



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

Washington, D.C. 20531

VIA CERTIFIED RETURN RECEIPT REQUESTED

March 6, 2012

Paula T. Dow
Attorney General
Department of Law and Public Safety
Office of the Attorney General
25 Market Street, 8th Floor, West Wing
Trenton, N.J. 08625-0080

Stephen J. Taylor, Director
New Jersey Division of Criminal Justice
25 Market Street
Post Office Box 080
Trenton, New Jersey 08625-0080

Velerie N. Lawson, Executive Director
New Jersey Juvenile Justice Commission
1001 Spruce Street, Suite 202
Post Office Box 107
Trenton, New Jersey 08625-0107

**Re: New Jersey Division of Criminal Justice and Juvenile Justice
Commission – Office of the Attorney General, Department of Law
and Public Safety (08-OCR-0458) - FINAL**

Dear Ms. Dow, Mr. Taylor, and Ms. Lawson:

On June 18, 2007, the Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) initiated a compliance review of the New Jersey Office of the Attorney General, Department of Law and Public Safety (OAG) in accordance with federal regulation 28 C.F.R. § 42.206. The focus of the review was on the OAG's compliance with applicable federal civil right laws along with the OAG's monitoring of subrecipients' compliance with these laws. Of particular interest to the OCR was the

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OAG's monitoring and implementation of the DOJ's regulations, Equal Treatment for Faith-Based Organizations, 28 C.F.R. pt. 38 [hereinafter Equal Treatment Regulations].

From March 31 to April 1, 2009, the OCR conducted an onsite visit to the OAG offices in Trenton, New Jersey, to meet with OAG's administrative and program staff and to conduct a training program on federal civil rights laws that the OCR enforces. The OCR also conducted an onsite visit to one faith-based subrecipient,¹ the Jewish Family Services of Greater Clifton-Passaic and its Project Stop Abusive Relationships at Home (S.A.R.A.H.). The OCR would like to thank OAG staff, specifically Kelly Ottobre, Grants Manager, for assisting OCR attorney [REDACTED] during the onsite visit.

Based on OAG's responses to our Data Request and the information we gathered onsite, the OCR concludes that the OAG is not fully compliant with the federal civil rights laws that the OCR enforces. The OCR has concerns about whether (1) all OAG components have standardized assurances referencing applicable federal civil rights laws; (2) all OAG components have adequate monitoring procedures to ensure subrecipients compliance with the federal civil rights laws; (3) the OAG has sufficient training for its subrecipients on applicable federal civil rights laws and (4) the OAG has any written complaint policies to receive, investigate, and resolve service and employment discrimination complaints against OAG subrecipients. The following Compliance Review Report includes recommendations for improving the OAG's methods for monitoring the civil rights compliance of subrecipients on ensuring compliance with its civil rights obligations.

On December 6, 2011, the OCR issued a draft Compliance Review Report to the OAG inviting the OAG to provide comments on any factual inaccuracies in the report. On February 10, 2012, the OAG requested the OCR make the following two factual corrections: 1) that the Division of Criminal Justice is the State Administrating Agency for the Residential Substance Abuse Treatment for State Prisoners (RSAT) grant and 2) that OAG's employment discrimination complaint policy is governed by New Jersey regulation, N.J.A.C. 4A:7-3.2 and *New Jersey State Policy Prohibiting Discrimination in the Workplace*. Upon incorporating the OAG's requested corrections, the OCR issues this final Compliance Review Report.

¹ The Equal Treatment Regulations do not provide a definition for faith-based organization. The OAG identifies subrecipients as faith-based organizations generally based on the name of the organization.

COMPLIANCE REVIEW REPORT

I. Overview and Recommendations

The Compliance Review Report first examines the OAG's procedures for monitoring subrecipients compliance with the federal civil rights laws. The Report then focuses on the OAG's compliance with the DOJ's Equal Treatment Regulations.

