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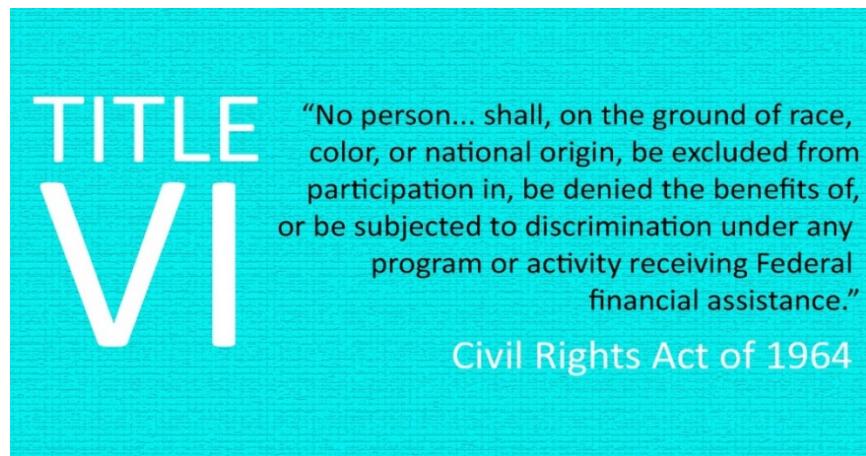
OFFICE OF INSPECTOR GENERAL

***Compliance with the law  
Operating efficiently and effectively***

# Improved EPA Oversight of Funding Recipients' Title VI Programs Could Prevent Discrimination

Report No. 20-E-0333

September 28, 2020



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**Abbreviations**

C.F.R.	Code of Federal Regulations
DCRO	Deputy Civil Rights Official
ECRCO	External Civil Rights Compliance Office
EPA	U.S. Environmental Protection Agency
OIG	Office of Inspector General
U.S.C.	United States Code
USCCR	United States Commission on Civil Rights

**Cover Image:** The EPA's External Civil Rights Compliance Office is responsible for enforcing Title VI of the Civil Rights Act of 1964 at the EPA, which requires it to ensure that any program or activity receiving the Agency's financial assistance does not discriminate based on race, color, or national origin. (EPA OIG image)

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# At a Glance

## Why We Did This Project

The U.S. Environmental Protection Agency's Office of Inspector General conducted this evaluation to determine whether the EPA has implemented an oversight system to provide reasonable assurance that organizations receiving EPA funding comply with Title VI of the Civil Rights Act of 1964. All federal agencies are responsible for enforcing Title VI, which requires them to ensure that any program or activity receiving federal financial assistance does not discriminate based on race, color, or national origin. The public can use the Title VI complaint process to report alleged discrimination by EPA funding recipients. Under this process, the EPA's External Civil Rights Compliance Office, known as ECRCO, has the authority to withdraw financial assistance to compel a recipient to comply with Title VI.

### This report addresses the following:

- *Compliance with the law.*
- *Operating efficiently and effectively.*

### This report addresses these top EPA management challenges:

- *Integrating and leading environmental justice.*
- *Complying with internal control (policies and procedures).*

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List of [OIG reports](#).

## ***Improved EPA Oversight of Funding Recipients' Title VI Programs Could Prevent Discrimination***

### What We Found

ECRCO has not fully implemented an oversight system to provide reasonable assurance that organizations receiving EPA funding are properly implementing Title VI. As an initial matter, ECRCO does not conduct proactive compliance reviews to determine funding recipients' compliance with Title VI. Instead, only once an investigation has been lodged will ECRCO review the foundational elements of the recipient's nondiscrimination program using a checklist. This checklist documents the existence of a nondiscrimination program but does not necessarily document the successful implementation of Title VI. We used the checklist to conduct a limited review of the nondiscrimination programs in all 50 states and three territories. We found that 81 percent lacked some of the required foundational elements on their websites. Meanwhile, ECRCO does not systematically collect program data from EPA funding recipients, and state personnel told us they need training and guidance to help them address discrimination complaints related to permits and cumulative impacts. Three of the seven states we interviewed indicated that they had not received training from ECRCO.

