



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MAY 20 2013

MEMORANDUM

TO: Federal Funding Agency Civil Rights Directors

FROM: Thomas E. Perez 
Assistant Attorney General

SUBJECT: Title VI Interagency Coordination

I am writing to you to address a critical area of our enforcement work under Title VI of the Civil Rights Act of 1964: effective communication and coordination between agencies. As you know, Title VI prohibits discrimination on the basis of race, color, and national origin in programs receiving federal financial assistance. Under Executive Order 12250 (EO 12250), the Department of Justice is charged with ensuring the consistent and effective implementation of Title VI and other civil rights laws “prohibiting discriminatory practices in Federal programs and programs receiving Federal financial assistance.” Exec. Order No. 12250, *Leadership and Coordination of Non discrimination Laws*, reprinted at 45 Fed. Reg. 72,995 (Nov. 4, 1980). The Federal Coordination and Compliance Section within the Civil Rights Division plays a critical role in fulfilling our obligations under EO 12250 by facilitating interagency communication and encouraging greater coordination.

In this time of limited resources, it is all the more important that we look for ways we can work together to carry out our enforcement obligations. Without adequate coordination, agencies risk investigating the same complaint, conducting multiple reviews of a shared recipient, delays in referring complaints to the appropriate agency, or conflicting case outcomes that undermine agencies’ abilities to secure compliance. In order to ensure the full, fair, and effective enforcement of Title VI, we must do everything possible to leverage our collective enforcement capacity.

Accordingly, in 2011, the Civil Rights Division established a Federal Interagency Working Group (IWG) on Title VI as a forum for continued collaboration across key areas of Title VI enforcement and compliance. The IWG’s Committee on Interagency Coordination focuses on improving coordination by developing tools, sharing ideas, and disseminating best practices. The Committee also provides an organizational structure for agencies to share information to facilitate coordination.

This memorandum provides further guidance on Title VI coordination, identifies next steps to advance this important effort, and includes key resource materials I hope will be of assistance. As you consider the issues below, I encourage you to explore how your agency can participate in the work of this committee.

Approaches in Interagency Coordination

For many years, agencies have coordinated on a range of compliance matters through formal delegation agreements on enforcement in specific categories of recipients, as well as through less formal, ad hoc agreements pertaining to a specific complaint or case. As agencies increasingly find themselves working together to address complex civil rights issues and standardize compliance processes, opportunities emerge to foster greater efficiency and consistency in federal Title VI programs through interagency coordination.

I strongly encourage you to consider the following coordination opportunities and develop procedures to incorporate greater interagency collaboration in your Title VI programs. Please note that these approaches may be combined depending on the scope and nature of an agency's federally assisted programs.

- *Shared Recipients:* Agencies that provide assistance to the same or similar types of recipients are well-positioned to engage in formal and informal coordination efforts around a range of Title VI compliance activities, including complaint investigations, pre- and post-award reviews, training and technical assistance. Agencies may also consider more informal efforts to share case dockets, information on compliance activities, investigations and compliance determinations in order to facilitate greater awareness of pervasive issues in recipient programs, and to minimize redundant activities or overly burdensome requests.

For example, DOJ and the Department of Labor's Civil Rights Center are currently conducting a joint investigation of a complaint filed against a recipient that received funding from both agencies during the time of the alleged discrimination.

- *Areas of Expertise:* Agencies with experience working with specific types of assisted programs and recipients (e.g., educational institutions, law enforcement agencies, healthcare providers) are at an advantage to lead or provide guidance on compliance efforts within their core areas of expertise. Agencies may consider this concept in designating a lead agency for conducting specific activities in situations where more than one agency funds the same or similar types of recipients.

For example, through formal delegation agreements with the Department of Education, several agencies have leveraged that Department's expertise and experience in analyzing the unique set of civil rights issues encountered in educational institutions and in bringing about recipient compliance.

- *Program Capacity:* Agencies with emerging compliance programs or more limited resources can call upon agencies with well-established programs or those with more robust capacity in specific areas, such as conducting investigations, compliance reviews

or training, to coordinate around specific priorities to increase their collective enforcement capacity.

