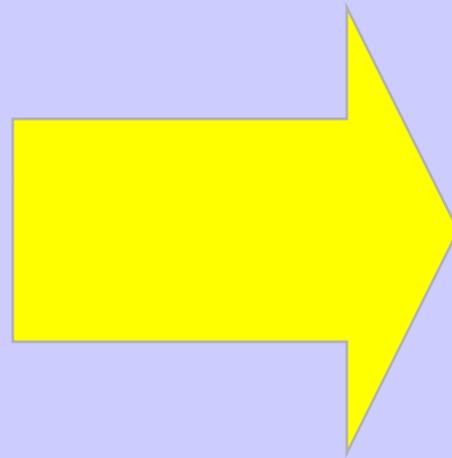
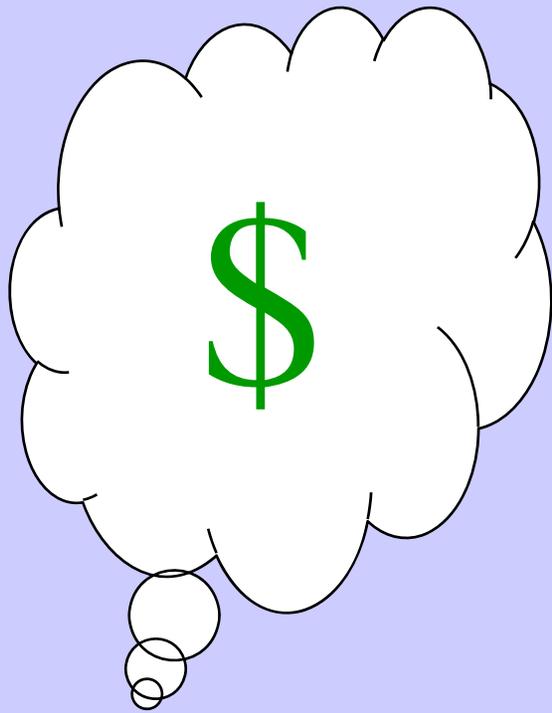


Idaho State Police

February 18, 2009



Christopher Zubowicz, Attorney Advisor
Office for Civil Rights, Office of Justice Programs



Grants

Technical Support

Financial Assistance

Facilities

Training



Obligation of State Administering Agency

As will be discussed later in the presentation, it is the responsibility of a State Administering Agency to ensure that its subgrantees are complying with all applicable federal civil rights laws

The Office for Civil Rights Enforces

- ✚ **Title VI of the Civil Rights Act of 1964**
- ✚ **Program Statutes (e.g., Safe Streets Act, Victims of Crime Act, JJDPA)**
- ✚ **Section 504 of the Rehabilitation Act of 1973**
- ✚ **Title II of the Americans with Disabilities Act of 1990**
- ✚ **Age Discrimination Act of 1975**
- ✚ **Title IX of the Education Amendments of 1972**

Protected Classes



Religion

Definitions

**All aspects of religious practice
as well as belief**

42 USC 2000e(j)

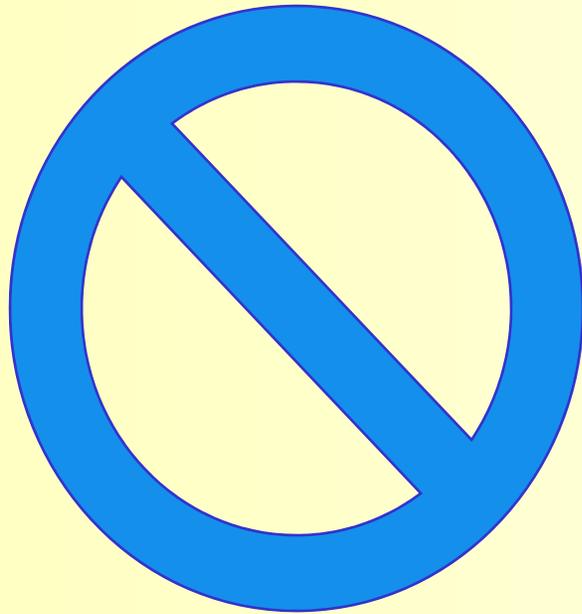
**Includes sincerely held moral or
ethical beliefs**

29 CFR 1605.1

No Retaliation

Title VI, Civil Rights Act of 1964

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any **program or activity** receiving Federal financial assistance.



Title VI Prohibits

- Providing **different** services to individuals
- Denying the opportunity to participate as a member of a **planning or advisory body**
- Selecting the **location of a facility** with the purpose or effect of excluding individuals

Omnibus Crime Control and Safe Streets Act of 1968

(OJP Program Statute)

No person in any State shall on the ground of **race, color, religion, national origin, or sex** be excluded from participation in, be denied the **benefits** of, or be subjected to discrimination under or denied **employment** in connection with any programs or activity funded in whole or in part with funds made available under this chapter.