**Despite elimination of the case backlog, additional improvements in the EPA's oversight of Title VI funding recipients could prevent discrimination.**

Since ECRCO assumed management of the EPA's Title VI program in December 2016, it has focused its efforts on reducing a significant backlog of discrimination complaints while simultaneously developing policy and guidance documents. It resolved a backlog of 61 cases from fiscal years 2017 through 2019. Improved oversight could prevent future case backlogs at the EPA and help assure funding recipients comply with Title VI.

### Recommendations and Planned Agency Corrective Actions

To improve oversight of the Title VI program, we recommend that the Office of the Administrator develop a plan to coordinate across Agency program offices to develop guidance on permitting and cumulative impacts. We also recommend that ECRCO use systematic compliance reviews, develop performance measures to assess its ongoing pilot program working with the states on foundational elements of nondiscrimination, address potential noncompliance with funding applicants, develop guidance on the use of data collection, and outline a plan to ensure that the staff take Title VI training. The Agency did not provide a formal response to our draft report but did provide informal written technical comments. We considered the comments and revised the report, as appropriate. The EPA intends to issue a formal response to this report, which we will post on our website upon receipt. The six recommendations are unresolved.



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

THE INSPECTOR GENERAL

September 28, 2020

**MEMORANDUM**

**SUBJECT:** Improved EPA Oversight of Funding Recipients' Title VI Programs Could Prevent Discrimination  
Report No. 20-E-0333

**FROM:** Sean W. O'Donnell

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

**TO:** Doug Benevento, Associate Deputy Administrator

David Fotouhi, Acting General Counsel

This is our report on the subject evaluation conducted by the Office of Inspector General of the U.S. Environmental Protection Agency. The project number for this evaluation is OA&E-FY19-0357. This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

The Office of the Administrator and the Office of General Counsel are responsible for the issues discussed in this report.

**Action Required**

We made six recommendations in this report. Your offices did not provide a formal written response or acceptable corrective actions for any of the recommendations. Therefore, all the recommendations are unresolved. We request a written response to the final report within 60 days of this memorandum. Your response will be posted on the OIG's website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification. If resolution is still not reached, the Office of the Administrator and the Office of General Counsel are required to complete and submit a dispute resolution request to the chief financial officer.

We will post this report to our website at [www.epa.gov/oig](http://www.epa.gov/oig).

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# Chapter 1

## Introduction

### Purpose

The U.S. Environmental Protection Agency’s Office of Inspector General conducted this evaluation to determine whether the EPA has implemented an oversight system to provide reasonable assurance that organizations receiving EPA funding are complying with Title VI requirements.

#### Top Management Challenges

This evaluation addresses the following top management challenges for the Agency, as identified in OIG Report No. [20-N-0231](#), *EPA’s FYs 2020–2021 Top Management Challenges*, issued July 21, 2020:

- Integrating and leading environmental justice.
- Complying with internal control (policies and procedures).

### Background

Pursuant to Title VI of the Civil Rights Act of 1964, “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” Agencies providing financial assistance are “authorized and directed to effectuate the provisions of [42 U.S.C.] section 2000d of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability” to ensure that the goals and objectives of Title VI are achieved.

Title VI requirements apply to EPA funding recipients. Every year, the EPA awards more than \$4 billion in funding for assistance agreements to recipients, such as state governments and nonprofit agencies. These funding recipients are prohibited from using EPA funds in ways that would discriminate on the basis of race, color, or national origin. Title VI allows agencies to achieve compliance by “termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement.” Title VI requires agencies to “first determine[] that compliance cannot be secured by voluntary means.”

