

Recommendations for
Developing a Model
Civil Rights Program at
The Environmental
Protection Agency

EPA Civil Rights Executive Committee

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PREFACE

The EPA is committed to building a model civil rights program. To help achieve this goal, EPA hired the consulting firm Deloitte Consulting LLP to conduct an assessment of EPA's civil rights program. Deloitte delivered on March 21, 2011, a report titled: "Evaluation of the EPA Office of Civil Rights," posted on EPA's website at <http://www.epa.gov/epahome/ocr-statement.htm>. Following receipt of the report, Administrator Lisa P. Jackson appointed a Civil Rights Executive Committee (the Executive Committee, or "committee"), chaired by Deputy Administrator Robert Perciasepe, to review the Deloitte Report and other sources of information, and to make recommendations for fundamentally improving EPA's civil rights program. This report summarizes the Executive Committee's recommendations to the Administrator for building a model civil rights program at EPA.

The Executive Committee focused on internal changes within EPA to build a model civil rights program, including new operational and management structures, better accountability systems, and ways to broaden participation across the Agency to advance civil rights. The committee did not address civil rights *legal or policy* questions that have remained unsettled for many years, particularly in the context of Title VI, as this was beyond the charge to this committee. The committee focused instead on the structural changes that would strengthen the Agency's overall Title VI program. The committee views these changes as near term priorities for building a strong and sustained civil rights program. Parallel with these efforts (see recommendations that follow), EPA will continue the equally important work of consulting with the Department of Justice, engagement with external stakeholders, and coordination with other agencies through the Interagency Workgroup on Environmental Justice, to bring greater clarity to many of the legal and policy issues that remain a high priority for stakeholders, the States and Tribes, and EPA.

INTRODUCTION

A strong civil rights and diversity program at EPA is essential for creating a high performing organization, attracting and retaining a talented and diverse work force, and ultimately creating an environment in which employees can succeed and meet the challenge of EPA's mission. Over the past year, EPA's civil rights program made significant progress, and the Administrator has taken several actions to strengthen EPA's commitment to civil rights, equal employment opportunity and diversity in the workplace, and implementation of Title VI. EPA has set a record for training its employees under the No Fear Act; submitted on time its Management Directive 715 Report to the Equal Employment Opportunity Commission; incorporated equal employment opportunity (EEO) language into the performance standards of all supervisors and managers; revised and strengthened the EEO performance standard for all Senior Executive Service members; and issued the Agency's first anti-harassment policy. In addition, EPA appointed a special counsel to help address a number of longstanding Title VI complaints, and through a focused team approach, EPA succeeded in processing the highest number of complaints in any year, including some of the oldest Title VI complaints. EPA's Office of Civil Rights (OCR) also issued a Limited English Proficiency (LEP) Order ("internal Title VI guidance") to comply with Executive Order 13166.

While these are promising signs of moving forward, a large challenge remains to build a model program for EPA which will broaden responsibility and accountability for civil rights across the Agency. Improvements in OCR alone cannot effectuate a model program for the Agency. Senior level awareness, commitment, training, accountability, and adequate resources, are all critical to a sustained model civil rights program. In short, EPA's civil rights program cannot be the responsibility of solely one office or one program, but instead must embody "One EPA" principles and involve managers and staff across the Agency.

Deloitte Report

The consulting firm Deloitte Consulting, LLP, completed in March 2011 an evaluation of the organizational structure, requirements of civil rights laws and statutes, internal operations, staff competencies, and resources of the Office of Civil Rights to determine its ability to meet its functional responsibilities and operations. In addition, Deloitte reported on interviews with nine federal agencies and other external research to benchmark EPA's civil rights function. Deloitte's evaluation identified deficiencies in several areas of EPA's program and provided a range of recommendations where Deloitte concluded that improvements are necessary.

Each of the Deloitte recommendations was reviewed and scored in terms of priority and timing by a Deputies Group formed by the EPA Civil Rights Executive Committee. A synthesis of that review is in Attachment 1 (Recommendations Score Card).

Within the sections below are Executive Committee recommendations in four areas: (1) Strengthening OCR and the Agency's Civil Rights Structure; (2) Strengthening EPA's Title VI Program; (3) Strengthening EPA's Title VII Program, and (4) Strengthening EPA's Affirmative Employment and Diversity Program. In some cases the "key recommendations" in these sections

elaborate upon recommendations found in the scorecard (derived from the Deloitte Report). Some of the recommendations, however, were developed by the Executive Committee itself, and are highlighted here to reflect their relative importance.

A Model Civil Rights Program

While the Deloitte report mostly focused on changes within the Office of Civil Rights, the Executive Committee took a broader view. Addressing OCR issues and policies/procedures is not enough to fundamentally improve EPA's civil right program. Bold actions are needed, and civil rights – like any important priority of the Agency – needs to emulate One EPA principles. A model civil rights program needs broad buy- in, senior level commitment, and accountability from many quarters, not just OCR. To support the Executive Committee's work, the Deputies Group outlined a vision for a model program, which is included as Attachment 2 in this report. In summary, a model program includes:

- Direct investment of senior leadership in the success of the program;
- An annual EEO Policy Statement by Administrator;
- Inclusion of EEO, Title VI, and affirmative employment and diversity in strategic plans and performance objectives of offices and regions;
- Inclusion in performance standards for all managers and supervisors an element for internal and external civil rights compliance;
- Adequate funding and resources;
- Direct reporting to the Administrator by the senior civil rights director;
- Clear Agency-wide statement and common understanding of civil rights mission and strategy;
- Hiring, training and developing staff with the necessary skills, inclusion of timeliness, quality, outputs, and outcomes in employee performance standards;
- Focused strategy for complaint prevention and compliance assurance;
- Collaboration with and cooperation across all EPA offices and regions;
- Broad integration of Alternative Dispute Resolution (ADR) approaches across civil rights and employee relations activities; and
- Transparency and on-going stakeholder involvement.

Section 1

STRENGTHENING OCR AND THE AGENCY'S CIVIL RIGHTS STRUCTURE

Broadening Responsibility for Civil Rights – One EPA Approach

The Executive Committee emphatically embraces a One EPA approach for building a model civil rights program at EPA. The Agency needs to fundamentally rethink roles and responsibilities for civil rights, with an emphasis on broadening responsibility and accountability. It follows that many of the significant changes will take place outside of OCR. Within OCR, however, greater emphasis is needed on a leadership role in developing strategies, guidance and policies, monitoring Agency progress, and managing accountability and reporting systems. In the future, a greater share of responsibility for “local implementation” needs to rest with managers and staff throughout the entire EPA organization, including regional offices and headquarters (HQ). In the development of a model program, Agency management must continue to emphasize shared commitment and connectedness among practitioners across the Agency, in both regions and HQ.

