

Compliance Review Guide

**Procedural Processes for Conducting
Pre-award Compliance Reviews and
Post-award Compliance Reviews**



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Compliance Review Guide

Procedural Processes for Conducting Pre-award Compliance Reviews and Post-award Compliance Reviews

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**Procedural Process for Conducting Pre-Award
Compliance Reviews and Post-Award Compliance Reviews**

1. INTRODUCTION

1.1 Overview

The U.S. Nuclear Regulatory Commission (NRC) is responsible for providing regulatory oversight of coordinating compliance with and enforcing Title VI of the Civil Rights Act of 1964, including the provisions related to limited English proficiency; Title IX of the Educational Amendments Act of 1972; Sections 504 and 508 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; and Title IV of the Atomic Energy Act, as amended. These acts are adopted and incorporated in NRC regulations under Title 10 of the Code of Federal Regulations (10 CFR) Part 4, “Nondiscrimination in Federally Assisted Programs or Activities Receiving Federal Financial Assistance from the Commission,” and 10 CFR Part 5, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.”

The Office of Small Business and Civil Rights (SBCR) administers NRC civil rights compliance programs. SBCR is required to establish and maintain effective pre- and post-award compliance review programs to ensure that award recipients comply with Federal mandates and nondiscrimination laws.

The NRC uses several mechanisms (pre- and post-award compliance reviews, and investigations) to ensure equal opportunity and fair practices in the programs and activities of NRC award recipients. This reference guide provides information on the Outreach and Compliance Coordination Program’s (OCCP’s) pre- and post-award compliance processes.

1.2 Background – Excerpt from DOJ’s Title VI Legal Manual

1.2(1) Federal Funding Agency Methods to Evaluate Compliance

The Federal agency providing the financial assistance is primarily responsible for enforcing Title VI as it applies to its recipients. Agencies have several mechanisms available to evaluate whether recipients are in compliance with Title VI, and additional means to enforce or obtain compliance should a recipient’s practices be found lacking. Evaluation mechanisms, discussed below, include pre-award reviews, post-award compliance reviews, and investigations of complaints.

A. Pre-Award Procedures

Agencies should endeavor to ensure that awards of Federal financial assistance are only granted to entities that adhere to the substantive antidiscrimination mandates of Title VI and other nondiscrimination laws.

1. Assurances of Compliance

The Title VI Coordination Regulations, (as well as the Section 504 coordinating regulation), require that agencies obtain assurances of compliance from prospective recipients. 28 C.F.R. §§ 41.5(a) (2), 42.407(b). Regulations requiring applicants to execute an assurance of compliance as a condition for receiving assistance are valid. *Grove City*, 465 U.S. at 574–575 (Title IX assurances); *Gardner v. Alabama*, 385 F.2d 804 (5th Cir. 1967), cert. denied, 389 U.S. 1046 (1968) (Title VI assurances). If an applicant refuses to sign a required assurance, the agency may deny assistance only after providing notice of the noncompliance, an opportunity for a hearing, and other statutory procedures. 42 U.S.C. § 2000d-1; 28 C.F.R. § 50.3 II.A.1. However, the agency need not prove actual discrimination at the administrative hearing, but only that the applicant refused to sign an assurance of compliance with Title VI (or similar nondiscrimination laws). *Grove City*, 465 U.S. at 575. Assurances serve two important purposes: they remind prospective recipients of their nondiscrimination obligations, and they provide a basis for the Federal government to sue to enforce

compliance with these statutes. See *United States v. Marion County Sch. Dist.*, 625 F.2d 607, 609, 612–13 (5th Cir.), reh'g denied, 629 F.2d 1350 (5th Cir. 1980), cert. denied, 451 U.S. 910 (1981).

2. **Deferral of the Decision Whether to Grant Assistance**— The “Guidelines for the Enforcement of Title VI, Civil Rights Act of 1964,” (the “Title VI Guidelines”) specifically state that agencies may defer assistance decisions: “In some instances it is legally permissible temporarily to defer action on an application for assistance, pending initiation and completion of [statutory remedial] procedures— including attempts to secure voluntary compliance with Title VI.” 28 C.F.R. § 50.3 I.A. Thus, deferral may occur while negotiations are ongoing to special condition the award, during the pendency of a lawsuit to obtain relief, or during proceedings aimed at refusing to grant the requested assistance.

This interpretation is a reasonable, and even necessary, application of the statutory remedial scheme. The congressional authorization to obtain relief pre-award would be sharply reduced, if not rendered a near nullity, if agencies could not postpone the assistance decision while spending the time needed to conduct a full and fair investigation and while seeking appropriate relief. Furthermore, the Attorney General’s administrative interpretation is entitled to deference. See, e.g., *Chevron U.S.A. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842–45 (1984).

The Title VI Guidelines recommend that agencies adopt a flexible case-by-case approach in assessing when deferral is appropriate, and consider the nature of the potential noncompliance problem. Where an assistance application is inadequate on its face, such as when the applicant has failed to provide an assurance or other material required by the agency, “the agency head should defer action on the application pending prompt initiation and completion of [statutory remedial] procedures.” 28 C.F.R. § 50.3 II.A.1 (emphasis added). Where the application is adequate on its face but there are “reasonable grounds” for believing that the applicant is not complying with Title VI, “the agency head may defer action on the application pending prompt initiation and completion of [statutory remedial] procedures.” Id. II.A.2 (emphasis added).

When action on an assistance application is deferred, remedial efforts “should be conducted without delay and completed as soon as possible.” Id. I.A. Agencies should also be cognizant of the time involved in a deferral to ensure that a deferral does not become “tantamount to a final refusal to grant assistance.” Id. II.C. The agency should not completely rule out deferrals where time is of the essence in granting the assistance, but should consider special measures that may be taken to seek expedited relief (e.g., by referring the matter to the Department of Justice to file suit for interim injunctive relief).

3. **Pre-Award Authority of Recipients vis-à-vis Subrecipients**

The Title VI Guidelines provide that the “same [pre-award] rules and procedures would apply” where a Federal assistance recipient is granted discretionary authority to dispense the assistance to subrecipients. Id. III:

[T]he Federal Agency should instruct the approving agency— typically a State agency—to defer approval or refuse to grant funds, in individual cases in which such action would be taken by the original granting agency itself.... Provision should be made for appropriate notice of such action to the Federal agency which retains responsibility for compliance with [Title VI compliance] procedures. Id.

Thus, the Title VI Guidelines support Federal agencies requiring that recipients/subgrantors obtain assurances of compliance from subrecipients. When the recipient receives information pre-award that indicates noncompliance by an applicant for a subgrant, recipients may defer making the grant decision, may seek a voluntary resolution and, if no settlement is reached, (after complying with statutory procedural requirements), may refuse to award assistance.