Depending on the DOJ program, the OAG has two components that administer DOJ grants, (1) the Division of Criminal Justice (DCJ) and (2) the Juvenile Justice Commission (JJC). The DCJ administers grants authorized under the Victims of Crime Act (VOCA), 42 U.S.C. § 10601 et seq., Violence Against Women Act of 1994, Pub. L. No. 109-162, § 105(a), 119 Stat. 2981, as amended (VAWA), and the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d, as amended (Safe Streets Act). According to the OAG's Data Request Response, the DCJ, through the State Office of Victim Witness Advocacy (SOVWA), awards Special Training Officers and Prosecutors (STOP) grants to local law enforcement agencies, county prosecutor offices, county victim services, local community groups, and courts. According to the OAG's Data Request Response, the DCJ, through its Program Development Office, administers the Edward Byrne Memorial Justice Assistance Grant (JAG); Residential Substance Abuse Treatment for State Prisoners (RSAT) grant; the Bullet Proof Vest Partnership (BVP) grant to state, county, and local entities; and Community Oriented Policing Services (COPS) grants.

The JJC administers Title II Formula Grants Program-Part B (Title II) and Title V Community Prevention Grants (Title V) authorized under the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. § 5783, as amended (JJDP). The JJC also administers the Juvenile Accountability Block Grant (JABG) authorized by the Safe Streets Act. The JJC awards Title II, Title V, and JABG funds to local and county governments and community groups.

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 comply with applicable federal civil rights laws. In reviewing the OAG's general efforts to ensure subrecipients' compliance with federal civil rights obligations, the OCR examined how the OAG 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 in the delivery of services.

1. Standard Assurances
 - a. Standard Federal Civil Rights Assurances of the DCJ

The DCJ's has two standard assurances that address subrecipients' civil rights obligations: (1) Section VI Civil Rights Compliance in the solicitations and (2) General Conditions and Assurances in the Appendix to the solicitations. The Appendix includes the OCR's Equal Employment Opportunity Program Certification Form (EEOC Certification).

The first paragraph of Section VI of the solicitation and Paragraph 18 of the General Conditions and Assurances in the Appendix states that subrecipients have an obligation to send findings of discrimination to the OCR and DCJ:

a court or administrative agency makes a finding of discrimination against a recipient of funds on grounds of race, color, religion, national origin, gender, disability, or age after a due process hearing, the recipient must forward a copy of the finding to the Office of Justice Programs' Office of Civil Rights and the DCJ.

The second paragraph of Section VI of the solicitation states that subrecipients must comply with applicable federal civil rights laws:

Applicants are also required to comply with the federal civil rights laws included in Title VI of the Civil Rights Act of 1964 (Title VI) and the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act), the Victims of Crime Act, and the Juvenile Justice and Delinquency Prevention, as amended. These laws prohibit discrimination on the basis of race, color, religion, national origin, and sex in the delivery of services. National origin discrimination included discrimination on the basis of Limited English Proficiency (LEP). To ensure compliance with Title VI and the Safe Streets Act, applicants are required to take reasonable steps to ensure that LEP persons have meaningful access to their programs. Meaningful access means that recipients of federal funding may have to provide language assistance services, including oral or written translations, when necessary.

Paragraph 17 of the General Conditions and Assurances in the Appendix also states that subrecipients must comply with applicable federal civil rights laws:

The Subgrantee agrees to comply and assure the compliance of its contractors, with any applicable statutorily imposed non-discrimination requirements, which may include the Omnibus Crime Control and Safe

Streets Act of 1968, as amended, 42 U.S.C. §3789d(c); Victim 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, as amended, 42 U.S.C. §2000d et seq.; the Rehabilitation Act of 1973, as amended; 29 U.S.C. §794, the Americans with Disabilities Act (ADA) 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 . . . any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, the requirements of any other nondiscrimination statute(s) which may apply to the application, and the Department of Justice Nondiscrimination Regulations, 28 C.F.R. Part 42, Subparts C,D,E, and G; the Department of Justice Regulations on disability discrimination, 28 C.F.R. Part 35, Part 38, Part 39, and the Department of Justice, Policy Document, "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons." 67 F.R. 41455 (June 18, 2002); see Ex. Order 13279 (equal protection of the laws for faith-based and community organizations).

The third, fourth, and fifth paragraphs of Section VI of the solicitation requires subrecipients to comply with the Equal Treatment Regulations:

Applicants are expected to comply with the provisions of the DOJ's regulations concerning Equal Treatment for Faith-Based Organizations, 28 C.F.R. Part 38. Eligible faith-based applicants who apply for subgrants of DOJ funding will be treated fairly according to 28 C.F.R. Part 38.