Creation of Deputy Civil Rights Officials in EPA's Regions and Headquarter Offices

As a first step toward broadening responsibility for civil rights, a network of senior officials should be delegated certain authorities and held accountable for “local implementation” of civil rights programs in their offices and charged with working together on national strategy and policy development. Instead of the networked teams (as envisioned in the Deloitte report), the committee recommends that senior Deputy Civil Rights Officials (DCROs) be appointed in each region and AA-ship to ensure accountability and improve the coordination of policies and initiatives. The DCROs would be accountable for carrying out certain civil rights implementation activities in their respective regional office or AA-ship. The DCRO concept is modeled after the Agency's existing Deputy Ethics Officials framework, and the officials would have broad responsibilities for implementing the Agency's civil rights program and diversity initiatives. For example, it would be the DCROs who must assure that all staff receive required “No Fear” training, and that all supervisors have mandatory civil rights elements in PARS agreements. (The No Fear training itself should be revised, not only to promote greater recognition of Agency-wide responsibilities for civil rights, but to make it more applicable for practical EEO concerns – e.g., explaining the role of EEO counselors, DCROs, ADR, etc). In addition, the DCRO would represent their organization for the purposes of the Title VI Case Management Protocol, discussed in Section 2 (Strengthening EPA's Title VI Program).

Under this recommendation, DCROs would be responsible for assuring that their organization has well-functioning policies, processes, and management controls for:

- Selection, training, and performance monitoring/evaluation of EEO staff (i.e., EEO Counselors, ADR staff, EEO Officials, etc.);
- Timely reporting of information for various civil rights and diversity related reports and data-calls;
- Training civil rights staff and required training for other employees within their region or AA-ship (e.g., No Fear);
- Ensuring that management promotes diversity and equal employment opportunity and adheres to other responsibilities under the Agency’s civil rights program;
- Assuring that performance agreements have appropriate EEO language;
- Facilitating informal EEO complaint resolution, and assuring that well-qualified/organized Alternative Dispute Resolution processes are employed;
- Representation of the region/AA for the purposes of the Title VI Case Management Protocol; and
- Development of MD-715 Action Plans.

The Executive Committee proposes that the DCRO responsibility be incorporated in the duties of an incumbent senior manager in both the regions and HQ (e.g., ARA/DRA/DAA). This scenario is modeled directly after the Deputy Ethics Official concept. One advantage of this recommendation is that there is a recognized senior official responsible for assuring implementation of the civil rights program and diversity initiatives which will bring a high level of importance and visibility.

Building Staff Skills for a Stronger Civil Rights Program

Deloitte reported that, from the perspective of people they interviewed, the skills necessary to accomplish OCR’s work is not well matched with the current skills in the office. While that perspective cannot be discounted, the more critical question examined by Executive Committee is how EPA can develop the skills and expertise for a future model civil rights program. Broadly speaking, there should be greater emphasis in OCR on leading, developing strategies and guidance, establishing policy, and evaluating progress – essentially providing higher-level management and oversight of the Agency’s civil rights program – while delegating substantial “hands-on” work through a strong network across the Agency. Skills and expertise in these activities may or may not reside in OCR or its partner organizations. To meet these expectations, OCR and its partners may need changes in skill mix and capacity. For example, there should be more investment in tools, training and technical assistance to EEO counselors who have a critical “intake” role for cases – handling both initial efforts to resolve cases, as well as the development of a record for cases that result formal adjudication. Improvements in the counseling process would translate into substantially less “hands-on” investigatory work in OCR, as well as fewer procedural problems and less rework to adjudicate Title VII cases. Obviously, to complete the example, the capacity and skills of counselors (most of who work outside OCR) are just as crucial to success as any changes made within OCR.

A significant challenge lies ahead for OCR’s management and staff. Many OCR employees, including supervisors, likely are willing and able to embrace change and make the

transition to a future OCR. Some may need training or some may prefer to leave the office. The Executive Committee recommends a focused and intensive process to engage employees in updating the mission and vision statements of OCR, establishing priorities for policies and procedures, and identifying the skill mix necessary for accomplishing the office's "new" responsibilities consistent with the recommendations of this report. A staffing plan should be developed that will guide training, hiring, career development planning (for staff and managers), and assistance to staff interested in pursuing other career opportunities. The office's skill mix may need to change to accomplish the essential functions of the future OCR, and on a case-by-case basis, performance issues need to be addressed. OCR will need continued, sustained assistance to make the transition to a high-performing organization, and the office (and potentially impacted organizations) will need additional FTE and resources to effectively implement the recommendations in this report. Specific actions to begin this process are outlined in the recommendations below.

Through the DCRO system (discussed above), OCR would provide leadership in the development of staff expertise and skills throughout the Agency. The "elevation" of skills and expertise across EPA is a long-term project, and will take sustained team work within the DCRO community (in conjunction with OARM, in particular, for the development of position descriptions for civil rights duties, training, performance standards, etc.).

Key Recommendations in Section 1

1. Establish "Deputy Civil Rights Officials"

Specific steps include:

- Use the Executive Management Council (EMC) to facilitate a discussion about the DCRO role, elevate visibility/understanding and to obtain input into the development of an Agency Order (completed in December 2011);
- Establish a working group at the DRA/DAA level to review these recommendations and to draft an EPA Order (and/or and Agency Delegation) implementing the new DCRO structure. Input received from December 2011 EMC meeting will be used to guide this work; and
- Issue Agency Order in FY12.

2. Develop a Staff Plan for Agency Civil Rights Functions – Engage OCR staff in an organizational development process to update/rewrite the mission and vision for OCR and to identify the essential functions of the Office (substantially based on the recommendations of this report), to inform the development of a comprehensive staff plan. Throughout this process, the lead region and other key partners should be engaged, so that the skills necessary for partners outside OCR (e.g., regional EEO Officers, OARM diversity specialists, etc.) can be incorporated into the plan.

Specific steps include:

- Engage staff with the help of a facilitator to identify actions and plans for implementing the recommendations of this report, and identifying OCR's essential

- functions based on a review of existing processes/activities, benchmarking, the Deloitte report, and other sources of information;
- Identify the specific types of skills and relative size of staff necessary for accomplishing essential civil rights functions;
 - Using the input from staff, and working with OARM and external consultants (as necessary), finalize a staffing plan for OCR, including model PDs, recommended job series, and staff size;
 - Fill positions using a competitive process, to enhance skill sets and bring in outside expertise;
 - Provide training and skill development opportunities necessary for current staff to serve effectively consistent with the skills identified in the staff plan; and
 - Request FTE/resources to effectively implement the recommendations in this report through the regular budget development process, if necessary.

- 3. Build Employee Skill and Assist in Career Development** – Immediately ask OCR staff to come forward for assistance if they are interested in career opportunities other than in civil rights. These staff should be assisted in developing the skills necessary for achieving their career goals outside the civil rights arena. In addition, begin addressing, as appropriate, individual performance problems.

Specific steps include:

- Invite staff to self-select for reassignments, and arrange one-on-one meetings with supervisors/managers (underway);
- Working with OARM, identify potential positions outside of OCR and assist in arranging interviews with other organizations. As part of this process, OARM would ensure that OCR staff are considered for lateral transfers;
- Provide assistance to staff, as needed, on resume writing and interview skills; and
- Provide performance assistance plans and, if necessary, begin formal processes consistent with EPA policies (and bargaining unit agreements) for addressing performance problems on a case-by-case basis.

- 4. Update Standard Operating Procedures** – Add, update, or eliminate standard operating procedures, including templates, model documents and internal guidance documents.