4. Data Collection

Section 42.406(d) of the Coordination Regulations lists the types of data that should be submitted to and reviewed by Federal agencies prior to granting funds. In addition to submitting an assurance that it will compile and maintain records as required, an applicant should provide: (1) notice of all lawsuits (and, for recipients, complaints) filed against it; (2) a description of assistance applications that it has pending in other agencies and of other Federal assistance being provided; (3) a description of any civil rights compliance reviews of the applicant during the preceding two years; and (4) a statement as to whether the applicant has been found in noncompliance with any relevant civil rights requirements. *Id.*

The Coordination Regulations require that agencies “shall make [a] written determination as to whether the applicant is in compliance with Title VI.” 28 C.F.R. § 42.407(b). Where a determination cannot be made from the submitted data, the agency shall require the submission of additional information and take other steps necessary for making a compliance determination, which could include communicating with local government officials or community organizations and/or conducting field reviews. *Id.*

5. Recommendations Concerning Pre-Award Reviews

It is recommended that agencies implement an internal screening process whereby agency officials are notified of potential assistance grants and are provided the opportunity to raise a “red flag” or concern about the potential grant recipient. If limited resources are a problem, agencies should develop a system to target a significant proportion of assistance applications. As part of the Department of Justice’s oversight and coordinating function, each agency should submit to the Department, as part of its annual implementation plan, any targeting procedures that are adopted.

B. Post-Award Compliance Reviews

Federal agencies are required to maintain an effective program of post-award compliance reviews. Federal agency Title VI regulations reiterate this requirement. Compliance reviews can be large and complex, or more limited in scope.

1. Selection of Targets and Scope of Compliance Review

Federal agencies have broad discretion in determining which recipients and subrecipients to target for compliance reviews. However, this discretion is not unfettered. In *United States v. Harris Methodist Fort Worth*, 970 F.2d 94 (5th Cir. 1992), the Fifth Circuit found that a Title VI compliance review involves an administrative search and, therefore, Fourth Amendment requirements for “reasonableness” of a search are applicable. The Court considered three factors: (1) whether the proposed search is authorized by statute; (2) whether the proposed search is properly limited in scope; and (3) how the administrative agency designated the target of the search. *Id.* at 101; *United States v. New Orleans Pub. Serv. Inc.*, 723 F.2d 422 (5th Cir.) reh’g en banc denied, 734 F.2d 226 (5th Cir. 1984) [hereinafter *NOPSI III*] (E.O. 11246 compliance review unreasonable) (citing *United States v. Mississippi Power & Light Co.*, 638 F.2d 899 (5th Cir. 1981)); and *First Ala. Bank of Montgomery, N.A., v. Donovan*, 692 F.2d 714, 721 (11th Cir. 1982) (Exec. Order No. 11246 compliance review reasonable); see *Marshall v. Barlow’s Inc.*, 436 U.S. 307 (1978).

The *Harris Methodist* Court suggested that selection of a target for a compliance review will be reasonable if it is based either on (1) specific evidence of an existing violation, (2) a showing that “reasonable legislative or administrative standards for conducting an...inspection are satisfied with respect to a particular [establishment],” or (3) a showing that the search is “pursuant to an administrative plan containing specific neutral criteria.” *Harris Methodist*, 970 F.2d at 101 (internal citations omitted); *NOPSI III*, 723 F.2d at 425.

In *Harris Methodist*, the court rejected the Department of Health and Human Services' (HHS') attempts to gain access to records, including a vast array of records associated with confidential, physician peer review evaluations, as part of a compliance review of the hospital. The court held that signing an assurance gives consent "only to searches that comport with constitutional standards of reasonableness." 970 F.2d at 100. Where the proposed compliance review was not subjected to management review and not based upon consideration of a management plan or objective criteria, the court of appeals agreed that the HHS office acted "arbitrarily and without an administrative plan containing neutral criteria." *Id.* at 103.

Thus, agencies are cautioned that they should not select targets randomly for compliance reviews but, rather, they should base their decisions on neutral criteria or evidence of a violation. A credible complaint can serve as specific evidence suggesting a violation that could trigger a compliance review.

In developing targets for compliance reviews, agencies may wish to take into consideration the following:

- Issues targeted in the agency's strategic plan, if any;
- Issues frequently identified as problems faced by program beneficiaries;
- Geographical areas the agency wishes to target because of the many known problem beneficiaries are experiencing or because the agency has not had a "presence" there for some time;
- Issues raised in a complaint or identified during a complaint investigation that could not be covered within the scope of the complaint investigation;
- Problems identified to the agency by community organizations or advocacy groups that cite actual incidents to support their concerns;
- Problems identified to the agency by its block grant recipients; and
- Problems identified to the agency by other Federal, State, or local civil rights agencies.

Apart from complying with the standards outlined above, it is recommended that a decision to conduct a compliance review be set forth in writing and approved by senior civil rights management. An agency may be required to show that it has selected its targets for compliance reviews in an objective, reasonable manner. A contemporaneous, written record that reflects the factors considered will aid in refuting allegations of bias or improper targeting of a recipient. See *NOPSI III*, 723 F.2d at 428. The memorandum should identify any regulations or internal guidance that set forth criteria for selection of targets for compliance reviews, and explain how such criteria are met.

2. NRC's PRE-AWARD COMPLIANCE REVIEW PROGRAM

2.1 Pre-Award Compliance Review Process

A. Pre-Award Procedures

Before making an award, the NRC Acquisition Management Division (AMD), or office designated by AMD, must request in writing that OCCP conduct a pre-award compliance review. The request must be accompanied by (1) an application for funding (all related documents) and (2) a request for procurement action. Requests to conduct pre-award compliance reviews must be submitted to OCCPrograms.Resource@nrc.gov. At minimum, OCCP must perform the following four steps to conduct a pre-award compliance review:

1. Step 1 — OCCP Administrative Assistant or Designated Staff:

- a) Log in (date stamp) the request to conduct a compliance review and application documents received from AMD or the designated NRC office.
- b) Assign an SBCR Pre-Award Compliance Program case number (i.e., office, year, month number (reflecting the order in which the case was received), and abbreviation for the submitting office) (e.g., SBCR 20XX-01-21).
- c) Enter case information in the OCCP automated tracking system.
- d) Set up the case file (electronically and hard case files with labels).
- e) Assign the case file to OCCP staff, based on instructions from the program manager (PM).

2. Step 2 — Civil Rights Specialist or Designated Staff:

- a) Review the application and documents (proposal submission, other required documents, and standard forms) forwarded by AMD and the designated NRC office.
- b) Set up a compliance review plan for handling the case and carrying out associated tasks. Calculate the agency's mandated completion time (20 business days) and the internal completion date set by the PM to ensure both target dates are met. Obtain approval of the completion date from the PM or designee.
- c) Establish initial contact with a representative of the potential awardee to determine the appropriate applicant/recipient designee for purpose of conducting the pre-award compliance review.
- d) Immediately send out standard OCCP information, customized based on the case file. If possible, on the day of receipt of the request/case from AMD. Include in the information a notice of request to conduct a pre-award compliance review; SBCR's purpose and authority; and request for information/documentation contained in NRC Form 781, Parts A, B, and C, approved by the Office of Management and Budget-for information collection for SBCR compliance review. If the proper signature is not affixed to the information received from AMD or the designated NRC office, contact the appropriate individual to request information required to sufficiently conduct the pre-award Compliance Review.