Faith-based organization that receive direct financial assistance from the DOJ, or as a subgrantee from L& PS [Law and Public Safety] of OJP's funding, may not engage in inherently religious activities, such as worship, religious instruction, or proselytization as part of the programs or services funded with direct financial assistance from the DOJ. (<http://www.ojp.usdoj.gov/ocr/etfbo.htm>). Organizations that participate in programs funded by direct financial assistance from the DOJ: (1) cannot discriminate against program beneficiaries on the basis of religion or religious belief when providing services, and (2) cannot compel beneficiaries to participate in inherently religious activities.

The Omnibus Crime Control and Safe Streets Act of 1968, the Victims of Crime Act, and the Juvenile Justice and Delinquency Prevention Act [sic] contain express nondiscrimination provisions that prohibit all recipients of federal funding from discriminating based on religion in employment.

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However, DOJ has concluded that faith-based organizations may consider religion when hiring staff, if the organizations meet certain criteria and apply for and receive an exemption. Faith-based organizations seeking this exemption will be required to submit the following certification found on the web at: <http://www.ojp.gov/about/ocr/pdfs/SampleForCompletionByApplicant.pdf>. Further information is available on the DOJ's website, http://www.ojp.gov/about/ocr/employment_practices.htm.

Paragraph 21 of the General Conditions and Assurances also requires subgrantees to comply with the Equal Treatment Regulations:

The Subgrantee agrees to comply with the provisions of the DOJ's regulations concerning Equal Treatment for Faith-Based Organizations, 28 C.F.R. Part 38. Organizations that receive direct financial assistance from DOJ may not engage in inherently religious activities, such as worship, religious instructions, or proselytization, as part of the program or services funded with direct assistance from the DOJ. Organizations that participate in programs funded by direct financial assistance from the DOJ (1) cannot discriminate against program beneficiaries on the basis of religion or religious belief when providing services, and (2) cannot compel beneficiaries to participate in inherently religious activities.

Paragraph 22 of the General Conditions and Assurance in the Appendix requires subgrantees to comply with the Justice Department's guidance for providing services to limited English proficient (LEP) beneficiaries:

The Subgrantee certifies that Limited English Proficiency (LEP) person have meaningful access to the service under this program(s). National origin discrimination includes discrimination on the basis of limited English proficiency. To ensure compliance with Title VI and the Safe Street Act, Subgrantees are required to take reasonable steps to ensure that LEP persons have meaningful access to their programs. Meaningful access may entail providing language assistance services, include oral and written translation when necessary. The U.S. Department of Justice has issued guidance for Subgrantees to help comply with Title VI requirements. The guidance document can be accessed on the Internet at www.lep.gov.

Paragraph 20 of the General Conditions and Assurance in the Appendix requires subgrantees to comply with applicable Equal Employment Opportunity Program regulations and states:

The Subgrantee acknowledges that failure to submit an acceptable EEOP (if required to submit pursuant to 28 C.F.R. § 42.302), that is approved by the Office of Civil Rights, OJP, is a violation of its General Conditions and may result in suspension or termination of funding, until such time as the Subgrantee is in compliance.

b. Standard Federal Civil Rights Assurances of the JJC

The JJC has three standard assurances that address subrecipients' civil rights obligations in its subaward process: (1) the General Administrative Conditions and Assurances, (2) the Comprehensive Funding Application Certified Assurance-Special Condition, and (3) the General Conditions for the Juvenile Accountability Block Grant (JABG). The JJC uses a document entitled, Application Authorization, to obtain information on compliance with EEOP regulations.

Paragraph g(1) of the JJC's General Administrative Conditions and Assurances states subrecipients must ensure that "[n]o person on the grounds of race, creed, color, national origin can be excluded from participation in, refused the benefits of, or otherwise subjected to discrimination under grants awarded pursuant to the Act or under any project, program, or activity supported by this grant." Paragraph g(1) states further that subrecipients "must comply with the provisions and requirements of Title VI of the Civil Rights Act of 1964 and regulations issued by the Department of Justice and the Law Enforcement Assistance Administration as a condition of award of federal funds and continued grant support." Although paragraph a of the General Administrative Conditions and Assurances references the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDA) as well as the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, this provision fails to include sex and religion as additional protected classes pursuant to the JJDA, adopting by reference the nondiscrimination provisions of the Safe Streets Act.