Specific steps include:

- Engage OCR staff in identifying by June 2012 priority standard operating procedures (SOPs) that need to be added, updated, or eliminated – based on the essential functions as identified above. Attachment 3 provides a comprehensive list, developed by OCR staff, can serve as a starting point;
- Distribute the proposed priority list to partner organizations and regional offices for input and to request assistance on project teams; and
- Develop annual “project plans” for each SOP in priority order, including specific actions, internal partners, specific outreach/engagement, and time frame for finalization.

Section 2

STRENGTHENING EPA'S TITLE VI PROGRAM

Background

Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination based on race, color, or national origin under any program or activity of a Federal financial assistance recipient. Under the Act, Congress gave federal agencies considerable latitude to determine whether disparate impacts on minorities resulted from the actions of federal grant recipients. The Act emphasizes resolution of complaints of discrimination through informal, voluntary approaches. Ultimately, however, federal agencies may withhold funding from recipients found to have discriminated against protected classes. Currently, the Office of Civil Rights has the responsibility within EPA to process and review Title VI administrative complaints. Under EPA's current approach, OCR struggles to process complaints and obtain the technical and analytical support necessary to issue final decisions, resulting in a backlog of 25 cases stretching over 15 years.

Assessment

Keeping Title VI cases on track – and reducing the backlog of cases -- is a challenge for the Agency. Over the past year EPA has made considerable efforts to address long-standing problems in Title VI processing and decision making. Regular, high-level meetings are held to discuss the current backlog and to ensure that resources and attention remain focused on the steps necessary to reduce the backlog. The Executive Committee recognizes that many of the cases give rise to potentially significant legal and policy issues that have remained unsettled for many years. The committee did not attempt to address these issues, as this was beyond the charge to the committee. The committee focused instead on the structural changes that would strengthen the Agency's overall Title VI program. The committee views these changes as near term priorities for building a strong and sustained civil rights program. Parallel with these efforts EPA will continue the equally important work of consulting with the Department of Justice, engagement with external stakeholders, and coordination with executive agencies through the Interagency Workgroup on Environmental Justice, to bring greater clarity to many of the legal and policy issues that remain a high priority for stakeholders, the States and Tribes, and EPA.

The Executive Committee found an immediate need to establish a protocol for coordinating the analytical work necessary for investigations and decision making. A fundamental problem in EPA's current Title VI program is the perception in many parts of the Agency that civil rights is the responsibility of OCR, regional EEO officers, or "someone else." The Agency needs a system to assure clear accountability among EPA Offices for conducting research and producing analyses, and a framework for sustained high-level attention necessary for timely decision making.

In addition to addressing the backlog and incoming complaints, the Title VI program needs substantially greater focus on prevention and compliance. For example, significantly more effort is needed to communicate Title VI responsibilities to recipients of federal funding, and to monitor -- through systematic processes -- recipient compliance with Title VI requirements. In addition, a stronger cross-connection is needed between “program” guidance designed to assist states in carrying out delegated authorities under environmental statutes (e.g., monitoring or permitting guidance), with the obligations (and grant conditions) of Title VI for recipients of federal funds.

Key Recommendations for Section 2

1. **Establish a Case Management Protocol** – Through an internal Agency Order, a protocol would be established to bring organizations across EPA into a consensus process for committing adequate analytical resources and technical support for Title VI investigations and decision making. The protocol will articulate the roles and responsibilities of the National Program Managers (NPMs) and/or regional offices involved in Title VI cases along with the structure for investigating the cases. OCR will oversee and manage the protocol and will assure elevation to resolve internal disagreement. See the Case Management Protocol Flowchart in Attachment 4. As shown on the Flowchart, the key elements of the proposed Case Management Protocol include:
 - OCR continues its role in accepting/rejecting complaints, but case management and the adjudication process would be typically a shared responsibility with a region/NPM;
 - OCR develops a Preliminary Case Management Plan with input from region(s) and NPM(s);
 - OCR convenes a senior panel (including DCRO) to review a complaint, recommend investigation/analytics, and determine who would serve as the lead office(s);
 - Informed by the panel, OCR assigns lead office (NPM or region) or OCR retains the lead;
 - Disputes would be elevated to Deputy Administrator if consensus is not reached on roles/assignments, milestones, or decisions;
 - Lead NPM/region and OCR finalize the Case Management/Investigation Plan and obtain final concurrence & commitments as necessary from other NPMs/regions;
 - NPM/region lead informal resolution efforts, and complete investigation(s); and
 - NPM/region recommends final action. OCR may issue final Agency decision or delegate the final decision.

Specific steps include:

- Establish an EPA “Title VI Management Protocol,” through an Agency Order that establishes a formal process for reaching agreement among offices/regions on a “case management plan” for each Title VI complaint. The plan would spell out specific responsibilities for each party, as well as deadlines. The December 2011 meeting of the EMC was used to facilitate a discussion about the Case Management Protocol,

- elevate visibility/understanding, and to obtain input into the development of an Agency Order; and
- Develop and maintain a Title VI network of technical, legal, and policy experts coordinated by OCR that can be mobilized to answer questions, provide advice, and review documents as part of the Title VI case management process.

- 2. Strengthen Title VI Compliance and Prevention through Grant Mechanisms - EPA** should strengthen communication to grant recipients to assure that Title VI responsibilities are clear and unambiguous and examine EPA’s authorities for improved oversight, including data collection, compliance, monitoring and reporting. Grant recipients already agree under existing grant conditions to comply with all federal civil rights laws; however, the requirement is buried among many other general conditions, and potentially is viewed as “pro forma” among recipients.

Specific steps include:

- As outlined in Plan EJ 2014, EPA will include Title VI along with environmental justice as topics for discussions in regularly scheduled meetings with state associations, including meetings on the National Environmental Performance Partnership System (NEPPS) program and in discussions with individual States on performance partnership agreements and performance partnership grants. Increase the visibility of Title VI in all aspects of training and technical assistance for recipients through existing structures;
- Update EPA’s existing pre-award review process, as appropriate, to clarify when additional reporting as a grant condition may be appropriate. Where EPA has more fully developed, formal guidance (e.g., Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, June 25, 2004 Federal Register/Vol. 69, No. 122), explore authorities for assuring compliance, such as requiring implementation plans as a grant condition;
- During grant pre-award review, consider incorporating in grant agreements specific reporting requirements on program activities being carried out to comply with Title VI for recipients that appear to have compliance problems;
- Include a civil rights module in EPA’s post-award “advanced” grant audits, and increase the number of audits (including on-site visits) for recipients that appear to have compliance problems; and
- Develop guidance to grant recipients identifying components of an effective Title VI program, and conduct a review to determine whether EPA needs regulations to support/strengthen implementation.

- 3. Mobilize Resources from Across EPA to Prevent and Resolve Title VI Complaints -** Integration of Title VI prevention and compliance activities into regular and routine EPA activities across all programs is needed to institute a One EPA approach for civil rights. Initial steps are included below, but over time, additional opportunities should be identified to further integrate Title VI into operating programs.