- e) Conduct an initial teleconference with the authorized official from institution or entity receiving the review. Explain the regulatory requirements, compliance obligations, compliance process, and information and documents requested. Make relevant inquiries, address applicant/recipient questions, provide technical assistance, and establish a relationship for outreach purposes.
- f) Follow up with the representative, as warranted.
- g) Verify that the signature of a representative authorized to ensure execution of the recipient's equal employment program(s) is affixed to NRC Assurance Form 424B.
- h) Research and apply specific laws and applicable legal theories to applicant/recipient information and documentation, and make other factual findings sufficient to determine the applicant's/recipient's compliance with Federal nondiscrimination laws and mandates and NRC regulatory requirements.
- i) Draft the compliance summary report using the designated OCCP template and submit the report to the PM for review and concurrence.
- j) Track and maintain all aspects of case processing; notate the file to document timely completion, receipt of information/documentation, and production of legally sufficient and quality reviews.
- k) Keep the PM informed of progress and all concerns or problems encountered during the pre-award compliance review process.

3. Step 3 — Program Manager:

- a) Meet routinely with OCCP staff (in a group and individually) to discuss each staff member's case file, observe progress, and provide constructive (positive/negative) feedback to ensure quality outputs.
- b) Conduct an internal review of OCCP case file and staff file once the staff completes the compliance reviews.
- c) Determine the sufficiency of information/documentation contained in the case file and summary report.
- d) Provide guidance and instructions to the staff and make comments, changes, and other recommendations.
- e) Approve or reject the compliance review.
- f) Issue a notice of determination to AMD indicating whether the applicant/recipient has been determined to be in compliance, placed in a conditional compliance status for a designated period, preferably sixty (60) days, in order to determine their compliance with civil rights regulations and mandates, or found to be in noncompliance with applicable legal authorities.

4. Step 4 — OCCP Administrative Assistant or Designated Staff Continuation:

- a) Enter the applicant's/recipient's compliance status in the OCCP automated tracking system.
- b) Close out the case file under the Pre-Award Compliance Program.
- c) Open the case file under the Post-Award Compliance Program.
- d) Notate all administrative actions taken, including their dates.
- e) Assign the post-award case file to OCCP staff based on PM direction.
- f) Maintain a case log of pre-award compliance review activities (e.g., information on compliance review requests received, compliance reviews conducted, determination of findings, and final disposition).

3. NRC's POST-AWARD COMPLIANCE REVIEW PROGRAM

3.1 Post-Award Compliance Review Process

A. Post-Award Procedures

Federal agencies must maintain an effective program of post-award compliance reviews. Federal agency Title VI regulations reiterate this requirement. Compliance reviews can be large and complex, or more limited in scope.

As stated in the Background section above—Federal agencies granting Federal financial assistance are required to “establish and maintain an effective program of post-approval compliance reviews” of recipients to ensure that the recipients are complying with the requirements of Title VI. 28 C.F.R. § 42.407(a). Related to the reviews themselves, recipients should be required to submit periodic compliance reports to the agencies and, where appropriate, conduct field reviews of a representative number of major recipients. Finally, the Coordination Regulations recommend that agencies consider incorporating a Title VI component into general program reviews and audits. 28 C.F.R. § 42.407(c) (1).

Results of post-approval reviews by the Federal agencies should be in writing and include specific findings of fact and recommendations. The determination by the Federal agency of the recipient's compliance status shall be made as promptly as possible. 28 C.F.R. § 42.407(c).

At minimum, OCCP staff must take the following 10 steps to conduct a post-award compliance review:

1. **Step 1 — Desk Audit:**
Conduct a desk audit of all recipients, including an analytical review of the following information/documentation.
2. **Step 2 — Record Keeping**
Record desk audit file on the Criteria/Data Collection Form.
3. **Step 3 — Group Discussion Meeting**
Participate in group meetings to determine recipients targeted for onsite audits, those required to submit additional report information, and those with no identifiable concerns. Present, verify, and support staff findings. Make the staff recommendation or finding part of the file.
4. **Step 4 — Ranking Meeting**
Participate in OCCP meetings to rank recipients targeted for onsite audits, those from whom additional information is needed to ensure compliance status, and those that are in full compliance.
5. **Step 5 — Communicating with Recipients**
Send the appropriate communications (using OCCP templates) to the designated recipients (categories A, B, and C).
 - a) Use Template A for Category A: In compliance.
 - b) Use Template B for Category B: Caution—issues raised; clarify or obtain information needed to make a determination.
 - c) Use Template C for Category C: Issues of concern or “red flags”; onsite audit required.
6. **Step 6 — On-Site Audits**
Conduct onsite audits of a targeted sampling of those in category C (not to exceed 10 percent of potential NRC award recipients for whom there are issues of concern or “red flags”. The onsite audit encompasses a broad review of the recipient's programs and practices to determine actual compliance with Federal mandates and regulations.

7. **Step 7— Exit Interview**
Conduct an exit interview upon completion of the onsite visit and discuss findings with recipient representatives.
8. **Step 8 — Drafting Summary of Findings**
Prepare a written draft outlining the findings of the onsite audit, including verification of information/ documents and recommendations for achieving compliance. Submit this draft to the PM for review and concurrence. Send the final notification through SBCR's chain of command for concurrence (i.e., PM, Deputy Director, or Director). Use the authorized template to prepare the draft correspondence for the administrative assistant to send upon approval. Document and file the final report.
9. **Step 9 — Monitoring Recipient Compliance with Recommendations**
Follow up with recipients to ensure their compliance with the recommendations made by OCCP. Document follow-up contacts discussing activities.
10. **Step 10 — Annotating Case File**
Make notations to the file of all efforts taken and technical assistance provided to the recipient to ensure voluntary compliance with applicable Federal laws and mandates.
ALL EFFORTS/ACTIONS MUST BE NOTATED IN THE APPROPRIATE FILE.

**APPENDIX A – COVER LETTER TO INITIATE
PRE-AWARD COMPLIANCE REVIEW**

APPENDIX A – COVER LETTER TO INITIATE PRE-AWARD COMPLIANCE REVIEW

(Send Electronically)

My name is _____. I am a _____ for the Nuclear Regulatory Commission's (NRC) Office of Small Business and Civil Rights (SBCR). This correspondence is being sent to you in order to initiate the conducting of a pre-award review.

Prior to NRC's Acquisition Management Division execution of procurement awards, SBCR is required to conduct a pre-award review. The pre-award review is mandated under NRC's Procurement Financial Assistance Program, and applicable Civil Rights statutes and regulations.

The review and issuance of findings must be conducted within 20 business days following receipt of the pre-award package from the Contracting Officer. Upon completion of the pre-award review, SBCR provides a written report of findings to the Acquisition Management Division for appropriate action.

SBCR has received a request from the Acquisition Management Division to conduct a pre-award review in connection with the University's submission for funding of the project entitled, "**Name of Project**". Your assistance is needed to expeditiously conduct the required review.

Please contact me at XXX-XXX-XXXX, in order that I can cover the information required in SBCR's Forms PART A, B and C, address any questions or issues of concern, and ensure prompt receipt of the required information/documentation needed to complete this process.