#### ***EPA’s Regulatory Framework for Title VI***

In 1984, the EPA amended 40 C.F.R. Part 7 to implement Title VI and other nondiscrimination statutes. The EPA’s regulations state, “No person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving EPA assistance” on the basis of race, color, or national origin. Specifically, the regulations prohibit:

- Denying any service or benefits on the basis of race, color, or national origin.
- Offering services that are different or are provided differently on the basis of race, color, or national origin.
- Using “criteria or methods” that have the “effect of subjecting individuals to discrimination.”
- Choosing a “site or location of a facility that has the purpose or effect of excluding individuals from, denying them benefits of, or subjecting them to discrimination on the grounds of race, color, or national origin.”

The EPA’s Title VI regulations direct the External Civil Rights Compliance Office, or ECRCO,<sup>1</sup> under the Office of General Counsel, to explain Title VI obligations to EPA funding recipients and to provide technical assistance and guidance as requested. New EPA financial assistance applicants have a different set of requirements than those who already receive financial assistance (Table 1).

**Table 1: Title VI requirements for applicants and recipients of EPA financial assistance**

Applicants	Recipients
<ul style="list-style-type: none"> <li>• Provide assurance that they will comply with requirements.</li> <li>• Disclose any pending lawsuits alleging discrimination.</li> <li>• Describe other federal assistance and pending applications to other federal agencies for assistance.</li> <li>• Describe other civil rights compliance reviews conducted during the previous two years.</li> </ul>	<ul style="list-style-type: none"> <li>• Collect, maintain, and, upon request, provide: <ul style="list-style-type: none"> <li>○ Description of any pending lawsuits that allege discrimination.</li> <li>○ Racial or ethnic, national origin, and age data that were submitted with the application.</li> <li>○ EPA Form 4700-4.</li> <li>○ Log of discrimination complaints.</li> <li>○ Compliance review reports conducted by other agencies.</li> </ul> </li> <li>• Keep records for three years after completing the project.</li> <li>• Post notice of nondiscrimination in a prominent place; provide the notice in a language other than English, if appropriate; and include a point of contact.</li> <li>• Adopt grievance procedures, unless certain conditions apply.</li> <li>• Submit other data and information, as required, “where there is reason to believe that discrimination may exist,” that is relevant to determining compliance.</li> </ul>

Source: OIG summary of 40 C.F.R. Part 7. (EPA OIG table)

Before financial assistance is awarded, the regulations direct ECRCO to review compliance information and, in its discretion, conduct an on-site review if it has “reason to believe” discrimination may be occurring. If ECRCO finds potential

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<sup>1</sup> The regulations state that this responsibility lies with the EPA Office of Civil Rights, but the responsibilities for implementing Title VI at the EPA moved to ECRCO in December 2016.

noncompliance, ECRCO “must approve” steps to correct it before an award is given.

After financial assistance is awarded, the EPA investigates Title VI complaints from the public to determine whether entities that receive federal funds are fulfilling their civil rights obligations. The EPA’s regulations encourage resolution of discrimination complaints through informal, voluntary approaches whenever possible. EPA funding recipients are provided opportunities for informal resolution of Title VI concerns at several points during the process, including after an investigation ends but before a formal finding of discrimination is made. ECRCO also has the authority to “periodically conduct compliance reviews of any recipient’s programs or activities receiving EPA assistance, including the request of data and information, and may conduct on-site reviews when it has reason to believe that discrimination may be occurring.”<sup>2</sup> Ultimately, the EPA may withhold funding from recipients found to have discriminated on the basis of race, color, or national origin.

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<sup>2</sup> 40 C.F.R. § 7.115(a).

## Case Study: EPA's First and Only Final Finding of Discrimination—Genesee County, Michigan

### 1992: Community Discrimination Complaint Filed Against the State of Michigan<sup>3</sup>

In 1992, the St. Francis Prayer Center of Flint, Michigan, filed a discrimination complaint with the EPA after learning that the State of Michigan, a recipient of EPA financial assistance, was considering permitting the Genesee Power Station in a primarily low-income, African American neighborhood in Flint. According to the complaint, the community surrounding the proposed facility had concerns about the potential emissions from this facility, including lead, mercury, and arsenic. The complaint alleged discrimination in both the location of the facility and in the process of permitting the facility. The complaint cited, among other examples, the burden of attending the state hearings in Lansing, 65 miles away from Flint, and alleged that members of the community received fewer opportunities to speak than others.