Specific steps include:

- Develop and implement standardized Title VI compliance language for inclusion in programmatic guidance intended for recipients of federal funds;
- As policy evolves, EPA should work with States over the next two years in developing metrics and program goals for inclusion in NPM guidance and annual commitments, including reporting on Title VI compliance in the annual mid-year and end-of-year review processes, for delegated programs that receive federal funding. EPA internal processes and procedures should be updated as appropriate to reflect these changes (e.g., guidance to EPA permit reviewers);
- EPA should consider other available avenues to address community concerns. In some cases, better communication, community engagement, and technical assistance may mitigate or resolve community concerns;
- Consider the role of Title VI in working with States and communities to develop environmental justice initiatives and strategies. Although environmental justice is a much broader program than Title VI compliance, there are some connections, and EPA should look at patterns of Title VI issues, especially potential patterns in geographic areas, in advancing EPA's environmental justice activities; and
- Develop policy statements/guidance that elucidate the analytical framework for reviewing Title VI complaints and for the use of ADR in resolving such complaints.

Section 3

STRENGTHENING EPA'S TITLE VII PROGRAM

Background

Title VII of the Civil Rights Act of 1964 deals exclusively with Equal Employment Opportunity (EEO), making it illegal to "...discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin..." Furthermore, "...it shall be the policy of the United States to insure equal employment opportunities for Federal employees without discrimination..." Hence, federal agencies have a clear directive to ensure equal employment opportunities and to provide procedures for addressing, adequately and efficiently, any instances of alleged discrimination that are brought before them. Employees alleging discrimination are to be provided an opportunity for early informal resolution of their concerns, including participation in EEO counseling or use of Alternative Dispute Resolution (ADR) program, at their discretion. A formal complaint can be filed with the EPA's Office of Civil Rights if the allegation of discrimination cannot be settled at the informal stage. The option of settlement through the use of ADR continues throughout the formal EEO process.

Assessment

Mechanisms for the adjudication of EEO complaints are in place at EPA, but are not functioning at levels necessary for the timely processing of complaints or prevention of complaints. OCR struggles to achieve timeliness in the Title VII decision making process, and its reputation for customer service is poor. Draft work products under Title VII are uneven in quality, and significant rework is required through OGC or management review processes. In addition, the Agency's process lacks enough emphasis on ADR to facilitate a reduction in formal complaints while still assuring due process for employees alleging discrimination.

Strengthening EPA's EEO counselor corps would provide immediate, significant benefits and could be achieved with relatively modest investment. The EEO counselor role is critical to any model program. The counselor essentially serves as "intake" for complaints, facilitates informal solutions and alternative dispute resolution, informs employees of their rights, and assures adherence to statutory/regulatory/procedural requirements. Currently, there is heavy reliance on EPA employees who serve as EEO counselors as a collateral assignment. Often this is a serious problem for assuring high-level expertise, familiarity with evolving policy/procedures, and connectedness to OCR. A professional, well-coordinated, and well-trained cadre of Agency counselors is absolutely critical for the success of EPA's Title VII program. More emphasis is necessary on the selection, training, oversight, and performance of EEO counselors. Connected to some degree is the need to improve access to ADR. EEOC regulations require agencies to make ADR available to employees.

Key recommendations and others for Title VII are described in more detail below. To succeed, these changes need to be implemented through a strong partnership between OCR and the Office of General Counsel's Civil Rights and Finance Law Office (CRFLO). Over time, as OCR develops stronger expertise, OGC's role should focus on pertinent legal issues that arise from cases, rather than drafting and documenting work. In the meantime, OGC will continue to play a critical role in broadly supporting OCR core Title VII functions.

Key Recommendations for Section 3

1. **Strengthen EPA EEO Counselor Program** - OCR, using the DCRO network (see Section 1), should revitalize the EEO Counselor program to ensure that the best candidates are selected and adequately trained for this responsibility. "Professionalizing" the duties of EEO Counselors should be emphasized – including making these duties a critical element of an employee's performance standards. In addition, the number of active EEO Counselors should be reviewed to assure an appropriate ratio of counselors to case workload.

Specific steps include:

- Develop clear criteria and expectations of EEO Counselors;
- Revamp EEO Counselor training and formalize the recruitment process; and
- Incorporate into the authorities of DCROs the responsibility of assuring, within expected resources, the appointment of qualified counselors, training for counselors, and monitoring/evaluating of performance.

2. **Title VII Backlog/Case Management** - OCR should use external experts to conduct investigations and employ a case management tool to track the workload, timeliness and results of Title VII cases. The case management tool should also have the ability to assist with data collection for mandatory reporting.

Specific Steps Include:

- Investigations will be contracted out to the United States Postal Service. Contract is currently in place;
- Options for a case management tracking system are currently being evaluated, and a system will be operational in January 2012;
- A clear explanation of the Title VII process, particularly roles and responsibilities among HQ and regions and time frames, should be developed, in close consultation with DCROs; and
- To the extent practical and appropriate, regional EEO Officers will be engaged to reduce the current backlog by helping to draft Final Agency Decisions (FADs).

3. **Involve EEO Officers in Title VII Policy Development** - EEO Officers should be included in policy development and provided with meaningful opportunities to implement and take part in the creation of a model civil rights program.

Specific Steps Include:

- Engage EEO Officers in policy development and program implementation to strengthen their involvement in civil rights across the Agency;
- Review the EEO Officers' white paper and develop a plan for implementation of recommendations for involvement of EEO Officers; and
- Jointly prepare an annual work plan for civil rights for the Administrator's Office and Civil Rights lead region to advance projects for improved policy coordination and implementation.

- 4. Strengthen Workplace Alternative Dispute Resolution (ADR)** - The Agency should ensure that a sound ADR program, which facilitates the early and effective informal resolution of disputes, is readily accessible to all employees for the full range of employment-related issues, and that EPA employees know what services are available to them. The Agency should conduct a campaign to broaden awareness about EPA's ADR resources, and the use of ADR should be promoted as an effective approach to settling workplace disputes, including grievances and allegations of discrimination.

Specific Steps Include:

- Develop and announce a clear Agency policy for the use of ADR to resolve the full range of employment related disputes;
- Develop and implement standard operating procedures for the ADR program to ensure compliance with EEOC guidelines and the effective functioning of the program;
- Engage civil rights staff, counselors, and DCROs in identifying specific EEO program policies and procedures in which ADR should be incorporated;
- Provide training for staff and management on the use of ADR and services provided by the ADR program, and for managers in conflict management; and
- Establish reporting requirements and protocol for evaluating the effectiveness of ADR program activities.

Section 4

STRENGTHENING EPA'S AFFIRMATIVE EMPLOYMENT AND DIVERSITY PROGRAM

Background

OCR's Affirmative Employment and Diversity (AED) staff is charged with providing the leadership, direction and advice to managers and supervisors in carrying out equal opportunity and civil rights responsibilities, overseeing the Agency's Affirmative Employment and Special Emphasis and Diversity Programs, developing internal EEO policies/procedures, managing implementation of Executive Orders, and providing oversight and technical assistance to HQ program management offices, regional offices and laboratories. The Special Emphasis and Diversity Programs include:

- Federal Women's Program
- Black Employment Program
- Hispanic Employment Program
- Asian American/Pacific Islander Employment Program
- American Indian/Alaska Native Employment Program
- Disability Employment Program
- Diversity Programs for Older Workers and Gay, Lesbian, Bisexual, Transgender

A critically important function for AED is the development of the Agency's Affirmative Employment Program Plan. The plan is developed in accordance with the guidelines established by the Equal Employment Opportunity Commission (EEOC) Management Directive (MD) 715. The Agency's plan includes all program offices, regions, and laboratories. The MD-715, issued in 2004, provided new guidelines on identifying triggers and conducting barrier analysis within the workforce.