If your organization has recently undergone a pre-award review, during our initial conversation I will let you know which documents may be cross-filed. Notwithstanding, SBCR will need Parts A, B and C to be completed, and responses made with respect to this funding request.

As part of our process improvement initiative the forms can be completed online at <http://www.nrc.gov/reading-rm/doc-collections/forms/nrc781.pdf>. The 424B and other relevant information and documentation can be forwarded to me electronically at: OCCPrograms.resource@nrc.gov.

Thank you in advance for your cooperation.

Best Regards,

Name

Title

Outreach Coordination and Compliance Programs

Office of Small Business and Civil Rights

Phone: 301-415-4086

Fax: 301-415-5953

APPENDIX B – NRC FORM 781— PARTS A, B, AND C

APPENDIX B – NRC FORM 781— PARTS A, B, AND C

NRC FORM 781
(07-2013)

U.S. NUCLEAR REGULATORY COMMISSION

SBCR COMPLIANCE REVIEW PART B

	In Agreement:	
1. Promptly notify NRC/SBCR upon its request of any lawsuit filed against the applicant or recipient alleging discrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a parent.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2. Promptly notify NRC/SBCR upon any complaints filed against the recipient alleging discrimination.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
3. Submit compliance reports upon the agency's request to the Nuclear Regulatory Commission Office of Small Business and Civil Rights (SBCR). Submit an annual EO compliance report to SBCR no later than December 31 of each calendar year.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
4. Provide comprehensive civil rights training for staff, and periodically retrain staff to establish and update their knowledge of EO civil rights statutes and emerging issues.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
5. Check whether there are any pending applications to other Federal Agencies for assistance, and of Federal assistance being provided at the time of the application or requested report. <ul style="list-style-type: none"> <input type="checkbox"/> No other applications for Federal assistance are pending <input checked="" type="checkbox"/> Other applications for Federal Assistance are pending <input type="checkbox"/> Federal assistance is being provided at the time of the application/requested report <p>*If applications for assistance are pending, or Federal assistance is being provided, please provide a brief description, and forward NRC/SBCR all related documentation.</p>		
6. Check whether any civil rights compliance reviews have been conducted during the two-year period before the application, and forward information concerning the agency or organization performing the review; and any periodic statements regarding such reviews. <ul style="list-style-type: none"> <input checked="" type="checkbox"/> No civil rights compliance review have been conducted <input type="checkbox"/> One or more civil rights compliance reviews have been conducted <input type="checkbox"/> No findings of a noncompliance with any relevant civil rights requirement <input type="checkbox"/> One or more findings of a noncompliance with a relevant civil rights requirement <p>*If civil rights compliance reviews have been conducted, or there has been a finding of a noncompliance with a civil rights requirement, please provide a brief description, and forward NRC/SBCR all related documentation.</p>		
7. Please type in your full name, title and date below indicating your agreement to compile and maintain the records required, pursuant to NRC's guidelines, and Civil Rights directives.		
Typed or Printed Name and Title	Date: (MM/DD/YYYY)	
Signature		

**SBCR COMPLIANCE REVIEW PART C
ADDITIONAL TITLE IX INFORMATION**

Please check the box that applies to your organization:

- The recipient organization provides some type(s) of education programs or activities.
- The recipient organization does not provide any education programs or activities.

This Section contains additional data collections imposed under Title IX of the Educational Amendments of 1972 and the Nuclear Regulatory Commission Title IX implementing Regulations (NRC) set forth in Title 10 of the Code of Federal Regulations, Part 5. Except as provided in §§5.205 through 5.235(a), of NRC's Title IX regulations, these requirements apply to every recipient and to each education program or activity operated by a recipient that receives Federal financial assistance.

Please check yes or no in the appropriate boxes to indicate whether your organization is in compliance with the following Title IX requirements:

Required Title IX Assurances to Fulfill Requirements Under §5.135 and Title IX:

- Yes Provides assurance that all of the recipient's education programs or activities will be operated in compliance with the nondiscrimination mandates of Title IX and NRC's implementing regulations (e.g., Admissions and Recruitment. See §§5.300 through 5.310; Education Programs or Activities. See §§5.400 through 5.455; and Employment in Education Programs or Activities. See §§5.500 through 5.550).
- No
- Yes Provides assurance that the recipient will take whatever remedial action is necessary in accordance with §5.110(a) to eliminate existing discrimination on the basis of sex or to eliminate the effects of past discrimination whether occurring prior to or subsequent to the assurance given.
- No
- Yes Provides assurance that the assurances in this section will be required of the applicant or recipient sub-grantees, contractors, subcontractors, transferees, or successors in interest.
- No

Please check the box that applies to your organization:

Designation of Title IX Coordinator, Notification to Students and Employees and Adoption of Grievance Procedures to Fulfill Requirements Under §5.135 and Title IX:

- Yes Has designated at least one responsible employee to coordinate Title IX compliance efforts and carry out the recipient's responsibilities under Title IX and NRC's implementing regulations, including coordinating any investigations of complaints or noncompliance with Title IX regulations.
- No
- Yes Has and will continue to provide notification to all of the recipient's students and employees of the name, office address, and telephone number of the employee or employees designated to coordinate the recipient's Title IX efforts.
- No
- Yes Has adopted and published an internal grievance procedure to determine whether a particular act, policy, or practice of the recipient complies with Title IX regulations; and that promptly and equitably resolves complaints alleging discrimination on the basis of sex in education programs or activities.
- No

Dissemination of Title IX Policy to Fulfill Requirements Under §5.140 and Title IX:

- Yes Has taken specific steps to regularly and consistently notify the public - i.e., participants, employees, applicants, etc. that the recipient does not discriminate on the basis of sex in the operation of its education programs and activities; Title IX and Title IX regulations also apply to employment in and admission to the recipient's education programs and activities; and inquiries regarding Title IX and Title IX regulations may be referred to the recipient's designated Title IX Coordinator, or Federal funding agency/official (i.e., Nuclear Regulatory Commission Office of Small Business and Civil Rights).
- No
- Yes Prominently publishes a statement of the Title IX policy described in this section in each announcement, bulletin, catalog, or application form that the recipient makes available to the public or that is used in connection with any recruitment of students or employees.
- No
- Yes Ensures that the notification is widely disseminated and easily understood.
- No
- Yes Ensures that the recipient does not use or distribute a publication that suggests by its text or illustration that it treats applicants, students or employees differently on the basis of sex-except as permitted under the Title IX regulations.
- No
- Yes Distributes the recipient's Title IX policies without discrimination on the basis of sex, informs each of its admission and employment recruitment representatives of the Title IX nondiscrimination policies, and requires that the representatives adhere to the policies.
- No

APPENDIX C – FORM 424B—ASSURANCES – NON-CONSTRUCTION PROGRAMS

APPENDIX C – FORM 424B—ASSURANCES – NON-CONSTRUCTION PROGRAMS

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

Standard Form 424B (Rev. 7-97) Back

APPENDIX D – SUMMARY REPORT OF COMPLIANCE REVIEW

APPENDIX D – SUMMARY REPORT OF COMPLIANCE REVIEW



SUMMARY REPORT OF COMPLIANCE REVIEW

: Pre-Award Compliance Review
: Name of Entity
: AMD No. App. # XX-XXXX
: Originating Office No. Office-Year-Number
: SBCR Compliance No. Year-Month-Number

AUTHORITY:

The Office of Small Business and Civil Rights (SBCR) administer the U.S. Nuclear Regulatory Commission's (NRC) civil rights programs, including the conducting of pre and post award and periodic compliance reviews. SBCR is vested with the authority to conduct compliance reviews in accordance with NRC's Procurement Financial Assistance Program, and applicable Civil Rights statutes and regulations.