The St. Francis Prayer Center in Flint, Michigan, filed a discrimination complaint with the EPA.  
(EPA OIG photo)

### EPA Response Delayed

The EPA had 180 days to respond to the 1992 Genesee Power Station complaint and did not meet this deadline. The power station began operating in 1995, despite the EPA not yet resolving the discrimination complaint. In 2015, Earthjustice filed an “unreasonable delay” lawsuit on behalf of the St. Francis Prayer Center.

### 2017: EPA Issues First and Only Final Finding of Discrimination

In January 2017, 25 years after the complaint’s submission, the EPA made its first and only final finding of “discriminatory treatment of African Americans by the State of Michigan in the public participation process” related to the permitting of the Genesee Power Station. The EPA found that the State of Michigan treated African American communities surrounding the proposed plant differently than similarly situated non-African American communities. For example:

- During one public hearing in 1992, the state gave African Americans fewer opportunities to speak and less time to review documents related to the Genesee Power Station permit than non-African Americans.
- The state unnecessarily sent armed security to a hearing in Flint. This EPA finding was based, in part, on the historic use of police forces to intimidate African Americans attempting to exercise their rights.

The EPA recommended that the state address problems found in its public participation process, such as developing a policy to ensure that appropriate decisions are made regarding time, location, duration, and security at public hearings. The EPA also recommended that the state establish a compliant nondiscrimination program, post a nondiscrimination notice on its website, and adopt grievance procedures to address discrimination complaints.

<sup>3</sup> “State,” in this section, refers specifically to the then-Michigan Department of Environmental Quality, now the Michigan Department of Environment, Great Lakes, and Energy.

## ***Important Past Actions to Address Title VI Compliance at EPA***

Both internal and external entities reviewed the EPA’s Title VI program a total of six times between 1999 and 2019. These entities issued reports containing recommendations on how to operate a “model civil rights program,” as well as reviews of specific issues, such as how to operate permitting programs that are Title VI-compliant. See Appendix A for a list of past actions, including descriptions of these reports.

In 2013, in response to a recommendation by the EPA’s Civil Rights Executive Committee—an internal group of EPA senior managers tasked to develop a “model civil rights program”—the Agency issued EPA Order 4700. That Order established deputy civil rights officials, or DCROs, in all its program and regional offices to assist ECRCO and provide oversight for the implementation of the civil rights program within their respective region or office consistent with national policy and guidance. Table 2 explains the responsibilities of the DCROs.

**Table 2: DCRO roles outlined in EPA Order 4700**

Management function	Responsibilities
Staffing	Identifying and requesting adequate funding and resources from Agency management for Title VI work.
Controls	Ensuring their organizations have well-functioning policies, processes, and management controls.
Training	Training Title VI civil rights staff in their offices or regions.
Performance reviews	Incorporating Title VI language into performance agreements as required for managers and for certain other positions as necessary.
Investigations	Effectively participating in or leading activities, including investigations, for the purposes of implementing EPA Order 4701, <i>Title VI Case Management Protocol</i> .
Implementation	Effectively participating in the Agency’s implementation of external civil rights policies for financial assistance monitoring, compliance, grant reviews, and other external civil rights laws activities consistent with EPA Order 4701.

Source: OIG analysis of EPA Order 4700. (EPA OIG table)

Prior to 2016, external and internal civil rights functions were housed in the Office of the Administrator. In 2016, the EPA transferred responsibility for external civil rights to ECRCO in the Office of General Counsel.<sup>4</sup> According to the Office of General Counsel, the staffing in ECRCO has remained relatively steady at 11 to 12 full-time equivalents from fiscal years 2017 to 2019.

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<sup>4</sup> *External Civil Rights Compliance Office Strategic Plan*, Fiscal Years 2015–2020.