Assessment

The staff in OCR's Affirmative Employment and Diversity (AED) Program face considerable challenges. Leadership for affirmative employment and diversity activities primarily resides in three organizations at HQ (OCR, Office of Diversity Outreach and Collaboration (ODOC), and OHR), and activities are structured in a variety of ways in regional offices. There is no inherent problem with multiple organizations being involved in these activities; however, overall, the program needs a clearer focus on functions and priorities, stronger lines of accountability, and better coordination between HQ and regional offices. Some of the most critical functions in affirmative employment and diversity have received too little attention in relation to other, lower-priority activities. The Deloitte report noted, for example, that EPA has struggled with achieving MD-715 requirements while investing significant time and energy on special observances – one event for each program area. Realignment of functions

across HQ among the three principal organizations (and potentially within regions) is fundamental for achieving a model civil rights program at EPA.

Currently, OCR's staff is focused on Title VI, Title VII, and nearly everything else is run by AED. OCR's AED program needs a more tightly defined mission centered on the "core" functions driven by the MD-715 process – identifying triggers, analyzing barriers to affirmative employment, assuring the development of action plans, and implementing systems of accountability to monitor progress. Some of the activities currently handled by OCR's AED may need realignment for consistency with OARM's responsibility to promote, both internally and externally, staff diversity and cultural/traditional sensitivity.

The future OCR needs to become, in a sense, EPA's civil rights policy leadership and expertise center – coordinating the DCRO network and the HQ/regional civil rights "community of practice," establishing and running civil rights policy working groups, developing agenda items to advance civil rights policy issues for senior management, drafting internal strategies, policies, and regulations, and providing on-going evaluation of the Agency's civil rights activities and programs. It is particularly important that OCR develop the ability for evaluation and accountability. Because of its position in the Administrator's Office, OCR is uniquely situated to evaluate the Agency's activities, and to hold accountable the Agency's managers. Potentially, some of these activities could be managed outside of AED, and these new directions should be taken into account as OCR's staffing plans and other recommended changes are implemented.

Key Recommendations for Section 4

1. Integrate Civil Rights and Diversity in Agency Reporting Vehicles

Specific Steps Include:

- Work with Office of the Chief Financial Officer to clearly identify and integrate civil rights and diversity into the Agency's Strategic Plans, Organizational Assessments, Operating Plans and other relevant Agency reporting vehicles;
- Include civil rights and diversity as important Agency goals and cross-cutting strategies in the Agency's Strategic Plan;
- Starting in FY13, report progress on civil rights and diversity initiatives in the Agency's Organizational Assessments; and
- OCR and OARM, working with the DCRO network, should refine and issue quarterly civil rights and diversity reports to Agency senior leadership.

2. Improve OCR's Capacity for Meeting MD-715 Requirements - In the development of OCR's staffing plan, place high priority on assuring OCR has the skills and expertise necessary for carrying out OCR's principle role in the MD-715 process.

Specific Steps Include:

- Develop a detailed analysis of specific skills necessary for the MD-715 process (e.g., barrier analysis, evaluation, and statistics);

- Benchmark EPA’s analysis with other high-performing organizations and through consultation with EEOC and other relevant organizations; and
- Develop position descriptions reflecting the staffing plan.

3. Implement Items from the Agency’s Diversity and Inclusion Strategy

Specific Steps Include:

- Use the EMC as a platform for input and decisions on the diversity strategy and its maintenance;
- Integrate workable parts of NACEPT’s recommendations in the Agency’s workforce planning/diversity strategy;
- Make support tools for managers and supervisors readily available and effective; and
- OCR/OHR/ODOC and OGC should meet jointly, at least once a year, to discuss; evaluate and address outstanding or emerging issues pertaining to hiring, staffing, civil rights, diversity, reporting etc.

4. Shift responsibility for Cultural Appreciation and Heritage Events to OARM

Specific Steps Include:

- Document current practices, contact information, and any other information that will help assure a smooth transition of the function to OARM; and
- Through the realignment plan (see next recommendation), identify positions that may be necessary in OARM to carry out these functions.

5. Finalize Realignment/Reorganization Plan

Specific Steps Include:

- Task senior management in OHR, ODOC, OCR and OSBP, in consultation with regional offices, with developing a realignment/reorganization plan within 4 months of the release of this report that clearly identifies roles and responsibilities;
- The plan should emphasize roles and responsibilities necessary to meet the Agency’s human resources, civil rights and diversity responsibilities; and
- The plan should include detailed explanations of the role of each organization in accomplishing the requirements of Executive Orders and White House Initiatives, including a system for assigning and monitoring the implementation of future executive orders and initiatives.

Attachment 1: Recommendations Score Card

The EPA Civil Rights Executive Committee and the supporting “Deputies Group” were tasked with identifying a path forward for developing a Model Civil Rights program in EPA. The following pages contain the combined recommendations, designated score for each action and some summary statistical information. Where it was logical to do so, recommendations were combined and arranged by themes/team/subject matter. The starting point for this challenge began with the Deloitte Study issued in March 2011. To support the Executive Committee, the Deputies Group synthesized the Deloitte findings and recommendation based on the following questions/criteria:

1. Does the recommendation serve to stabilize EPA's civil rights program and enable EPA to meet current/ongoing requirements? Would implementation of the recommendation affect future/longer-term institutional changes necessary to achieve a model civil rights program? How?
2. Does the recommendation serve to advance EPA toward a model civil rights program? How?
3. Will the recommendation work at EPA, considering EPA's structure and culture? If not, could it be adjusted to make it work at EPA? In what ways?
4. When should implementation of the recommendation begin? Immediately, within 6 months, within a year, beyond one year?

Summary Statistical Information of Recommendations

- 42% of recommendations have been rated as High Priority
- 44% of recommendations have been rated as Medium Priority
- 9% of recommendations have been rated as Low Priority
- 5% of the recommendations are not recommended for implementation
- 30% of recommendations are in the process of being implemented or have been completed
- 18% of recommendations are expected to be initiated within 6 months
- 25% of recommendations are expected to be initiated within 1 year
- 27% of recommendations are expected to be initiated beyond 1 year

	Finding	Recommendation	Priority 1. High 2. Medium 3. Low 4. None	Time Line A. Now B. Within 6 Months C. Within 1 Year D. Beyond 1 Year	Implementation Notes and Considerations
<p style="text-align: center;"> Green = Stabilizing Recommendation Orange = Advances Model Program Red = Not Recommended for Implementation </p>					
<p>Recommendations for Office of Civil Rights (Management –Staff-Skills- Tools-Procedures)</p>					
1	Vision and Mission	Develop OCR vision and mission – proactive mindset for civil rights. Ensure that staff know and understand the mission	1	A	Vision and mission statement being developed with input from staff, possible interim statement*
2	Leadership – Skills	Develop cohesive leadership management team	1	A	Start now , but needs to be sustained; May need to broaden in certain areas e.g., more legal expertise
3	Management Skills	Improved oversight of staff required. Ensure strong managerial and civil rights background needed in OCR leadership.	1	A	Now – managerial needs identified and steps have been taken to address this recommendation
4	Accountability	Ensure that all managers and supervisors have Civil rights/EEO within standards	1	A	Now – happening now through the PAR\$ mid-year review process; COMPLETED
5	Data - Use	Obtain a reliable and user-friendly complaint tracking system to monitor compliance with regulatory deadlines	1	A	Now – quotes for the purchase of tracking systems have been obtained; Procurement in process