PRELIMINARY INFORMATION:

On **Month-Day-Year**, SBCR received a request from the Acquisition Management Division to conduct a pre-award compliance review for, **Name of Entity** (hereinafter referred to as, the applicant). On **Month-Day-Year**, the applicant was given verbal notification of the pre-award compliance review process, guidance in completing document requests, and questions by the applicant were addressed by staff. The applicant was subsequently sent a letter, which reiterated the information provided during the verbal notification, date information/documents needed to be returned to SBCR in order to complete the review within the 20 day period allotted, and the required information/document submission requests (SBCR's Compliance Forms Part A, B and C).

On **Month-Day-Year**, the applicant submitted its responses to SBCR.

ANALYSIS OF INFORMATION/DATA COLLECTION:

Program/Contract Services:

The applicant identified the manner in which services will be provided, and data/information necessary for determining whether individuals will be denied such services on the basis of prohibited discrimination. According to the applicant, the Entity's Administrative Announcement No. 5 – Policy on Equal Opportunity states, "*Our image and outstanding service are enhanced when our employment decisions and academic practices are fair. In the way, we acknowledge the worth and value of the individuals in the University community, and uphold Title VII of the Civil Rights Act and State General Law Chapter 151B. University policies reflect these non-discrimination and anti-harassment laws. Such as factors as race, color, religion, disability, age, gender, sexual orientation, ancestry, national origin, marital or veteran status and genetic information be considered factors in any academic or personnel decisions...*" The policy can be reviewed at http://www.entity_website.edu/equal/Equal Opportunity.

Based on the information provided, SBCR has determined that the applicant has policies in place prohibiting discrimination, and to address allegations of discriminatory practices.

Program/Contact Population Served:

The applicant identified the geographic location(s) where the program/services will be provided. According to the applicant, the program activities/services will be provided in **City, State** and online (if applicable).

A review of the U.S. Census Bureau reveals that the potential LEP populations in close proximity to where the college and its alternate facilities are located are African American (X.X %), Hispanic (X.X %), Asian (X.X %), Native American (X.X %) and any other race identified (X.X %).

Based on the information provided, SBCR has determined that the locations in which the applicant will provide services do not pose concerns of discrimination.

Collection of EO Data:

Recipients are required to track and maintain EO data regarding the population eligible to be served and actual program participants (i.e., race, color, national origin, sex). The applicant identified how the recipient program collects EO data. According to the applicant, participants are requested to identify during the application process.” Additionally, the applicant stated, “EO data is tracked by the Entity name and reports prepared yearly. This information can be provided upon request.”

Based on the information submitted, SBCR has determined that the information/documentation provided satisfies this area of inquiry.

Limited English Proficiency:

The applicant provided information/data regarding covered employment, including use or planned use of bilingual public-contact employees serving beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English. According to the applicant, “*The Institution offers the Centers for Learning and Academic Support Services (CLASS) to improve the quality of the student academic experience at Name of Entity. In addition, Advising, Computing Services, Tutoring Servings, Study-Abroad Program and Strategies for Success services are available. In addition the Institutions offer student assistance through their special populations/non-traditional studies office, and special need/disability services office*”. The services can be reviewed on the website: http://www.Entity_Website.edu/class.

Based on the applicant’s information and independent findings, SBCR has determined that the applicant has measures in place to provide meaningful access to potential LEP persons.

Facilities and/or Locations:

The applicant identified the location(s) of existing or proposed facilities connected with the program/ services, and related information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any persons on the basis of prohibited discrimination. According to the applicant, “Services will be provided at the Name the location facility, on the Name of Entity Campus and will be used to teach the proposed courses. The building is accessible by handicapped persons and has an elevator. The institution’s Administrative Announcement No.7s – Policy on Equal Opportunity for Person with Disabilities. The policies can be located on http://www.Entity’s_Website.edu/student-services/disability. Facilities are compliant and are accessible and feature adequate signage, ramps, parking and restroom facilities.” Additionally, the applicant states “The Institution implements a full ADA policy, is 504 compliant, and provides special needs and disability counseling”.

Based on the information provided, SBCR has determined that the applicant’s response does not raise concerns regarding denial of access to individuals on the basis of prohibited discrimination.

Organizational Membership:

The applicant identified the present or proposed membership, by race, color and national origin, in its planning or advisory body which is an integral part of the program/service provided. According to the applicant, “The current faculty members are Caucasian American citizens”.

The information provided was not sufficient. The applicant was given a follow up call to request additional information, i.e. the number of members and respective gender(s). On Month-Day-Year, the applicant amended the Name of Entity’s response. The amended information is included in the applicant’s file.

Based on the information submitted and additional findings, SBCR has determined that amended submission is sufficient information/documentation to satisfy this area of inquiry.

Changes in Location:

The applicant was requested to identify where relocation is involved, the requirements and steps used or proposed to guard against unnecessary impact on persons in the protected classes identified in Question number 3.

According to the applicant, "There are no plans to change locations, primarily because the classes will also be offered on-line to provide access to a diverse population".

Based on the information provided, no determination regarding this matter is warranted.

Notification of Lawsuits/Complaints Filed Alleging Discrimination:

The applicant provided an authorizing official's signature on SBCR's Compliance Form B indicating his/her agreement to:

- Promptly notify NRC/SBCR upon its request of any lawsuit filed against the applicant or recipient alleging discrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a parent.
- Promptly notify NRC/SBCR upon its request of any complaints filed against the recipient alleging discrimination.
- Submit compliance reports upon the agency's request to the Nuclear Regulatory Commission Office of Small Business and Civil Rights (SBCR). The applicant also agreed to submit an annual EO compliance report to SBCR no later than December 31 of each calendar year.
- Provide comprehensive civil rights training for staff, and periodically retrain staff to establish and update their knowledge of EO civil rights statutes and emerging issues.

Based on the information submitted, SBCR has determined that the information/documentation provided is sufficient to satisfy this area of inquiry.

Applications for Federal Financial Assistance:

According to the applicant's response on the NRC 781 Form, Part B, "The Institution has no pending applications for financial assistance with Federal agencies".

An in-depth review and analysis of the applicant's file confirmed that the Institution has pending applications for financial assistance with Federal agencies, including: Agency # 1, Agency # 2 and Agency # 3.

The applicant was notified of its Federal funding status in a follow up review on **Month-Day-Year**. The confirmed information is recorded in the applicant's file.

According to the applicant's response on SBCR's Compliance Form B, "No civil rights compliance reviews have been conducted during the two-year period before this application and that no findings of a noncompliance with any relevant civil rights requirements occurred".