## ***ECRCO Policy and Guidance***

In 2017, ECRCO finalized three policy and guidance documents: a case resolution manual, a strategic plan, and a compliance toolkit. The case resolution process is outlined in the *Case Resolution Manual*, which provides procedural guidance to case managers to ensure the EPA’s “prompt, effective, and efficient resolution of civil rights cases consistent with science and the civil rights laws.”

ECRCO’s *External Civil Rights Compliance Office Strategic Plan* for fiscal years 2015–2020 outlines its goals regarding managing its complaint docket; furthering its mission through systematic compliance reviews; developing strategic policy; engaging EPA, federal, and external partners and stakeholders; and strengthening its workforce. The plan also states that ECRCO is committed to developing “strategic policy guidance on cross-cutting issues.” Chapter 1 of the *Compliance Toolkit* helps funding recipients comply with their federal civil rights obligations.

## ***ECRCO Title VI Program Efforts***

ECRCO originally focused its resources on reducing its complaint docket and case processing times. As outlined in the ECRCO director’s November 20, 2019 congressional testimony, by November 2019, these efforts resulted in the resolution of and preliminary findings made for the 61 backlogged cases that existed at the end of 2016. To address future timeliness, ECRCO implemented a variety of Lean management strategies to improve organizational efficiency and developed program guidance as mentioned above.

In addition, ECRCO piloted its Cooperative Federalism initiative in 2018 to provide technical assistance and outreach to funding recipients. The initiative will partner ECRCO with EPA regional offices and their respective states to build “effective civil rights programs that other states could model.” ECRCO began the program with Region 1, in part, because there were no existing Title VI complaints against the states in that region. The Cooperative Federalism initiative is voluntary. All but one state in Region 1 chose to participate. ECRCO met with and provided training to the staffs of the environmental departments and agencies within the participating states. States in Region 1 provided ECRCO with positive feedback on its voluntary initiative. ECRCO informed us of its plan to engage Regions 5 and 7 in the near future.

## ***ECRCO’s Procedural Safeguards***

ECRCO developed a “procedural safeguards” checklist, which contains what the office considers foundational elements of a nondiscrimination program.<sup>5</sup> The

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<sup>5</sup> These requirements stem from Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 13 of the Federal Water Pollution Control Act, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. The scope of our evaluation is limited to Title VI.

procedural safeguards checklist derives from both explicit regulatory requirements—including posting a nondiscrimination notice in a “prominent place” and adopting grievance procedures—and more general requirements, such as not providing services or benefits differently based on race, color, or national origin. General requirements also include language access, which means ensuring that members of the public with limited-English proficiency have meaningful access to information in the languages they understand, as required by Title VI.

The checklist, which can be found in Appendix B, addresses, among other foundational elements, whether a funding recipient has:

- Posted a nondiscrimination notice in a prominent place that is accessible to individuals with English and limited-English proficiency and clearly identifies the nondiscrimination coordinator as a point of contact for discrimination concerns. A nondiscrimination coordinator should be designated to ensure compliance with federal nondiscrimination laws.
- Adopted grievance procedures that are prominently published in print and available online.
- Developed, publicized, and implemented written public participation procedures.
- Developed, publicized, and implemented written procedures to ensure meaningful access to all, including access for individuals with limited-English proficiency.

## **Responsible Offices**

The Office of the Administrator supports the leadership of the EPA’s programs and activities to protect human health and the environment. The Office of General Counsel’s ECRCO is responsible for enforcing several federal civil rights laws for applicants and recipients of federal financial assistance from the EPA. This includes discrimination covered by Title VI—race, color, or national origin—as well as discrimination based on sex, disability, or age.

## **Scope and Methodology**

We conducted this evaluation from November 2019 through August 2020. We conducted this evaluation in accordance with the *Quality Standards for Inspection and Evaluation*, published in January 2012 by the Council of the Inspectors General on Integrity and Efficiency. Those standards require that we plan and perform the evaluation to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings, conclusions, and recommendations based on our objective. We believe that the evidence obtained provides a reasonable basis for our findings, conclusions, and recommendations based on our review.