Victims of Crime Act

No person shall on the ground of **race, color, religion, national origin, handicap, or sex** be excluded from participation in, denied the **benefits** of, subjected to discrimination under, or denied **employment** in connection with, any **undertaking** funded in whole or in part with sums made available under this chapter.

Section 504 of the Rehabilitation Act of 1973

Handicapped person means any person who

- has a physical or mental impairment which substantially limits one or more major life activities**
- has a record of such an impairment, or**
- is regarded as having such an impairment**

Section 504 of the Rehabilitation Act of 1973

A recipient with 50 or more employees and receiving Federal financial assistance from the Justice Department of \$25,000 or more must

- ➔ designate a Section 504 compliance coordinator
- ➔ adopt grievance procedures
- ➔ notify program participants, beneficiaries, applicants, employees, unions, organizations with collective bargaining agreements, that recipient does not discriminate on the basis of disability

ADA & 504 Resources

- The ADA Technical Assistance Program provides direct, free information and technical assistance
- Comprehensive Website (www.ada.gov)
- Toll-Free Information Line
Voice 800-414-0301; TTY 800-514-0383
- Outreach Initiatives
- Technical Assistance Resources

Safe Streets Act, JJDPA, & VOCA

prohibit discrimination in

- + Employment Practices
- + Delivery of Services

Thinking about services discrimination:

- ? Is there funding subject to Title VI, Section 504, Safe Streets Act, or other Program Statute?
- ? Does the delivery of services involve a Protected Class?
- ? Is a Protected Class receiving unequal treatment?

Example:

A Police Department receives OJP funds.

The PD does not have a device to respond to emergency calls from deaf residents.

Deaf residents do not receive the same access as others to police services.

Assurances

The applicant also specifically assures and certifies that:

6. 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).

These nondiscrimination requirements include:

- 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 ground of race, color, religion, national origin, sex or disability against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs.
- The recipient will provide an **EQUAL EMPLOYMENT OPPORTUNITY PLAN** if required to maintain one, where the application is for \$500,000 or more.

OJP's Civil Rights Enforcement

- ▶ **EEOPs** (Equal Employment Opportunity Plans)
- ▶ **Complaints**
- ▶ **Findings**
- ▶ **Compliance Reviews**



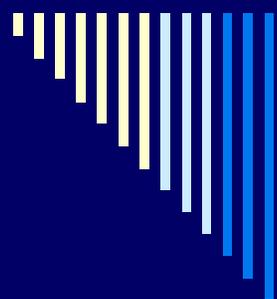
Obligation of State Administering Agency (SAA)

- ✓ An SAA must monitor its subgrantees' compliance with civil rights laws.
- ✓ An SAA should have written procedures for receiving discrimination complaints from its employees and beneficiaries and from employees and beneficiaries of its subrecipients. At a minimum, the procedures should involve referring each complaint to the appropriate agency for investigation and resolution, and notifying the Office for Civil Rights of this referral.

Q & A

FAITH-BASED ORGANIZATIONS

- Government agencies must remove barriers for FBOs applying for aid
- Government agencies providing financial assistance must not discriminate either in favor of or against FBOs



DOJ Regulations issued for FBO guidance, Jan. 2004

- FBOs must not use Federal funding to advance inherently religious activities
- FBOs may not discriminate against beneficiaries based on religion or religious belief

FBO Reg & Employment

- Funded FBOs do not forfeit Title VII's exemption from religious discrimination in employment.
- “Some Department programs, however, contain independent statutory provisions requiring that all grantees agree not to discriminate in employment on the basis of religion. Accordingly, grantees should consult with the appropriate Department program office to determine the scope of any applicable requirements.” 28 CFR 38.1(f) & 38.2(f)

Certificate of Exemption

- DOJ has determined that on a case-by-case basis, the Religious Freedom Restoration Act may allow Grantee FBOs to hire based on religion. An FBO must certify:
 - It will offer all federally-funded services to all qualified beneficiaries;
 - Inherently religious activities will be voluntary and kept separate from federally-funded activities; and
 - It is a religious organization that sincerely believes that abandoning its religious hiring practice in order to receive federal funding would substantially burden its religious exercise.

Do FBOs need to have 501(c) (3) tax status to receive funding?

Answer: **NO***

* One Exception: nonprofits funded under the Juvenile Justice and Delinquency Prevention Act

4 Ways for Applicant FBOs to Prove Nonprofit Status

- ▶ IRS recognizes as 501(c)(3)
- ▶ Statement from State taxing body or State Secretary of State certifying
 - (a) organization is nonprofit operating within State; and
 - (b) No part of the organization's net earnings may lawfully benefit any private shareholder or individual
- ▶ Certified copy of certificate of incorporation or similar document establishing nonprofit status
- ▶ Any of the above, if it applies to a State or national parent organization, with a statement by the State or parent organization that the applicant is a local nonprofit affiliate

Q & A

Limited

English

Proficiency

National Origin Discrimination

Includes discrimination on the basis of Limited English Proficiency (LEP).