Paragraph g(2) of the JJC's General Administrative Conditions and Assurances requires JJDA grant subrecipients to certify that "there shall be no discrimination against any employee engaged in work required to produce the services covered by the subgrant or against any applicant for such employment because of sex, race, marital status, creed, color, national origin, or ancestry." This provision fails to include religion as additional protected class pursuant to the JJDA, adopting by reference the nondiscrimination provisions of the Safe Streets Act.

The JJC's General Administrative Conditions and Assurances have no references to the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Education Amendments of 1972, the Age Discrimination Act of 1975, or the U.S. Department of Justice Regulations – Equal Treatment for Faith-Based Organizations).

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The JJC's General Conditions for JABG grants has additional language on federal civil rights compliance. Paragraph 6 of the JABG's General Conditions states that subrecipients have an obligation to send findings of discrimination to the JJC:

The Subgrantee assures that in the event a Federal or State court administrative agency makes a finding of discrimination after due process hearings on the grounds of race, color, religion, national origin, or sex against recipients of funds, after due process hearing, the recipient will forward a copy of the finding to the Juvenile Justice Commission.

Paragraph 7 of the JABG's General Conditions requests subgrantees to comply with the DOJ's Equal Employment Opportunity Program regulations:

The Subgrantee assures that if required to formulate an Equal Employment Opportunity Program (EEO) in accordance with 28 CFR 42.301 et seq., it will maintain a current plan on file.

The JJC uses the Comprehensive Funding Application Certified Assurance / Special Condition for its county and local subrecipients. Paragraphs 6 and 8 of the Comprehensive Funding Application Certified Assurance / Special Condition, states that the county or local unit subrecipient agrees to comply with federal and state civil rights laws:

. . . including but not limited to State and local laws relating to safeguarding of client information, the federal Civil Rights Act of 1964 (as amended); P.L. 1975, Chapter 127 of the State of New Jersey and associated executive orders pertaining to affirmative action and the non-discrimination in public contracts; the Federal Equal Employment Opportunity Act; Section 504 of the Federal Rehabilitation Act of 1973 pertaining to non-discrimination on the basis of disability, and requirements thereunder; the Americans With Disabilities Act. Failure to comply with the laws, rules, and regulations referenced above shall be grounds to terminate the county's participation in the State/Community Partnership, Family Court Services, Juvenile Accountability Block Grant, and State Incentive Program grants program.

The JJC's Application Authorization form requires subrecipients to certify compliance with the DOJ's EEO regulations. A section of the Application Authorization form, contains the following:

1. An Equal Employment Opportunity Program (Affirmative Action Plan) covering the employment practices of the implementing agency has been executed and is available for review () Yes () No

2. The required certificate indicating existence of a written Equal Employment Opportunity Program has been filed with the Juvenile Justice Commission either with this application or with a previously approved application involving the same implementing agency () Yes () No Date Certification:

Recommendation

The OCR commends the DCJ on its thorough reference to the federal civil rights laws in its standard assurances. The OAG's JJC, however, must update and standardize all of its nondiscrimination assurances; for instance, the JJC's General Administrative Conditions and Assurance has an outdated reference to the Law Enforcement Assistance Administration.² The OCR recommends that the OAG's JJC revise all of its standard assurances in its solicitations to include the following 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:

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 (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 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

² The Law Enforcement Assistance Administration (LEAA) was a federal agency established by the Safe Streets Act. It was abolished in 1982 and replaced with the Office of Justice Programs.

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Office for Civil Rights, Office of Justice Programs and the Juvenile Justice Commission (JJC).

Recipient will provide an Equal Employment Opportunity Plan (EEO) to the Office for Civil Rights, Office of Justice Programs and the JJC, if required to submit one; otherwise, it will provide a certification to the Office for Civil Rights, Office of Justice Programs and the JJC that it has a current EEO on file, if required to maintain one. For public grantee agencies receiving less than \$25,000, or public grantee agencies 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 JJC may also consider including in the standard assurances 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 Omnibus Crime Control and Safe Streets Act of 1968 and Title VI of the Civil Rights Act of 1964, the recipient must take reasonable steps to ensure that LEP persons have meaningful access to its programs. Meaningful access may entail providing language assistance services, including oral interpretation and written translation, where necessary. In conducting its programs and activities, the recipient is encouraged to consider the language service needs of LEP persons whom it serves or encounters. Additional assistance and information regarding LEP obligations can be found at <http://www.lep.gov>.