In a follow-up review with the applicant, the authorized representative was notified that the information submitted in response to the inquiry was incorrect. According to the applicant, "I am fairly new to this position and was not aware of any prior reviews but will research SBCR's findings right away and I will provide an amended response before Close of Business today".

On Month-Day-Year, the applicant submitted an amended response which confirmed SBCR initial findings and sufficiently satisfied the inquiry in question.

Agreement to Compile and Maintain Records:

The applicant provided his/her full name, title, date and signature on SBCR's Compliance Form B indicating his/her agreement to compile and maintain the records required, pursuant to NRC's guidelines, and other Civil Rights directives is required.

Based on the information submitted and additional findings, SBCR has determined that sufficient information/ documentation to satisfy this area of inquiry is pending.

Additional Title IX Information (SBCR Compliance Review Part C)

The undersigned review the aforementioned section of Part C. In doing so, notified the applicant that data collections imposed under Title IX of the Educational Amendments of 1972 and the Nuclear Regulatory Commission Title IX implementing Regulations (NRC) set forth in Title 10 of the Code of Federal Regulations, Part 5. Except as provided in §§5.205 through 5.235(a), of NRC's Title IX regulations, these requirements apply to every recipient and to each education program or activity operated by a recipient that receives Federal financial assistance.

The applicant checked the box on the stated Form indicating that the institution does provide some type(s) of education programs or activities. The undersigned confirmed the applicant's response verbally and in writing.

The applicant also affixed his/her signature on SBCR's Compliance Form C indicating his/her agreement to:

- Provide assurance that all of the recipient's education programs or activities will be operated in compliance with the nondiscrimination mandates of Title IX and NRC's implementing regulations (e.g., Admissions and Recruitment. See §§5.300 through 5.310; Education Programs or Activities. See §§5.400 through 5.455; and Employment in Education Programs or Activities. See §§5.500 through 5.550).
- Provide assurance that the recipient will take whatever remedial action is necessary in accordance with §5.110(a) to eliminate existing discrimination on the basis of sex or to eliminate the effects of past discrimination whether occurring prior to or subsequent to the assurance given.
- Provide assurance that the assurances in this section will be required of the applicant or recipient sub-grantees, contractors, subcontractors, transferees, or successors in interest.

Applicants are required to Designate a Title IX Coordinator, Notification to Students and Employees and Adoption of Grievance Procedures to Fulfill Requirements Under §5.135 and Title IX:

The applicant affixed his/her signature on SBCR's Compliance Form C indicating his/her agreement to:

- Designate at least one responsible employee to coordinate Title IX compliance efforts and carry out the recipient's responsibilities under Title IX and NRC's implementing regulations, including coordinating any investigations of complaints or noncompliance with Title IX regulations.
- Continue to provide notification to all of the recipient's students and employees of the name, office address, and telephone number of the employee or employees designated to coordinate the recipient's Title IX efforts.
- Adopt and publish an internal grievance procedure to determine whether a particular act, policy, or practice of the recipient complies with Title IX regulations; and that promptly and equitably resolves complaints alleging discrimination on the basis of sex in education programs or activities.

Applicants are required to Disseminate Title IX Policy to Fulfill Requirements Under §5.140 and Title IX:

The applicant affixed his/her signature on SBCR's Compliance Form C indicating that the institution:

- Has taken specific steps to regularly and consistently notify the public - i.e., participants, employees, applicants, etc. that the recipient does not discriminate on the basis of sex in the operation of its education programs and activities; Title IX and Title IX regulations also apply to employment in and admission to the recipient's education programs and activities; and inquiries regarding Title IX and Title IX regulations may be referred to the recipient's designated Title IX Coordinator, or Federal funding agency/official (i.e., Nuclear Regulatory Commission Office of Small Business and Civil Rights).
- Prominently publishes a statement of the Title IX policy described in this section in each announcement, bulletin, catalog, or application form that the recipient makes available to the public or that is used in connection with any recruitment of students or employees.
- Ensures that the notification is widely disseminated and easily understood.
- Ensures that the recipient does not use or distribute a publication that suggests by its text or illustration that it treats applicants, students or employees differently on the basis of sex-except as permitted under the Title IX regulations.
- Distributes the recipient's Title IX policies without discrimination on the basis of sex, informs each of its admission and employment recruitment representatives of the Title IX nondiscrimination policies, and requires that the representatives adhere to the policies.

Based on the information submitted and additional findings, SBCR has determined that the applicant provided sufficient information/documentation to satisfy this area of inquiry.

SF424B Assurances:

SBCR's review also included verification of NRC's receipt of the Application of Federal Assistance (SF424B), and that the applicant's authorized certifying official's signature was affixed to the document.

SBCR Staff Recommendation:

Based on the overall findings, sufficient evidence exists to determine that the applicant is in compliance with applicable Federal Civil Rights statutes.

1st Level Reviewer of File: **Civil Rights Specialist Name** Date: _____

Submitted for 2nd Level Review: Date: _____

2nd Level Reviewer of File: Tuwanda M. Smith, Esq., Program Mgr. Date: _____

The Originator of Summary Report: **Civil Rights Specialist Name** Date: _____

Concurrence: _____ Date: _____

Comments:

APPENDIX E – NOTICE TO AMD THAT APPLICANT(S) ARE IN COMPLIANCE

APPENDIX E – NOTICE TO AMD THAT APPLICANT(S) ARE IN COMPLIANCE



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

CIVIL RIGHTS COMPLIANCE REVIEW MEMORANDUM

TO: Sheila Bumpass
Deputy Director Operations
Acquisition Management Division

FROM: Tuwanda Smith, Esq. / **File Copy Original Signed**
Program Manager
Office of Small Business and Civil Rights

DATE: Month-Day-Year

SUBJECT: RESULTS OF PRE-AWARD COMPLIANCE REVIEWS

Based on the pre-award reviews conducted, sufficient evidence exists to determine that the applicants listed below should be referred to the Division of Contracts for the purpose of allowing execution of the respective grant awards.

- | | | |
|----------------------------|------------------|---------------------|
| 1. Institution/Entity Name | Office-YR-Number | SBCR-20XX-Month-No. |
| 2. Institution/Entity Name | Office-YR-Number | SBCR-20XX-Month-No. |
| 3. Institution/Entity Name | Office-YR-Number | SBCR-20XX-Month-No. |
| 4. Institution/Entity Name | Office-YR-Number | SBCR-20XX-Month-No. |

If you have any questions, please feel free to contact me at 301-415-7394, or email at OCCPrograms.Resource@nrc.gov.

