



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

February 9, 2021

MEMORANDUM

SUBJECT: Response to Planned Corrective Actions for Office of Inspector General
Report No. [20-E-0333](#), *Improved EPA Oversight of Funding Recipients' Title VI Programs Could Prevent Discrimination*, issued September 28, 2020

FROM: Sean W. O'Donnell

A handwritten signature in blue ink that reads "Sean W O'Donnell".

TO: Melissa Hoffer, Acting General Counsel

On November 27, 2020, the U.S. Environmental Protection Agency's Office of General Counsel sent my office a memorandum outlining its response to five of the six recommendations issued in the subject Office of Inspector General report. All six recommendations were unresolved when the subject report was issued. Recommendation 1 was issued to the associate deputy administrator, and the remaining five recommendations were issued to the general counsel.

Based on the information and supporting documentation provided, we have determined that none of the five recommendations issued to the general counsel are resolved:

- *Recommendation 2: Develop and implement a plan to complete systematic compliance reviews to determine full compliance with Title VI program.* The Office of General Counsel's response commits to issuing the External Civil Rights Compliance Office, or ECRCO, Strategic Plan for 2021–2025 by November 27, 2021, which will document “additional compliance reviews of state agencies” and other initiatives. We note, however, that the previous ECRCO Strategic Plan also discussed the initiation of additional compliance reviews, but ECRCO did not execute these reviews. We determined that the actions taken on those compliance efforts were insufficient. To resolve Recommendation 2, the Office of General Counsel should develop an operational plan for how ECRCO will conduct these “additional compliance reviews” and ensure that these compliance reviews address not only the presence of a nondiscrimination program but also the implementation of Title VI requirements.
- *Recommendation 3: Develop metrics to assess the effectiveness of the Cooperative Federalism pilot and other technical assistance efforts, such as the procedural safeguards checklist.* We agree that the Office of General Counsel's planned corrective action meets the intent of this recommendation; however, the response does not indicate an estimated completion date for the corrective action.
- *Recommendation 4: Verify that EPA funding applicants address potential noncompliance with Title VI with a written agreement before the funds are awarded.* The Office of General Counsel indicates that ECRCO has developed new standard operating procedures that clarify how and when ECRCO will address noncompliance by applicants and recipients. According to the standard operating procedures, ECRCO will not recommend withholding approval of an award when ECRCO is providing technical assistance “to address any questions or concerns related to the

applicant's 4700-4 responses." If ECRCO has previously made a finding of noncompliance and the applicant or recipient has refused to take voluntary compliance actions, ECRCO "may request that the applicant/recipient come into compliance through a written agreement with ECRCO before any award is made." Considering our finding that 81 percent of environmental state agencies lack nondiscrimination notices, grievance procedures, or both, which are regulatorily required, ECRCO should use the grant application process as an opportunity to verify that recipients reapplying for grant funding are complying with the regulation. If ECRCO finds specific noncompliance during its review, per the regulation, ECRCO "must approve a written agreement to come into compliance."

- *Recommendation 5: Determine how to use existing or new data to identify and target funding recipients for proactive compliance reviews, and develop or update policy, guidance, and standard operating procedures for collecting and using those data.* ECRCO disagrees with our analysis of when and how it can collect and use data. We acknowledge that there are limitations to ECRCO's ability to directly request data from applicants and recipients, but there are other public or internal EPA data, including data found in EJSSCREEN, that ECRCO can use to help assure Title VI compliance. The Office of General Counsel's response does not provide any planned corrective actions or estimated completion dates for this recommendation.
- *Recommendation 6: Develop and deliver training for the deputy civil rights officials and EPA regional staff that focuses on their respective roles and responsibilities within the EPA's Title VI compliance program.* The Office of General Counsel's response indicates that it has in place a number of ongoing initiatives aimed at addressing this recommendation; however, the response does not indicate an estimated schedule and completion date for these corrective actions.

The Office of General Counsel's response also provides comments regarding Recommendation 1, but as that recommendation was issued to the associate deputy administrator, resolution efforts must be coordinated and communicated by the Office of the Administrator.

As a result of the issues identified above, we consider all six recommendations issued in the subject report to remain unresolved. The Agency should follow the dispute resolution process defined in EPA Manual 2750. We will post this memorandum on our public website at www.epa.gov/oig.

cc: Lilian Dorka, Director, External Civil Rights Compliance Office, Office of General Counsel
Shan Anderson, Audit Follow-Up Coordinator, Office of General Counsel
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