	Finding	Recommendation	Priority 1. High 2. Medium 3. Low 4. None	Time Line A. Now B. Within 6 Months C. Within 1 Year D. Beyond 1 Year	Implementation Notes and Considerations
<p style="text-align: center;"> Green = Stabilizing Recommendation Orange = Advances Model Program Red = Not Recommended for Implementation </p>					
6	Partnerships - OGC	Involve OGC in legal review early in complaint processing for T6 and T7	1	A	Done through new, informal arrangements; Arrangement should be formalized in a SOP; Management attends monthly meetings; Staff are meeting to discuss specific cases-this also acts as training and capacity building
7	Internal Success Stories	Identify and use internal success stories as a benchmark for other teams (e.g. Reasonable Accommodations Program)	1	A	Start now;
8	Leadership – Skills, credibility and confidence	Ensure that leadership has requisite expertise needed to effectively implement program objectives (all teams)	1	B	Pending final structure and functions of program; Underway

	Finding	Recommendation	Priority 1. High 2. Medium 3. Low 4. None	Time Line A. Now B. Within 6 Months C. Within 1 Year D. Beyond 1 Year	Implementation Notes and Considerations
<p style="text-align: center;"> Green = Stabilizing Recommendation Orange = Advances Model Program Red = Not Recommended for Implementation </p>					
9	Data - Systems	Reliable case management systems needed to support program work in all sections of OCR and to support mandatory reporting requirements (MD-715, No Fear Reporting, etc)	1	B	Implementation has begun; i-complaints in process of procuring; T6 completed, waiting to install on server; AED-developing integrated system through HR and People Plus; Reasonable accommodations up and running
10	Accountability	Regular performance and career development coaching for staff	2	A	Now - training is continually provided and made available to staff; Happening now with T6
11	Accountability - Staff	Performance plans address timeliness, quality, outputs and outcomes	2	A	Ongoing
12	Leadership – Skills, credibility and confidence	Management clearly identifies and provides the skills required for staff success. Use these requirements to drive training and hiring decisions.	2	A/B	Now - training is underway; Outcome of decisions with EC will determine what stays and what goes; Should broadly include the rest of the Agency along with EEO Officers and Investigators;

	Finding	Recommendation	Priority 1. High 2. Medium 3. Low 4. None	Time Line A. Now B. Within 6 Months C. Within 1 Year D. Beyond 1 Year	Implementation Notes and Considerations
<p style="text-align: center;"> Green = Stabilizing Recommendation Orange = Advances Model Program Red = Not Recommended for Implementation </p>					
13	Standard Operating Procedures	Develop repeatable processes (templates, procedures, job aids) to support all project areas on all OCR teams.	1, 2, 3	C	Now – identified as essential to stabilizing functions of the Civil Rights Program; SOPs are being reviewed, prioritized and updated; Need a plan to focus on highest priority;
14	HQ & Regions Relationships	Establish a “dotted line” reporting relationship formally connecting HQ OCR as an authority to regional CR staff	2	C	“Community of Practice” that is strong like other programs building off DCRO approach;
15	HQ & Regions Relationships	Establish formal workflows for issues that involve both HQ and regions	2	C	Combined with #14
16	Data - Process	Develop/Improve process for sharing data across offices - OCR/OHR/OGC/ODOC/Regions	2	C	Include regions; Include EEO Statistical Report, information on complaints and Diversity Dash Boards
17	Contracts	Improved system for managing and monitoring quality of all contract products and services	2	C	Need to review all contract vehicles; focus on the contacts that deal with investigation
18	ADR	Identify ways to make greater use of ADR in Civil Rights Program	2	C	Needs more discussion on how; mandating verses marketing; Need to develop a clear ADR Policy;

	Finding	Recommendation	Priority 1. High 2. Medium 3. Low 4. None	Time Line A. Now B. Within 6 Months C. Within 1 Year D. Beyond 1 Year	Implementation Notes and Considerations
<p style="text-align: center;"> Green = Stabilizing Recommendation Orange = Advances Model Program Red = Not Recommended for Implementation </p>					
19	Vision and Mission	Annual Civil Rights Progress Report	2	D	Possibly 2012 – No Consensus
20	Data - Use	Use data generated from reports and compliance assistance to identify “hot spots” under both T6 and T7. Provide compliance assistance, training as appropriate.	2	D	
21	Partnerships – Regions	Collaborate with regions on policies and agency-wide practices	2	B	Fold into creation of DCROs
22	Strategic Alignment-Organizational	Develop a roadmap to direct a complete overhaul of every OCR program area to align with model OCR and institute improvement management system	2	C	
Recommendations for Title VI					
23	T6 – Compliance/Outreach	Provide technical assistance to recipients on Limited English Proficiency requirements.	2	A	
24	T6- Standard Operating Procedures	Develop repeatable processes (templates, procedures, job aids) to promote compliance assistance in T6.	1, 2, 3	C	Identified as essential to stabilizing functions of the Civil Rights Program; SOPs are being reviewed, prioritized and updated; Staged activities based on priorities

	Finding	Recommendation	Priority 1. High 2. Medium 3. Low 4. None	Time Line A. Now B. Within 6 Months C. Within 1 Year D. Beyond 1 Year	Implementation Notes and Considerations
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25	T6- External Partners	Regular engagement with community and EJ groups, state and local governments and industry.	2	C	Now – evaluating ways to better and regularly engage with external partners; Currently meeting with some EJ groups and plans to meet with more in the future; We should build relationships over time; Lisa/Rafael will discuss ways to develop an informal process with OEJ/EJ Coordinators
26	T-6 External Partners	Condition award of assistance applicants’ assurance of compliance and completion of pre-award audits	2	D	Addressed in Report to the Administrator
27	T-6 External Partners	Conduct technical assistance and onsite compliance reviews	2	D	Addressed in Report to the Administrator
28	T6 Compliance/Outreach	Improve compliance assistance and outreach	2	D	Addressed in Report to the Administrator
29	T6 Compliance/Outreach	Provide final guidance to grant recipients on compliance with T6 and EPA regulations	2	D	Addressed in Report to the Administrator
30	T6 Compliance/Outreach	Train recipients periodically in complaint prevention and compliance	2	D	Can do some training now; Connected to guidance

	Finding	Recommendation	Priority 1. High 2. Medium 3. Low 4. None	Time Line A. Now B. Within 6 Months C. Within 1 Year D. Beyond 1 Year	Implementation Notes and Considerations
<p style="text-align: center;"> Green = Stabilizing Recommendation Orange = Advances Model Program Red = Not Recommended for Implementation </p>					
31	T6 Compliance/Outreach	Make model T6 policy and grievance procedures available for use by recipients	2	D	
32	T6 Compliance/Outreach	Require recipients to submit data on affected persons and communities and on LEP compliance.	2	D	Addressed in Report to the Administrator
33	T-6 External Partners	Target applicants and recipients based on pre-award audits, risk analysis using random sampling, complaint trend analysis, and predictive modeling – Note (based on EPA experience Intervention Concept)	3	D	Use simpler approaches in near term
34	T6- Leadership/Mgmt	Program leaders experienced in environmental laws and civil rights	2	B	
35	T6 - Staff Skills	Staff position descriptions and training program include expertise in environmental law, legal writing and analysis, civil rights, investigations, statistical analysis	2	C	Partially underway through training and skill development
Recommendations for AED					
36	AED – MD 715	Ensure timely submission of report annually	1	A	Done – report submitted in January, annual requirement; MD 715 is a year round process;