A Limited English Proficient (LEP) person has a first language other than English and a limited ability to read, write, speak, or understand English.

*To avoid
discrimination
against LEP persons,
recipients must*

- Take **reasonable steps** to ensure **meaningful access** to the programs, services, and information the recipients provide, **free of charge**.
- Establish and implement **policies and procedures** for language assistance services that provide LEP persons with meaningful access.

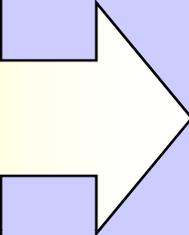
What are reasonable steps?

Four Factor Analysis

- The ***number or proportion*** of LEP persons served or encountered in the eligible service population.
- The ***frequency*** with which LEP individuals come in contact with the program.
- The ***nature and importance*** of the program, activity, or service provided by the program.
- The ***resources*** available to the recipient.

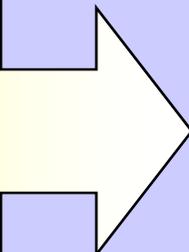
What are language services?

Provide
oral
language
services



and

Provide
translation
of written
materials



Insure Interpreter Competency

Usually family members, friends, and uncertified co-workers are not appropriate.

Safe Harbor Provision

If 5% or 1,000 (whichever is less) of population is LEP, VITAL documents must be translated

However, if 5% represents fewer than 50, then written notice of free written translation upon request must be provided).

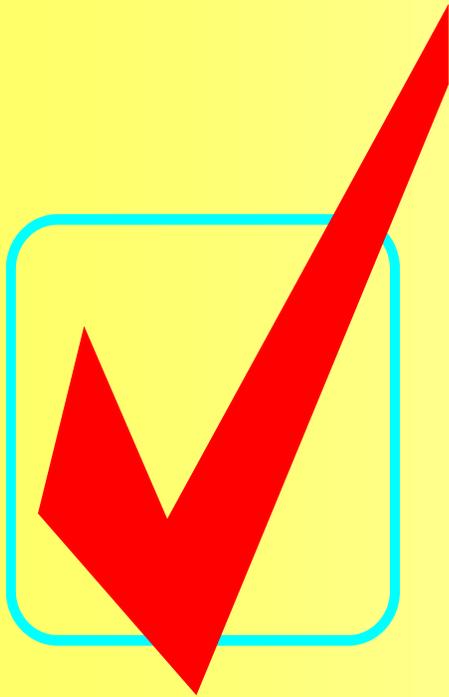
What should a written LEP Policy have?

Five Elements

- A process for identifying LEP persons who need language assistance
- Information about the available language assistance measures
- Training for staff
- Notice to LEP persons
- Monitoring and updating the LEP policy

Q & A

What is an EEOP?



- **Comprehensive document which analyzes:**
 - an agency's workforce in comparison to its relevant labor market data
 - all agency employment practices to determine their impact on the basis of race, sex, or national origin
- **A tool used to identify possible problem areas where discrimination may be occurring**

Does an agency have to prepare an EEOP?

Depends on

- Funding (Safe Streets Act, VOCA, or JJDPA)
- Status of Organization (*e.g.*, nonprofit)
- Amount of single award
- Number of employees

Entity Type	Number of Employees	Dollar Amount	Submit EEO to OCR	Preparation and/ or Certif. Required	Assurance Required	Send Findings
Educational, Medical, Nonprofit, or Indian Tribe	Does not matter	Does not matter	NO	YES	YES	YES
State or Local Govts. & For-Profit Orgs.	Does not matter	Less than \$25,000	NO	YES	YES	YES
State or Local Govts. & For-Profit Orgs.	Less than 50	Does not matter	NO	YES Certifying less than 50 employees	YES	YES
State or Local Govts. & For-Profit Orgs.	50 or more	\$25,000 or more & less than \$500,000	NO	YES prepare and Certify EEO is on file for review	YES	YES
State or Local Govts. & For-Profit Orgs.	50 or more	\$500,000 or more for one grant	YES	NO	YES	YES

Preparing an EEOP

- Step-by-step instructions for preparing an EEOP Short Form online at www.ojp.usdoj.gov/ocr.
- For technical assistance, contact Deborah Cooper, Equal Opportunity Assistant, at (202) 616-3208

Self-Assessment



- What was one highlight from today's presentation on the application of civil rights laws to recipients of Federal financial assistance?
- What is one new piece of information that you will take back with you to your work?

Office for Civil Rights

(202) 307-0690

TTY (202) 307-2027

www.ojp.usdoj.gov/ocr