To answer our objective, we:

- Reviewed legislation, policies, and guidance regarding Title VI and the EPA’s implementation of:
  - Title VI.
  - U.S. Department of Justice policy guidance.
  - ECRCO’s *Case Resolution Manual*.
  - Chapter 1 of ECRCO’s *Compliance Toolkit*.
  - EPA Orders 4700 and 4701.<sup>6</sup>
- Reviewed external reviews and analyses of the EPA’s Title VI program, including those conducted by the United States Commission on Civil Rights, known as the USCCR, and the EPA-commissioned studies by Deloitte Consulting.<sup>7</sup>
- Reviewed all EPA Title VI cases from fiscal years 2016 through 2020.
- Interviewed ECRCO management and staff.
- Interviewed the Office of Grants and Debarment and the DCROs in the EPA’s Office of Air and Radiation and all ten EPA regions.
- Interviewed other federal agencies. We selected these federal agencies from our review of the external reports cited above, as well as on recommendations from experts in the field.
- Interviewed seven states to discuss their knowledge of the Title VI program and their work with the EPA on complaints. We selected these states using a judgmental sample focused on geographic diversity and past experience with ECRCO.

In addition, we reviewed the websites of the environmental agencies for all 50 states and three territories—Puerto Rico, the U.S. Virgin Islands, and Washington, D.C.—although we did not make any determination about the legal sufficiency of what was posted. We recognize that recipients of EPA financial assistance extend beyond the major state and territory environmental agencies to local agencies and municipalities. We used these larger agencies and departments as proxies to determine how consistently the states and territories disseminate nondiscrimination information to the public.

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<sup>6</sup> The purpose of EPA Order 4701 is to provide cross-Agency support for resolving complaints filed under Title VI and other nondiscrimination statutes applicable to recipients of the EPA’s financial assistance and to ensure that EPA resources are supportive of the civil rights mission.

<sup>7</sup> Our analysis did not include in-depth reviews of relevant court cases.

Further, there were elements that we could not determine from a website review, such as whether the department or agency was, as outlined in the procedural safeguards checklist, “provid[ing] or procur[ing] training services for [their] staff to ensure that they are appropriately trained on … non-discrimination policies and procedures.” Therefore, our review of websites included only a subset of the procedural safeguards ECRCO included in its checklist—those that we believe we should find online, such as a nondiscrimination notice and grievance procedures. We defined a program “weakness” as the state not having either the notice or the grievance procedure or both.

## **Chapter 2**

### **Improved Oversight Needed to Assure Compliance with Title VI to Prevent Discrimination**

ECRCO has not fully implemented an oversight system to identify and correct weaknesses in EPA funding recipients' Title VI programs. We found that ECRCO does not proactively conduct compliance reviews and does not collect information from funding recipients to target programs with weaknesses for review outside of the investigation process. ECRCO developed a procedural safeguards checklist to assess programs when a complaint is filed. We reviewed the Title VI program websites of all 50 states and three territories to determine whether selected safeguards existed and found that 81 percent lacked either the nondiscrimination notice or grievance procedures or both. Further, state personnel from three of the seven states we interviewed told us that they need training and guidance from the EPA to help them address discrimination complaints related to permits and cumulative impacts, which are the compounding effects of multiple sources of pollution in a certain area. By improving its oversight efforts through systematic compliance reviews and data collection as well as increased training and guidance, the EPA will increase its assurance that funding recipients are complying with Title VI requirements. Better implementation at the recipient level could help alleviate complaints and prevent future case backlogs.

#### **Oversight Should Include Compliance Reviews to Identify Weaknesses in Funding Recipients' Title VI Programs**

Using systematic compliance reviews to identify weaknesses in recipients' Title VI programs should be an integral piece of the EPA's oversight system. After the Agency awards funding, ECRCO does not conduct proactive compliance reviews to determine funding recipients' compliance with Title VI. Instead, ECRCO waits until a complaint is filed to review the foundational elements of the recipient's nondiscrimination program using a checklist. Employing the ECRCO's procedural safeguards checklist, we found that 81 percent of websites of the states and territories we reviewed lacked some of the required foundational elements of a Title VI program which indicates that they are not meeting these minimum requirements. In addition, despite ECRCO's Cooperative Federalism pilot, we did not find that the states in Region 1 had more safeguards than states in other regions.