**APPENDIX F – NOTICE TO AMD THAT APPLICANT(S) HAVE BEEN
PLACED IN PERIODIC STATUS**

APPENDIX F – NOTICE TO AMD THAT APPLICANT(S) HAVE BEEN PLACED IN PERIODIC STATUS



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
WASHINGTON, D.C. 20555-0001

CIVIL RIGHTS COMPLIANCE REVIEW MEMORANDUM

TO: Sheila Bumpass
Deputy Director Operations
Acquisition Management Division

FROM: Tuwanda Smith, Esq. / **File Copy Original Signed**
Program Manager
Office of Small Business and Civil Rights

DATE: Month-Day-Year

SUBJECT: RESULTS OF PRE-AWARD COMPLIANCE REVIEWS – PERIODIC STATUS

Based on the pre-award reviews conducted, sufficient evidence exists to determine that the applicants listed below should be referred to the Division of Contracts for the purpose of allowing execution of the respective grant awards. Notwithstanding, as a result of SBCR's determination of findings, the referenced applicants have been placed under a **periodic review status**, pending the outcome of a subsequent periodic review to either collect information and/or documentation requested, or satisfy concerns raised during the pre-award review process..

This recommendation is being made conditioned on SBCR continuing to address stated issues of concerns for the Institutions listed below:

- | | | |
|----------------------------|------------------|---------------------|
| 1. Institution/Entity Name | Office-YR-Number | SBCR-20XX-Month-No. |
| 2. Institution/Entity Name | Office-YR-Number | SBCR-20XX-Month-No. |
| 3. Institution/Entity Name | Office-YR-Number | SBCR-20XX-Month-No. |
| 4. Institution/Entity Name | Office-YR-Number | SBCR-20XX-Month-No. |

SBCR will conduct a periodic review to ensure compliance with applicable Civil Rights statutes and NRC regulations, within 60 days from the date of this correspondence. The applicants can, however, provide the information/documentation requested, or response to the concerns raised by SBCR, at any time. If SBCR determines that the issues have been satisfied, follow up correspondence to this effect will be sent to you. If SBCR determines that the issues raised, have not been satisfied, follow up correspondence to this effect will be sent to you including SBCR's recommendations for next steps.

Please have your staff convey to the applicant that they are required to comply with anti-discrimination regulations in order to receive, or continue receiving Federal financial assistance. The following applicants have been placed in periodic compliance review status:

If you have any questions, please feel free to contact me at 301-415-7394, or email at: OCCPrograms.Resource@nrc.gov.

APPENDIX G – NOTICE TO AMD OF CONTINUATION OF PERIODIC STATUS

APPENDIX G – NOTICE TO AMD OF CONTINUATION OF PERIODIC STATUS



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

CIVIL RIGHTS COMPLIANCE REVIEW MEMORANDUM

TO: Sheila Bumpass
Deputy Director Operations
Acquisition Management Division

FROM: Tuwanda Smith, Esq. / **File Copy Original Signed**
Program Manager
Office of Small Business and Civil Rights

DATE: Month-Day-Year

SUBJECT: **Continuation of Periodic Status for Institutions Undergoing Title IX Compliance Investigation by the U.S. Department of Education; the Office for Civil Rights; Office of Federal Contract Compliance Programs; and Department of Energy**

On **Month-Day-Year** a request was made to conduct Pre-Award Compliance reviews for the applicant/recipient institutions. SBCR has learned that 2 postsecondary institutions that AMD requested pre-award compliance reviews for have pending Title IX sexual violence investigations with the U.S. Department of Education (Dept. of ED) as of **Month-Day-Year**, and are on the list submitted to AMD on **Month-Day-Year** for the stated reason. As previously noted, on **Month-Day-Year**, following a verbal inquiry, I sent written correspondence to the Dept. of ED officials requesting a teleconference to discuss the status of applicant institutions 1) currently undergoing investigation by the Dept. of ED, or 2) having had an investigation conducted. A request was also made for the Dept. of ED to provide guidance with respect to how other Federal agencies (such as NRC) should approach and to address this issue, and "best practices" related to coordination of efforts.

Per our conversations on **Month-Day-Year**, a recommendation is being made to place the following institutions in **periodic review status** pending the outcome of the investigations being conducted by the above cited Federal agencies.

- | | | |
|----------------------------|------------------|---------------------|
| 1. Institution/Entity Name | Office-YR-Number | SBCR-20XX-Month-No. |
| 2. Institution/Entity Name | Office-YR-Number | SBCR-20XX-Month-No. |
| 3. Institution/Entity Name | Office-YR-Number | SBCR-20XX-Month-No. |
| 4. Institution/Entity Name | Office-YR-Number | SBCR-20XX-Month-No. |

During the recommended periodic compliance review status period, SBCR will continue to monitor and request relevant information/documentation from the applicant/recipient to ensure compliance with applicable Civil Rights statutes and NRC regulations.

The applicant can, however, provide SBCR with information/documentation related to the Dept. of ED's investigation, at any time. If SBCR determines that the information/documentation provided satisfy compliance issues raised, follow up correspondence to this effect will be sent to you including SBCR's recommendation for next steps. If SBCR determines that the issues raised, have not been satisfied, follow up correspondence to this effect will be sent to you including SBCR's recommendations for next steps.

Per your request, I will send you support documentation regarding this matter for your files. I will also have this information included in the appropriate SBCR compliance program files.

If you have any questions, please feel free to contact me at 301-415-7394, or email at: OCCPrograms.Resource@nrc.gov.

SAMPLE

APPENDIX H – NOTICE TO AMD OF REMOVAL FROM PERIODIC STATUS

APPENDIX H – NOTICE TO AMD OF REMOVAL FROM PERIODIC STATUS



CIVIL RIGHTS COMPLIANCE REVIEW MEMORANDUM

TO: Sheila Bumpass
Deputy Director Operations
Acquisition Management Division

FROM: Tuwanda Smith, Esq. / **FILE COPY ORIGINAL SIGNED**
Program Manager
Office of Small Business and Civil Rights

DATE: **Month-Day-Year**

SUBJECT: Request for Applicants to be removed from Periodic Status

Based on continued review of the applicants placed in periodic status on July 27, 2014, sufficient evidence exists to conclude that the outcome of a subsequent periodic review to either collect information/documentation requested, or satisfy concerns raised have been resolved. Therefore, the applicants are being referred to the Division of Contracts for the purpose of being removed from Periodic Status.

1. Institution/Entity Name	Office-YR-Number	SBCR-20XX-Month-No.
2. Institution/Entity Name	Office-YR-Number	SBCR-20XX-Month-No.
3. Institution/Entity Name	Office-YR-Number	SBCR-20XX-Month-No.
4. Institution/Entity Name	Office-YR-Number	SBCR-20XX-Month-No.

If you have any questions, please feel free to contact me at 301-415-7394, or email at: OCCPrograms.Resource@nrc.gov.