Both the DCJ and JJC may also wish to add a sentence to the solicitations 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.

2. Onsite Visits and Other Monitoring Methods

According to its Data Request Response and information the OCR obtained during its onsite visit, the DCJ's grant staff monitors each program once a year by telephone or onsite visitation. As discussed in Section I.A.1., the DCJ requires subrecipients to

complete the EEOP Certification Form, if applicable, and return it to the OCR.

The OAG's JJC staff with whom the OCR spoke informed the OCR that county governments are the subrecipients of its Juvenile Accountability Block Grants (JABG). According to the Data Request Response, the JJC does not monitor the county governments for compliance.

According to the OAG's JJC Data Request Response, for all other JJC DOJ grants, the JJC monitors the compliance with federal civil rights obligation by requiring each grant award recipient to complete the Application Authorization form mentioned above in Section I.A.1.b.. The Application Authorization form requests whether an EEOP covering employment practices of the implementing agency has been executed and whether the required certificate indicating the existence of a written EEOP has been filed with the JJC either with the application or a previously approved application.

Recommendation

As part of its responsibility to monitor the compliance of all subrecipients with applicable federal civil rights laws, both OAG program offices, the DCJ and the JJC, should have a mechanism in place to evaluate whether they are meeting their federal civil rights obligations. Therefore, the DCJ and JJC should develop and utilize a Federal Civil Rights Laws Compliance Checklist to determine: (1) whether the subrecipient is required to maintain an EEOP; (2) whether if required to maintain an EEOP, the subrecipient has an EEOP on file with the DCJ or JJC or has sent one to the OCR for review; (3) whether the subrecipient has findings of discrimination to report to the DCJ, JJC, or the OCR; (4) whether the subrecipient has developed a language assistance plan for providing services to LEP individuals; (5) whether the subrecipient has posted nondiscrimination notices as required by section 504 of the Rehabilitation Act; or (6) whether the subrecipient has a grievance procedure and designated civil rights coordinator as required by section 504 of the Rehabilitation Act, Title IX of the Education Amendments of 1972, and the JJDP. Additionally, the DCJ and JJC should be sure to include questions on this checklist to evaluate whether the subrecipient is complying with DOJ's Equal Treatment Regulations, including the prohibitions against using federal funds to engage in inherently religious activities or to discriminate against program beneficiaries based on religion. The OCR has developed the attached Federal Civil Rights Compliance Checklist. The DCJ and JJC may wish to use this checklist for monitoring purposes or incorporate this checklist into its existing monitoring instruments.

3. Training and Technical Assistance

The OAG does not provide any annual comprehensive training to subrecipients on their federal civil rights obligations. According to its Data Request Response, the DCJ offers orientation workshops to OVW subgrantees. The JJC offers a post award conference to

its newly awarded Title II and Title V subgrantees. Neither of these trainings, however, include information regarding federal civil rights compliance. During the onsite visit, the JJC staff members stated that the JJC does not provide training to recipients of JABG funding because it awards these noncompetitive grants to county and local governments.

Recommendation

The OAG should provide mandatory civil rights training for every subrecipient, including county and local governments, at least once during a grant cycle, whether the OAG staff provides training in person, by teleconference, or through other means. The OAG should ensure that all subrecipients, including local law enforcement agencies, county or municipal governments are aware of their obligations under federal civil rights laws. These obligations include complying with the DOJ's Equal Treatment Regulations, satisfying the requirements of submitting an EEOP or EEOP Certification form to the OCR, providing meaningful access to LEP individuals, meeting the requirements of Section 504 of the Rehabilitation Act, and reporting any complaints of discrimination to the OCR. The OCR is available to provide the OAG with technical assistance in developing training programs.

4. Complaint Policies and Procedures

The OAG does not have a written policy to receive, investigate, and resolve service and employment discrimination complaints made by employees or beneficiaries of subrecipients. The OAG informed the OCR that none of its program offices have received service or employment discrimination complaints against a subrecipient. The OAG stated, however, that if it received a discrimination complaint against a municipal, county, or nonprofit subrecipient, it would refer the complaint to the New Jersey Division on Civil Rights that acts as the state's receiver and adjudicator of civil rights claims.