## ***Review of State Agency Websites Using the ECRCO Checklist Identified Weaknesses in Funding Recipients' Title VI Programs***

In our review of state environmental agencies' websites, we found that 43 (81 percent) out of 53 states and territories did not have some of the required foundational elements (Figure 1).

In general, 60 percent of states and territories posted nondiscrimination notices on either their environmental agency's website or on another state-associated website. Of the 32 states with notices, 14 provided notices in languages other than English.

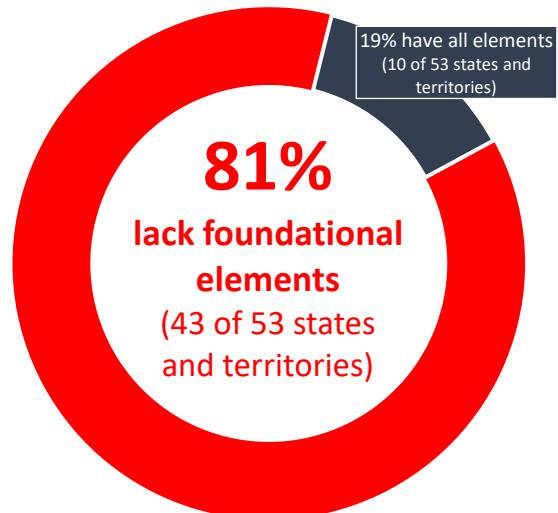
Despite the Cooperative Federalism pilot conducted in Region 1, we did not find Region 1 states to have more procedural safeguards than other states. While ECRCO did receive positive feedback about the Cooperative Federalism pilot, ECRCO does not have a system in place to evaluate the effectiveness of the program. In addition, it is unclear how ECRCO plans to broaden the Cooperative Federalism initiative into other regions and states.

### ***Better Oversight Needed to Assure Recipients Are Properly Implementing Title VI***

According to ECRCO, the procedural safeguard reviews conducted by the EPA are not “labeled as ‘compliance reviews’” but accomplish the same goal, which is “to address issues of strategic national significance in civil rights areas and provide an efficient and effective vehicle for providing states and other recipients with important compliance information and assistance.”<sup>8</sup> However, the EPA procedural safeguard reviews only address the existence of a nondiscrimination program and do not determine whether recipients are implementing their Title VI program in accordance with requirements.

If ECRCO conducted compliance reviews, it could assist states in solving these problems. For example, the Alabama Department of Environmental Management’s website exhibited four out of the five safeguards we reviewed—

**Figure 1: Lack of foundational elements**



Source: OIG analysis. (EPA OIG figure)

<sup>8</sup> [Testimony](#) of Lilian Sotolongo Dorka, director of the External Civil Rights Compliance Office in the EPA’s Office of General Counsel, before the U.S. House of Representatives Committee on Energy and Commerce Subcommittee on Environment and Climate Change, November 20, 2019.

the nondiscrimination notice posted online and provided in different languages, grievance procedures, and public participation procedures. It also had the most Title VI complaints filed with and accepted by ECRCO for investigation of any state, tribe, or territory between fiscal years 2016 and 2020. The State of Alabama's grievance procedures are designed to address discrimination complaints filed by the public. If the grievance procedures worked as intended, Alabama would receive and address complaints before they reach ECRCO. However, Alabama is the subject of 25 percent of the complaints that ECRCO accepted nationwide for review between fiscal year 2016 and March 2020. The high number of complaints received and accepted, along with our interviews with ECRCO and the State of Alabama, suggest weaknesses in the state's nondiscrimination program despite the existence of the procedural safeguards. ECRCO is not identifying or targeting nondiscrimination programs that may be noncompliant to review their programs in any proactive or systematic way, as evidenced by the results of our safeguards checklist review. Systematic compliance reviews were recommended by several internal and external entities and are included in ECRCO's Strategic Plan. Thus, communities and individuals face the burden of filing Title VI complaints rather than relying on the EPA to provide oversight that would result in recipients' effective implementation of Title VI.