	Finding	Recommendation	Priority 1. High 2. Medium 3. Low 4. None	Time Line A. Now B. Within 6 Months C. Within 1 Year D. Beyond 1 Year	Implementation Notes and Considerations
<p style="text-align: center;"> Green = Stabilizing Recommendation Orange = Advances Model Program Red = Not Recommended for Implementation </p>					
37	AED Staff	Train staff in use of databases necessary for MD 715 analysis	1	A	
38	AED –MD 715	Use MD -715 to guide internal communication with stakeholders across the agency and with executives on a quarterly basis.	1	A	Needs some modification; Use for internal – not “all” communications
39	AED – MD 715	Formalize roles for offices (all EPA) involved in leading and implementing MD-715 action plans (OCR/OHR/ODOC/OGC)	1	B	Now – these groups are coordinating efforts through new informal mechanisms; Currently establishing Charter; Maybe develop SOP
40	AED Staff	Staff PDs and training program include expertise in barrier analysis, writing, investigations, statistics, interpersonal and communication skills	1	B	Investigations not in AED;
41	AED Staff	Increase staff expertise to develop and implement remediation strategies	1	B	Change recommendation to “develop and evaluate “Drop implement.

	Finding	Recommendation	Priority 1. High 2. Medium 3. Low 4. None	Time Line A. Now B. Within 6 Months C. Within 1 Year D. Beyond 1 Year	Implementation Notes and Considerations
<p style="text-align: center;"> Green = Stabilizing Recommendation Orange = Advances Model Program Red = Not Recommended for Implementation </p>					
42	AED Staff	Ensure that staff are experienced in barrier analysis (MD-715)	1	C/D	Separate MD-715 and Diversity an option; all staff may not need barrier analysis training; Time should not be spent training staff until some decisions have been made about the organization
43	AED – MD 715	Emphasize complaint trend analysis and use predictive modeling to pinpoint areas for intervention/training/compliance assistance. (T7 issue)	3	D	Not an immediate priority;T7 issue
Recommendations for Title VII					
44	T-7 Backlog/Case Management	Implement a case management tool for workload, timeliness, results and mandatory reporting	1	A	Now – quotes for the purchase of tracking systems have been obtained
45	T-7 Regions	Ensure that EEO Offices are included in policy development and provide them with meaningful opportunities to implement civil rights policies and guidance	1	A	Underway/ongoing; EEO Officers have developed a white paper; Interested in maximizing use of lead region concept for Civil Rights

	Finding	Recommendation	Priority 1. High 2. Medium 3. Low 4. None	Time Line A. Now B. Within 6 Months C. Within 1 Year D. Beyond 1 Year	Implementation Notes and Considerations
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46	T-7 Data	Trend analysis of complaints for proactive prevention	1	A	Has already begun; committee to discuss it for MD-715; Predictive modeling not necessary, but need to use existing data to identify hotspots;
47	T-7 Analysis	Monitoring /addressing hotspots of complaint activity with programs and regions; Prioritize complaints	1	C	Need to think through what is appropriate intervention. Maybe include in action plans or other strategies with senior level involvement and buy-in. Take time to do it right.
48	T-7 Training – Agency	Annual EEO training for all staff; similar to security and ethics	1	D	Need clear effective training; Resource concerns; Need time to develop a training strategy before a decision is made on tools and methods;
49	T-7 Backlog/Case Management	Strengthen ADR; Assign EEO officers part-time and full time to address backlog	2	A	EEO Officers have agreed to help with backlog; See Item #18

	Finding	Recommendation	Priority 1. High 2. Medium 3. Low 4. None	Time Line A. Now B. Within 6 Months C. Within 1 Year D. Beyond 1 Year	Implementation Notes and Considerations
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50	T-7 Partnering - OGC	Document rules of engagement with CRFLO to mitigate perceptions about neutrality being compromised in formal complaints management strategies	2	B	Roles clearly defined at HQ, but blurred in region; Need greater clarity; EEO Officers need to be viewed as clients of CRFLO and thus avail EEP Officers of legal advice that is separate from employment attorneys; This may be an area to focus on where we could make some significant long-term changes. Possibility of having EJ/CR attorney for these positions; Can service center option work here;
51	T-7 –Framework for measuring and evaluation	Include evaluation of contractor products	2	C	Activity is underway to issue new contract (USPS); Standard performance clause is in contract; See 21?
52	T-7 –Framework for measuring and evaluation	Enforce a performance management and quality assurance program.	3	D	Phase-in approach needed here; more fundamental capacity building;

	Finding	Recommendation	Priority 1. High 2. Medium 3. Low 4. None	Time Line A. Now B. Within 6 Months C. Within 1 Year D. Beyond 1 Year	Implementation Notes and Considerations
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53	T-7 Staff Skills	Strengthen research and analytical skills, develop analytical and communication skills.	2	C	Partially underway through training and skill development; Addressed in Report to Administrator
54	T-7 Staff Skills	Staff position descriptions include expertise on EEO, legal writing and analysis, statistical analysis and investigations	2	C	Partially underway through training and skill development; Addressed in Report to Administrator
No Plan to Implement					
55	AED- Diversity - Approach	Networked team to include ODOC, CRFLO, ARA EEO, AED, T7 team, HQ EEO, OHR – Chaired by Diversity AA	4	No Plan to Implement	
56	T6 –Team Approach	Networked team using OCR, OECA, ORD, EJ, etc. to resolve backlog, but approach will support future efficiencies for approaching T6 work –Chaired by OECA AA	4	No Plan to Implement	
57	T6 - Framework	Build a framework for determining cross-functional teams needed to respond to T6 complaints	4	No Plan to Implement	

Attachment 2: Model Civil Rights Program

ELEMENTS OF A MODEL CIVIL RIGHTS PROGRAM*

Environmental Protection Agency

- Senior leadership directly involved and invested in success of the program
- Clear statement and common understanding of civil rights mission and strategy
- Annual EEO Policy Statement by Administrator
- EEO, Title VI, and AED included in strategic plans and performance objectives of offices and regions
- Performance standards for all managers and supervisors include an element for internal and external civil rights compliance
- Adequate funding and resources

Civil Rights Program Office(s)

- Director(s) reports to and has regular access to the Administrator, DA, or COS
- Annual Civil Rights “State of the Union”
- Critical skills and knowledge are identified and drive staff hiring and training
- Outreach, recruitment, and hiring of skilled, knowledgeable staff
- Formal, mandatory training program
- Staff understand their functions, tasks, processes, and expectations
- Performance plans address timeliness, quality, outputs, and outcomes
- Performance tracking and quality assurance program
- Regular performance and career development coaching
- Data collection and management systems, in cooperation with other offices
- Complaint prevention and compliance assurance focus
- Case management tools, including complaint tracking and quality assurance
- Standard Operating Procedures (SOPs), templates, and replicable processes and analytical frameworks developed with partner offices
- OGC legal counsel and review early in complaint processing
- Collaboration with and cooperation from EPA offices and regions
- Alternative Dispute Resolution (ADR) integrated into civil rights programs

External Complaints and Compliance (Title VI) Program

- Program leaders experienced in environmental laws and civil rights
- Staff position descriptions and training program include expertise in environmental laws, legal writing and analysis, civil rights, investigations, and statistical analysis

* While this heading refers to a model civil rights program at EPA, the elements listed do not necessarily have to reside within a single civil rights office. This paper makes no assumptions regarding the ideal organizational location of model internal, external, and affirmative employment/diversity programs.