The OAG has a written policy for receiving, investigating, and resolving discrimination complaints made by its employees entitled *New Jersey State Policy Prohibiting Discrimination in the Workplace*. The policy sets forth procedures for handling complaints of unlawful employment discrimination against the OAG. According to the policy, employment discrimination complaints are forwarded to the OAG's Office of Equal Employment Opportunity (EEO Office) in accordance with New Jersey regulation, N.J.A.C. 4A:7-3.2 and *New Jersey State Procedures for Internal Complaints Alleging Discrimination in the Workplace*.

Recommendation

The OAG should adopt comprehensive written policies that address its procedures for responding to employment as well as service discrimination complaints received from the employees and beneficiaries of its subrecipients. The OAG's written complaint policies

pertaining to subrecipients should be sure to include procedures for handling discrimination complaints made by employees or beneficiaries of subrecipients. At a minimum, these policies should include the following elements:

- 1) designating a coordinator who is responsible for overseeing a complaint process and reviewing initial complaints;³
- 2) notifying OAG employees and subrecipients of prohibited discrimination in the OAG's programs and activities and the OAG's policy and procedure for handling discrimination complaints;
- 3) establishing written procedures for receiving discrimination complaints from employees and clients, customers, or program participants of subrecipients implementing funding from the DOJ;
- 4) investigating each complaint internally, or referring each complaint to the appropriate agency for investigation and resolution, such as the U.S. Equal Employment Opportunity Commission, the New Jersey Division on Civil Rights, or the Office for Civil Rights (OCR), Office of Justice Programs. If the complaint is referred to the OCR for investigation, the OCR will work with the OAG to resolve the complaint;
- 5) notifying the complainant that the complainant may also file a complaint with the OCR by submitting a written complaint to the following address: Office for Civil Rights; Office of Justice Programs; U.S. Department of Justice; 810 Seventh Street N.W.; Washington, DC 20531;
- 6) training OAG program staff on their responsibility to refer discrimination complaints or potential discrimination issues, to the OAG's complaint coordinator for processing as soon as alleged discrimination comes to their attention;
- 7) notifying employees and clients, customers, and program participants of prohibited discrimination and the procedures for filing a complaint of discrimination, and ensuring that subrecipients do the same; and
- 8) ensuring that subrecipients have procedures in place for responding to discrimination complaints that employees and clients, customers, and program participants file directly with the subrecipient.

The OCR has enclosed a sample complaint procedures template to assist the OAG in developing its complaint policies. 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.

³ See 28 C.F.R. § 31.202(a)(1)(instructing state administrative agencies receiving formula grants under the Juvenile Accountability Block Grants to designate a contact person responsible for meeting all civil rights requirements and serving as a liaison with the OCR).

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 organizations, to participate in any [Justice] Department program for which they are otherwise eligible.” 28 C.F.R. § 38.1(a). In evaluating the OAG’s equitable treatment of faith-based organization, this 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

The OAG advertises competitive solicitations in the New Jersey Register. During the onsite visit, program staff stated they also place telephone calls to prior grantees to inform them of the notice in the New Jersey Register. The OAG informed the OCR that religious organizations are eligible on the same basis as any other organization.⁴

In its Data Request Response, the OAG states it does not require nonprofit applicants to obtain federal tax exemption status under 26 U.S.C. § 501(c)(3).

In FY 2006, the DCJ awarded one faith-based organization, Jefferson Park Ministries, Inc, \$36,000. In FY 2007, the DCJ awarded the following three faith-based organizations: Jewish Family Services of Greater Clifton-Passaic, \$44,000; Catholic Charities of Diocese of Trenton, Providence House, \$60,000; and Catholic Charities of the Burlington Diocese, Providence House, \$60,000. In FY 2008, the DCJ funded one faith-based organization, Catholic Charities of Trenton, Providence House, \$13,750.

In FY 2006, the JJC received applications from five faith-based organizations. The JJC funded two faith-based organizations, Jefferson Park Ministries for \$60,000 and Bethany Cares for \$20,000. In FY2007, the JJC did not fund any faith-based organizations although four faith-based organizations applied. According to the JJC’s Data Request Response, each of the four organization’s applications scored too low. The JJC has not provided information regarding funding to faith-based organizations for FY2008.