**APPENDIX I – CRITERIA/DATA COLLECTION FORM USED TO TARGET
RECIPIENTS FOR ONSITE AUDIT**

APPENDIX I – CRITERIA/DATA COLLECTION FORM USED TO TARGET RECIPIENTS FOR ONSITE AUDIT

Criteria/Data Collection Form Use to Target Recipients for Onsite Audit

Recipient/ name of the institution	Identify document: Case File (PACF) Annual Report (AR) 3 rd Party Info. (3Pty) Research (R)	Areas of "questionable" compliance identified in a desk audit	Issues raised in a complaint or identified during a complaint investigation (not covered in the scope of the investigation)	Non- compliance issues raised	Amount of program funding (\$100K or greater), or size and complexity of the project	Geographi- cal areas the agency wishes to target because of known problems beneficiaries are experiencing	Prob- lems identified by other civil rights agencies	Problems identified by community organizations or advocacy groups that are familiar with actual incidents to support their concerns	Issues frequently identified as problems faced by program beneficiaries	Issues targeted in the agency's Strategic Plan	Problems identified to the agency by its block grant recipients

**APPENDIX J – POST-AWARD COMPLIANCE ASSESSMENT—REQUEST TO
CONDUCT ONSITE VISIT**

**APPENDIX J – POST-AWARD COMPLIANCE ASSESSMENT—REQUEST TO
CONDUCT ONSITE VISIT**



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

Equal Opportunity Coordinator
University of Example
1234 Main Street
Anytown, USA 12345

**SUBJECT: POST-AWARD COMPLIANCE REVIEW ASSESSMENT U.S. NUCLEAR
REGULATORY COMMISSION GRANT RECIPIENT**

Dear Equal Opportunity Coordinator:

The U.S. Nuclear Regulatory Commission (NRC) is responsible for providing regulatory oversight of, coordinating compliance with, and enforcing Title VI of the Civil Rights Act of 1964, including the provisions related to limited English proficiency; Title IX of the Educational Amendments Act of 1972; Sections 504 and 508 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975; and Title IV of the Atomic Energy Act of 1954, as amended. These acts are adopted and incorporated in NRC regulations under Title 10 of the Code of Federal Regulations (10 CFR) Part 4, "Nondiscrimination in Federally Assisted Programs or Activities Receiving Federal Financial Assistance from the Commission," and 10 CFR Part 5, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance."

The Office of Small Business and Civil Rights (SBCR) administers NRC civil rights compliance programs. SBCR is required to establish and maintain effective pre- and post-award compliance review programs to ensure that award recipients comply with Federal mandates and nondiscrimination laws.

On December 31, 20XX, SBCR received your annual equal opportunity compliance report. SBCR used this report, along with independent research and other data, to conduct a post award desk audit. Based on the review conducted, SBCR has determined that your programs adequately meet Federal requirements; however, issues of significance require clarification or additional information before we can make a final determination. Therefore, SBCR requests an onsite audit to reconcile these issues and concerns. A member of the Outreach and Compliance Coordination staff will contact you in the near future to schedule a site visit.

If you have any questions or need additional information, please contact Tuwanda M. Smith, Esq., Manager, Outreach and Compliance Coordination Program at (301) 415-7394, or via email at Tuwanda.Smith@nrc.gov.

Sincerely,

Vonna L. Ordaz, Director
Office of Small Business and Civil Rights

SAMPLE

**APPENDIX K – POST-AWARD COMPLIANCE ASSESSMENT—
REQUEST FOR ADDITIONAL INFORMATION**

**APPENDIX K – POST-AWARD COMPLIANCE ASSESSMENT—
REQUEST FOR ADDITIONAL INFORMATION**



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

Equal Opportunity Coordinator
University of Example
1234 Main Street
Anytown, USA 12345

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REGULATORY COMMISSION GRANT RECIPIENT**

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On December 31, 20XX, SBCR received your annual equal opportunity compliance report. SBCR used this report, along with independent research and other data, to conduct a post award desk audit. Based on the review conducted, SBCR has determined that your programs adequately meet Federal requirements; however, a few issues require clarification or additional information before we can make a final determination. A member of the Outreach and Compliance Program (OCCP) will contact you shortly to discuss this matter.

Questions or requests or additional information may be sent in writing to:

U.S. Nuclear Regulatory Commission
Office of Small Business and Civil Rights
Outreach and Compliance Coordination Program
11545 Rockville Pike
Mailstop: O3H06
Rockville, Maryland 20852
E.O. Coordinator

You may also contact the Outreach and Compliance Coordination staff at XXX-XXX-XXXX, or via email at OCCPrograms.Resource@nrc.gov.

Sincerely,

Vonna L. Ordaz, Director
Office of Small Business and Civil Rights

**APPENDIX L – POST-AWARD COMPLIANCE ASSESSMENT—
DETERMINATION LETTER OF COMPLIANCE WITH REGULATIONS**

**APPENDIX L – POST-AWARD COMPLIANCE ASSESSMENT—
DETERMINATION LETTER OF COMPLIANCE WITH REGULATIONS**



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

Equal Opportunity Coordinator
University of Example
1234 Main Street
Anytown, USA 12345

**SUBJECT: POST-AWARD COMPLIANCE REVIEW ASSESSMENT U.S. NUCLEAR
REGULATORY COMMISSION GRANT RECIPIENT**

Dear Equal Opportunity Coordinator:

The U.S. Nuclear Regulatory Commission (NRC) is responsible for providing regulatory oversight of, coordinating compliance with, and enforcing Title VI of the Civil Rights Act of 1964, including the provisions related to environmental justice and limited English proficiency; Title IX of the Educational Amendments Act of 1972; Sections 504 and 508 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975; and Title IV of the Atomic Energy Act of 1954, as amended. These acts are adopted and incorporated in NRC regulations under Title 10 of the Code of Federal Regulations (10 CFR) Part 4, “Nondiscrimination in Federally Assisted Programs or Activities Receiving Federal Financial Assistance from the Commission,” and 10 CFR Part 5, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.”

The Office of Small Business and Civil Rights (SBCR) administers NRC civil rights compliance programs. SBCR is required to establish and maintain effective pre- and post-award compliance review programs to ensure that award recipients comply with Federal mandates and nondiscrimination laws.

On December 31, 20XX, SBCR received your annual equal opportunity compliance report. SBCR used this report, along with independent research and other data, to conduct a post award desk audit. Based on the review conducted, SBCR has determined that your programs adequately meet Federal requirements. We look forward to your continued participation in NRC sponsored programs.

Questions or requests for additional information may be sent in writing to:

U.S. Nuclear Regulatory Commission
Office of Small Business and Civil Rights
Outreach and Compliance Coordination Program
11545 Rockville Pike
Mailstop: 03H06
Rockville, Maryland 20852
E.O. Coordinator

You may also contact the Outreach and Compliance Coordination staff at XXX-XXX-XXXX, or via email at OCCPrograms.Resource@nrc.gov.

Sincerely,

Vonna L. Ordaz, Director
Office of Small Business and Civil Rights

BIBLIOGRAPHIC DATA SHEET

(See instructions on the reverse)

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Tuwanda M. Smith, Esq.

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Office of Small Business and Civil Rights
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

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Same as above

10. SUPPLEMENTARY NOTES

11. ABSTRACT (200 words or less)

This manual assists the U.S. Nuclear Regulatory Commission (NRC) to ensure Procedural Processes for Conducting Pre-award Compliance Reviews and Post-award Compliance Reviews

12. KEY WORDS/DESCRIPTORS (List words or phrases that will assist researchers in locating the report.)

NRC's Compliance Review Guide

13. AVAILABILITY STATEMENT

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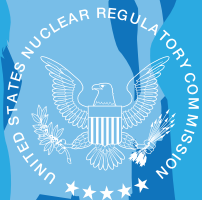
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