



OFFICE OF EXTERNAL CIVIL RIGHTS COMPLIANCE

WASHINGTON, D.C. 20460

March 6, 2024

In Reply Refer to:

EPA Complaint No. 10R-23-R4

The Honorable Mark Saliba
Mayor of the City of Dothan
126 N. Saint Andrews Street
Suite 201
PO Box 2128
Dothan, AL 36303
mayor@dothan.org

RE: Acceptance of Administrative Complaint

Dear Mayor Saliba:

The U.S. Environmental Protection Agency (EPA), Office of Environmental Justice and External Civil Rights, Office of External Civil Rights Compliance (OECRC), is accepting for investigation an administrative complaint filed against the City of Dothan, Alabama, which the EPA received on May 23, 2023. The complaint alleges that the City of Dothan has failed to implement the required procedural safeguards set forth in 40 C.F.R. §§ 7.85(g) (nondiscrimination coordinator), 7.90 (grievance procedures), and 7.95 (nondiscrimination notice) of EPA's nondiscrimination regulation (40 C.F.R. Part 7),¹ which implements Title VI and other federal civil rights laws.

Pursuant to EPA's nondiscrimination regulation, OECRC conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. See 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulation. First, the complaint must be in writing. See 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate EPA's nondiscrimination regulation (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must

¹ 40 C.F.R. § 7.10 (Part 7 implements Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and section 13 of the Federal Water Pollution Control Act Amendments of 1972). See also 40 C.F.R. § 5.100 (Part 5 effectuates Title IX of the Education Amendments of 1972).

be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

After careful consideration, OECRC has determined that the complaint meets the jurisdictional requirements stated above. First, the complaint is in writing. Second, it alleges that discrimination occurred in violation of EPA's nondiscrimination regulation. Third, the alleged discriminatory acts occurred within 180 days of the filing this complaint. Finally, it alleges discriminatory acts by the City of Dothan, which is a recipient of EPA financial assistance.

OECRC will investigate the following issue:

1. Whether the City of Dothan has and is implementing the procedural safeguards required under Title VI and other federal civil rights laws, as well as EPA's implementing regulations at 40 C.F.R. Parts 5 and 7, that all recipients of federal assistance must have in place to comply with their general nondiscrimination obligations, including to ensure meaningful access to the City of Dothan's services, programs, and activities, for individuals with limited English proficiency (LEP) and individuals with disabilities, and to provide all individuals access to public participation opportunities associated with its programs, activities and services.²

The initiation of an investigation of the issue above is not a decision on the merits. OECRC is a neutral fact finder and will begin its process to gather the relevant information, discuss the matter further with you and the Complainant, and determine next steps utilizing OECRC's internal procedures. Generally, the investigation and resolution options and procedures identified in EPA's nondiscrimination regulation and OECRC's Case Resolution Manual (CRM) will be utilized for the complaint investigation process. We invite you to review OECRC's Case Resolution Manual for a more detailed explanation of OECRC's complaint resolution process,

² *See* Title VI, 42 U.S.C. 2000(d) *et seq.*; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; *Lau v. Nichols*, 414 U.S. 563, 568-69 (1974) (finding that the government properly required language services to be provided under a recipient's Title VI obligations not to discriminate based on national origin); 40 C.F.R. § 7.35(a). *See also* U.S. EPA, Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. 69 FR 35602 (June 25, 2004) (available at https://www.epa.gov/sites/production/files/2020-02/documents/title_vi_lep_guidance_for_epa_recipients_2004.06.25.pdf); U.S. EPA, Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs, 71 FR 14207 (March 21, 2006) (available at https://www.epa.gov/sites/production/files/2020-02/documents/title_vi_public_involvement_guidance_for_epa_recipients_2006.03.21.pdf); U.S. EPA, Procedural Safeguards Checklist for Recipients, at https://www.epa.gov/sites/production/files/2020-02/documents/procedural_safeguards_checklist_for_recipients_2020.01.pdf (rev. Jan. 2020) (which provides a more detailed explanation of nondiscrimination obligations and best practices); U.S. EPA, Disability Nondiscrimination Plan Sample, at <https://www.epa.gov/system/files/documents/2023-04/Disability%20Nondiscrimination%20Sample%20TA%20Policy.pdf> (2022).

available at https://www.epa.gov/sites/production/files/2021-01/documents/2021.1.5_final_case_resolution_manual_.pdf.