For example, some agencies with emerging compliance programs have entered into information sharing agreements and delegation agreements with agencies such as the Department of Health and Human Services and the Department of Education.

- *Crosscutting Issues:* Agencies that already coordinate on crosscutting policy areas may find it useful to work together in exploring the Title VI implications of a specific issue or event. Through a collaborative approach, agencies can jointly examine a range of related issues and, in doing so, are better able to identify and address the full scope of the impact on civil rights.

For example, DOJ, HHS and the Department of Homeland Security recently collaborated to incorporate civil rights protections in emergency management. The project included several listening sessions with community stakeholders that sought to identify the challenges faced in ensuring the rights and protections of protected populations during emergencies, and how the federal agencies can work together to better assist emergency managers in fulfilling their civil rights obligations.

Key Considerations

The Civil Rights Division's work with agencies' civil rights offices has identified several issues that may arise in the course of your joint efforts as well as strategies to facilitate effective coordination.

- *Jurisdictional Issues:* Identifying jurisdiction and determining which agency should be designated the lead agency are critical elements in effective coordination when a recipient has multiple federal funding streams. Agencies should work to resolve these issues as part of the initial planning process. Take into account the following considerations in determining jurisdiction as part of interagency coordination efforts:
 1. Identify primary funder and agency or agencies, if any, with core expertise in the recipient program.
 2. Identify the nature and specific program or activity of the recipient that is the target of the coordinated compliance or enforcement activity.
 3. Identify prior or existing delegation or coordination agreements, if any, which may inform agency roles during an investigation or enforcement activity.
 4. Anticipate specific points in the coordination process where conflicts over jurisdiction may arise.
- *Communication and Information Sharing:* Agencies should set expectations for communication throughout the duration of the joint effort. Consider the following suggestions in planning your communication strategy:

1. Determine how and to what extent agencies will share information on recipients and compliance activities, and how agencies will maintain this information. Consider internal clearance requirements for distributing information to other agencies.
 2. Identify structure and frequency of communication between agencies. For example, agencies may decide to hold bi-weekly teleconferences to discuss the status of a joint investigation.
 3. Identify specific matters, or points during the coordination process, that require consultation between agencies.
- *Resolving disputes:* Agencies should identify specific points in the coordination process where disputes may arise (such as the scope of the factual investigation needed to reach a conclusion, or the possibility of reaching different conclusions based on the facts). In the initial planning phase of your coordination efforts, identify entities, such as FCS, that can facilitate the resolution process.
 - *Agency-specific issues:* Agencies should identify the unique requirements and processes that govern the administration of their federally assisted programs and how these may impact efforts to coordinate on compliance and enforcement.

Next Steps

I encourage you to explore opportunities to leverage and share resources to enhance your enforcement efforts. Additionally, I ask that you take the following concrete actions to advance coordination across the federal community.

1. Develop a list of the categories of recipients to whom your agencies provide federal financial assistance and submit to Daria Neal, Deputy Chief in the Federal Coordination and Compliance Section (at Daria.Neal@usdoj.gov), by June 20, 2013. This categorization will help us to develop tools that will be available for use by all agencies in determining referrals and planning coordination efforts.
2. Identify a staff person to participate in the work of the Interagency Coordination Committee and submit their contact information to Ms. Neal by June 20, 2013.

Resources

The Federal Coordination and Compliance Section can provide template documents reflecting many of the recommendations contained in this memo, including delegation agreements, joint investigation MOUs, referral letters, referral checklists, and other resources. Many of these resources can be found on the FCS webpage at: <http://www.justice.gov/crt/about/cor/fedagencies.php#DAMOU>. Please check back regularly for updates, new sample agreements, and other resources. Additionally, you should consult DOJ's

Title VI Coordination regulations, at 28 C.F.R. Part 42 Subpart F, when initiating coordinated activity. As DOJ works to revise these regulations, I appreciate your feedback on how these requirements can be utilized and strengthened to ensure greater consistency and effectiveness in the implementation of Title VI.