- Final guidance to grant recipients on compliance with Title VI and EPA's regulations
- Recipients periodically trained in complaint prevention and compliance
- Model Title VI policies and grievance procedures available for use by recipients
- Technical assistance provided to recipients on compliance with LEP requirements
- Regular engagement with community and environmental justice groups, state and local governments, and industry
- Award of assistance conditioned on applicant's assurance of compliance and completion of pre-award desk audit
- Technical assistance and on-site compliance reviews targeted to applicants and recipients based on pre-award audits, risk analysis using random sampling, complaint trend analysis, and predictive modeling
- Recipients must submit data on affected persons and communities and on LEP compliance
- Prioritize complaints and group related complaints
- Coordination with DOJ and other agencies for technical assistance and defensibility
- Use of ADR program with environmental expertise

Employment Complaint Resolution (Title VII) Program

- Program leaders experienced in EEO
- Staff position descriptions and training program include expertise in EEO, legal writing and analysis, statistical analysis, and investigations
- Annual EEO training for all employees, similar to security and ethics training
- System for managing and evaluating contract investigators
- Complaint tracking system to monitor compliance with regulatory deadlines
- Trend analysis of complaints for proactive prevention
- Monitoring and addressing hotspots of complaint activity with programs and regions
- Regional EEO Offices with significant, specified responsibilities
- Use of ADR Program

Affirmative Employment and Diversity Program

- Program leaders experienced in barrier analysis
- Staff position descriptions and training program include expertise in barrier analysis, writing, investigations, statistics, interpersonal and communication skills
- Meet regularly with managers to seek input and provide guidance on barrier analyses
- EEO and Affirmative Employment policies/procedures, including anti-harassment and reasonable accommodation policy and procedures
- Guidance for Special Emphasis Program Managers on responsibilities, activities, logistics, and reporting
- Conduct trend analyses of EEO complaints and workforce demographics

- Staff skilled in use of databases necessary for MD 715 analysis
- Timely MD 715 analysis and reporting
- Clearly defined responsibilities distinct from those of other offices

Sources

Evaluation of the EPA Office of Civil Rights, Deloitte LLP, March 21, 2011; *Instructions to Federal Agencies for EEO MD 715, Section I, The Model EEO Program*, Equal Employment Opportunity Commission (EEOC), <http://www.eeoc.gov/federal/directives/715instruct/section1.html>;

Attaining a Model Agency Program: Efficiency, EEOC, <http://www.eeoc.gov/federal/efficiency>

Letter from Dexter Brooks, EEOC, to Rafael DeLeon, EPA, September 28, 2010

Review of the Title VII EEO Complaints Process - Draft, EPA Management Review Team, May 23, 2001

Ten-Year Check-Up: Have Federal Agencies Responded to Civil Rights Recommendations? Vol. III: An Evaluation of the Departments of Agriculture and the Interior, the Environmental Protection Agency, and the Small Business Administration, U.S. Commission on Civil Rights (USCCR), June 12, 2003

Not in My Backyard: Executive Order 12,989 and Title VI as Tools for Achieving Environmental Justice, USCCR, October 2003

Attachment 3: Inventory of Standard Operating Procedures

**Office of Civil Rights
Inventory of Standard Operating Procedures and Templates
Title VI**

Team	Procedure	Comment
Title VI	Freedom of Information Act (FOIA) SOP for Title VI	
	Draft SOP for the Processing of EPA Form 4700-4 (Pre-Award Compliance Review)	First 10 pages provided for reference. Full document available electronically.
	Draft SOP for Processing of EPA Post Award Compliance Reviews	
	Investigation Report Template	
	Investigation Plan Template	
	Sample Investigation Process Timeline	
	Final OCR T6 Complaint Listing	Also posted on OCR website
	40 CFR Part 7– Non-discrimination in Programs Receiving Federal Assistance from the Environmental Protection Agency	First five pages provided for reference purposes. Full document available electronically.
	Title VI - Legal Manual US Department of Justice (DOJ) -2001	Note: OCR made a policy call to begin using DOJ guidance. There is a plan underway to draft EPA-specific guidance that mirrors DOJ's. Table of Contents provided for reference purposes. Full document available electronically.
	DOJ Investigation Procedures Manual – 1998	Note: OCR made a policy call to begin using DOJ guidance. There is a plan underway to draft EPA -specific guidance that mirrors DOJ's. Table of Contents provided for reference purposes. Full document available electronically.
	Limited English Proficiency (LEP) guidance – Federal Register Notice June 25, 2004	First five pages for reference only. Full document available electronically.
	Recipient Guidance – Federal Register Notice 2006	

Office of Civil Rights
Inventory of Standard Operating Procedures and Templates
Title VII

Team	Procedure	Comment
Title VII	Contents of an EEO Complaint File	
	Procedures for Union Notification	Developed in Jan 2011
	Regional Contact List –EEO Officers	
	Description of OCR functions by team	
	EEONet procedures and user’s manual	EEONet is the tracking system for all EEO complaints.
	EEO Counselors –Required documents of an EEO folder	Contains a listing of all contents associated with a complaint file when it is given to HQ staff.
	OCR Correspondence Types	Provides a list of correspondence generated throughout the process; also contains a glossary of terms.
	SOP for Civil Rights and Finance Law Office	Provides CRFLO’s standard review time for EEO actions (e.g., accept/dismiss, Final Agency Decisions, etc.)
	How to review a Report of Investigation	
	Settlement Authority	Provides citations/statutory authorities for settlement actions.
	Request for Official Time	Template to use when official time is needed to prepare or respond to an EEO investigation request.
	SOP for electronically exporting EEONet pre complaint data	
	SOP for Preparing Case Files	
	Checklist for Report of Investigation	
	How to use EEONet (website)	
	How to use and access EEONet Ellipticals	
	Processing EEO Complaints	Draft and has not been approved by OCR management.

**Office of Civil Rights
Inventory of Standard Operating Procedures and Templates
Affirmative Employment and Diversity (AED)**

Team	Procedure	Comment
AED	Special Emphasis and Diversity Program Managers' Handbook	Dated July 2006 (Currently being updated by AED Staff)
	National Special Emphasis Program Committees Policies and Procedures	Dated July 2009(Included in SEP & Diversity Program Managers' Handbook)
	By Laws – Black Employment Program Advisory Council, Hispanic Employment Program, Federal Women Program, American Indian Alaska Native, Asian American Pacific Islander, Disability Employment Program, LGBT and Older Workers Diversity Program	AED Staff is currently consolidating all SEP By-laws into one SOP.

Attachment 4: Flowchart for Case Management Protocol