Recommendation

Although generally nonprofit applicants are not required to document federal tax-exempt status under Section 501(c)(3) to be eligible for funding pursuant to the Equal Treatment Regulations (*see* 28 C.F.R. §§ 38.1 (g), .2(g)), the OAG should be aware that there is an

⁴ The DCJ’s Program Development office, which only awards grants to local law enforcement, reiterated during the onsite visit that faith-based organizations are ineligible to receive these grants.

exception. To be eligible for funding under the Juvenile Justice and Delinquency Prevention Act (JJDP), nonprofit organizations must have documentation of their Section 501(c)(3) status. 42 U.S.C. § 5672 (b)(2011); *see also* 42 U.S.C. § 5603(23) (2011). Therefore, the OAG should be sure that JJC nonprofit grantees, including faith-based organizations, comply with the applicable law.

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

The OAG does not have separate procedures for monitoring subrecipient compliance with the Equal Treatment Regulations. The OAG staff with whom the OCR spoke stated that faith-based organizations undergo the same monitoring as other OAG programs.

The OCR conducted an onsite visit to one OAG faith-based subrecipient program, Jewish Family Service of Greater Clifton-Passaic's S.A.R.A.H. According to its information material, Project S.A.R.A.H. is a joint project of the New Jersey Jewish Women's Consortium on Domestic Violence, Passaic County Women's Center, and the Jewish Family Service of Greater Clifton-Passaic. The informational material states that Project S.A.R.A.H. is a multicultural services program targeting the orthodox Jewish community by providing domestic violence services in the form of a hotline, individual and group counseling, and kosher kits to victims. The program also includes training mental health professionals in family service agencies and key people in the Jewish community, including rabbis, school principals, teachers, social workers, and mikveh attendants on how to identify and respond to victims of domestic violence. Project S.A.R.A.H. staff with whom the OCR spoke stated that although Project S.A.R.A.H. targets the orthodox Jewish community, its program is open and offered to all members of the community regardless of religion. The staff informed the OCR that when women from the surrounding community seek Project S.A.R.A.H. services, they provide non-Jewish individuals with the same assistance. Additionally, staff members stated that program beneficiaries do not provide information on religious affiliation to participate in the program nor do its employees provide information on religious affiliation as a condition for their employment. During the onsite visit, the OCR observed various ethnicities and cultures within Jewish Family Service of Greater Clifton-Passaic facilities. Project S.A.R.A.H. staff stated that it has not received any discrimination complaints from program beneficiaries or employees.

During the onsite visit, the OCR did not observe Project S.A.R.A.H. engaging in inherently religious activities such as worship, religious instruction, or proselytization, in DOJ-funded programs or activities. Based on the information provide in response to the OCR's Data Request and observed during the onsite visit, the OCR finds no evidence that the S.A.R.A.H. uses federal funds for inherently religious purposes.

Paula T. Dow, N.J. Attorney General
Stephen J. Taylor, Director, N.J. Div. of Criminal Justice
Velerie N. Lawson, Executive Director, N.J. Juv. Justice Comm'n
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Recommendation

As discussed above in Section I.A.1., the OAG should ensure that both components that administer DOJ grants include language regarding the Equal Treatment Regulations in all of its DOJ grant solicitations. Additionally, as discussed above in Section I.A.2., the OAG should conduct regular onsite visits or desk audits to monitor all of its subrecipients' compliance with federal civil rights laws, including the Equal Treatment Regulations' prohibition against engaging in inherently religious activities. Grant managers should ensure that any religious activities of funded programs are separate in either time or place from DOJ-funded programs. Moreover, the OAG should consider adding questions regarding subrecipients' compliance with the prohibition against the use of federal funds for inherently religious activities to the Federal Civil Rights Compliance Checklist discussed above in Section I.A.2.

II. Conclusion

We find that while the OAG has taken steps to comply with the federal civil rights laws that the OCR enforces, it is not fully compliant. The OAG should implement the recommendations contained in this Report to ensure compliance with its civil rights obligations. On request, the OCR is available to provide technical assistance to the OAG in addressing the concerns raised in this Report. Immediately, upon receipt of this letter, we ask that a responsible OAG official contact Attorney Advisor [REDACTED] to develop a timeline and goals for implementing the OCR's recommendations.

Thank you for your cooperation and the assistance of your staff throughout the compliance review process. If you have any questions, please contact [REDACTED] at [REDACTED].

Sincerely,

Michael L. Alston
Director

Enclosure

cc: Howard McCoach, Administrator