are claiming a partial or complete exemption from the requirement to submit an EEOP to the OCR do need to complete a certification form declaring the basis for the partial or complete exemption.

During the onsite visit, you indicated that OVS grant managers verify compliance with the EEOP requirements during on-site monitoring visits, but that you are unaware whether subrecipients claiming a partial or complete exemption from the EEOP requirements are utilizing the EEOP certification form that the OCR developed and which is located on our website at <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf> or are using another type of certification form. The OVS should verify what certification form subrecipients are utilizing and should provide subrecipients with the OCR's certification form as necessary. Additionally, the OVS should require subrecipients to provide the OVS with a copy of the EEOP certification form or the EEOP, as applicable, that the subrecipient submitted to the OCR. This will allow the OVS to

more thoroughly monitor and ensure that subrecipients are complying with the applicable EEOP requirements.

D. Revise the OVS' Site Visit Checklist to Incorporate the OCR's Comments

The OVS is taking steps to ensure that OVS subrecipients are complying with grant requirements by conducting onsite monitoring visits and by asking questions regarding compliance with the civil rights laws that the OCR enforces. The OCR recommends that the OVS revise this checklist to incorporate the OCR's notations contained in footnotes 21-23 of this Compliance Review Report. When monitoring for compliance with the EEOP requirements, the OVS should be sure to verify whether the subrecipient has submitted a certification form to the OCR if it is not required to submit an EEOP.

E. Expand on Existing Training on Federal Civil Rights Laws

Currently, the OVS' training for new subrecipients contains a segment on general civil rights requirements such as diversity, language access requirements, the Equal Treatment Regulations, and EEOP requirements. The OVS also requires subrecipients to view a web-based training prepared by the OHR, which covers topics such as language access requirements, diversity, sexual harassment, and the procedures for filing a discrimination complaint with the OHR. During the onsite visit, you indicated that in the future, the OVS will probably require subrecipients to first review the OCR's PowerPoint presentation on federal civil rights requirements and then will discuss this presentation at the OVS' training. To ensure that subrecipients are familiar with all of the federal civil rights laws that the OCR enforces, the OCR recommends that the OVS require all subrecipients to review the OCR's PowerPoint presentation and that the OVS summarizes the information contained in the PowerPoint presentation and discusses any questions that arise during its training of subrecipients. Additional training materials covering the laws that the OCR enforces may also be found on our website at <http://www.ojp.usdoj.gov/about/ocr/assistance.htm>.

Conclusion

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

Director Melissa Hook  
District of Columbia Office of Victim Services  
August 7, 2012  
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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,  
/s/

Michael L. Alston  
Director