The City of Dothan may send a written submission to OECRC responding to, rebutting, or denying the issue that has been accepted for investigation within thirty (30) calendar days of receiving a copy of this letter notifying you of the acceptance of EPA Complaint No. 10R-23-R4. See 40 C.F.R. § 7.120(d)(1)(ii-iii).

EPA's nondiscrimination regulation provides that OECRC shall attempt to resolve complaints informally whenever possible. See 40 C.F.R. § 7.120(d)(2). Accordingly, OECRC will contact you and the Complainants within 10 days of the date of this letter to provide information about OECRC's complaint process, and to offer and discuss the alternative dispute resolution (ADR)³ and informal resolution agreement (IRA)⁴ processes as potential options for resolution of the issues which OECRC has accepted for investigation. If the City of Dothan (and Complainant with respect to ADR) agrees to engage in either of these potential resolution processes, OECRC will suspend the timeframe for issuing preliminary findings within 180 days of initiating the investigation. In the event that either of these potential resolution processes fails to result in an agreement, OECRC will notify the City of Dothan as well as the Complainant that OECRC has resumed its process to issue preliminary findings, or otherwise resolve, within 180 days of the start of the investigation – excluding any days spent in either of these potential resolution processes.⁵

Please be advised that a copy of the Complaint is being released to you, consistent with 40 C.F.R. § 7.120(e). OECRC is releasing the complaint with appropriate redactions consistent with the Freedom of Information Act (FOIA) and the Privacy Act and will only release identifying information to the extent necessary to comply with 40 C.F.R. Parts 5 and 7.⁶

EPA's regulation prohibits applicants, recipients, and other persons from intimidating, threatening, coercing, or engaging in other discriminatory conduct against anyone because they have either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. See 40 C.F.R. § 7.100. Any individual alleging such harassment or intimidation may file a complaint with OECRC.

³ EPA OECRC's Alternative Dispute Resolution (ADR) process involves the formal mediation of a complaint or complaint allegations between the complainant and recipient, through the use of a professionally trained mediator. See U.S. EPA, OECRC Case Resolution Manual, Section 3.3, at 24 (2021) (available at https://www.epa.gov/sites/production/files/2021-01/documents/2021.1.5_final_case_resolution_manual_.pdf).

⁴ Informal Resolution occurs between OECRC and the recipient. See Case Resolution Manual, Section 3.1; https://www.epa.gov/sites/production/files/2021-01/documents/2021.1.5_final_case_resolution_manual_.pdf; p. 22.

⁵ See 40 C.F.R. § 7.115(c).

⁶ Freedom of Information Act, 5 U.S.C. § 552(b)(6) and (7)(c) and the Privacy Act of 1974, 5 U.S.C. § 552a.

If you have questions about this letter, please feel free to contact me at (202) 809-3297, by email at hoang.anhthu@epa.gov; or Hayley Cormack, Case Manager, at (202) 250-8851, by email at cormack.hayley@epa.gov; or Bianca Garcia, Case Manager, at (202) 564-0005, by email at garcia.bianca@epa.gov.

Sincerely,

Anhthu Hoang
Acting Director
Office of External Civil Rights Compliance
Office of Environmental Justice and External Civil Rights

Enclosure: Via Email, Redacted Copy of Complaint

cc: Ariadne Goerke
Deputy Associate General Counsel
Civil Rights & Finance Law Office

César Zapata
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
US EPA Region 4

Leif Palmer
Regional Counsel
US EPA Region 4