## **Oversight Should Include Collecting Information from EPA Funding Recipients to Target Compliance Reviews**

New applicants for EPA funding must fill out EPA Form 4700-4, which requests an assurance that they will comply with all applicable civil rights statutes and EPA regulations. When the forms indicate potential noncompliance, ECRCO is notified by the EPA's grants officer and works with the applicant to comply with Title VI. ECRCO has the authority to delay or deny financial assistance to EPA grant recipients based on the results of the pre-award compliance review. Our review of recipients' websites suggests that many recipients do not have Title VI safeguards. This creates a risk that the EPA's pre-award reviews are not successful in identifying these Title VI weaknesses. The Office of Grants and Debarment staff confirmed that ECRCO has never denied funding or held up an award due to Title VI concerns.

Besides EPA Form 4700-4, ECRCO does not otherwise systematically collect data from EPA funding recipients, such as program data or statistical data about the composition of the populations they serve. In a 2019 report, the USCCR found that the EPA was not receiving the information it needs to determine Title VI compliance. ECRCO reported to the USCCR that it does not have any policies or procedures to routinely collect data from recipients but collects additional information from complainants as necessary to determine whether ECRCO has the jurisdiction to investigate a complaint or conduct a compliance review and to resolve complaints informally. The USCCR reiterated the importance of compliance monitoring and noted that ECRCO lacked policy or guidance for

routine data collection and could benefit from collecting basic data about recipients' Title VI programs, thereby helping to "ensure that recipients of EPA funding ... take steps to come into compliance."

The EPA's Civil Rights Executive Committee recommended in a 2012 report that the Agency require recipients to submit data on "affected persons and communities and on [limited-English proficiency] compliance." Regularly collecting and analyzing these data would support ECRCO efforts to identify and target recipient programs that may be at risk for noncompliance or may be struggling with Title VI implementation. ECRCO could then complete a procedural safeguard checklist review or a compliance review to determine whether the recipient's program has any weaknesses.

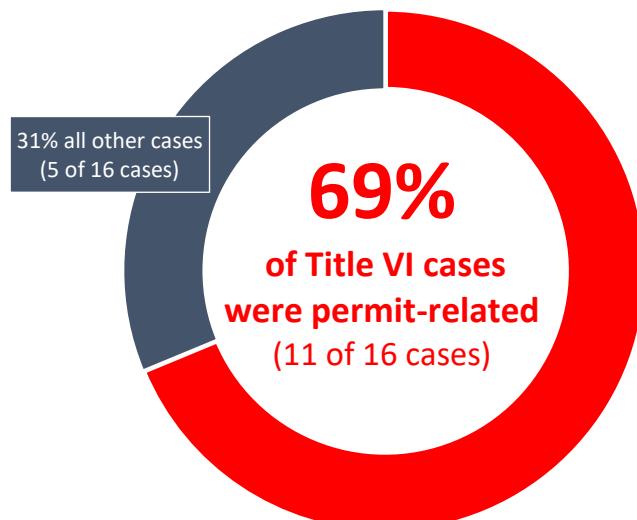
## **Regions and States Would Benefit from Additional Guidance and Training from ECRCO**

Recipients of EPA funding lacked guidance and training from ECRCO to address common cross-cutting environmental concerns that drive a significant percentage of Title VI complaints. For example, regional and state personnel we interviewed cited both permitting and cumulative impacts as concerns.

### ***Guidance Needed to Assist in Title VI Cases Related to Permitting***

Permitting is a key concern in Title VI complaints filed with the EPA. We found that the EPA received or resolved 57 Title VI complaints from 2016 through March 2020. The EPA accepted 16 (28 percent) of these 57 cases for investigation. Of the 16 cases accepted and investigated, 11 cases (69 percent) were related to concerns about permits issued to sources that emit or discharge pollutants into the environment (Figure 2).

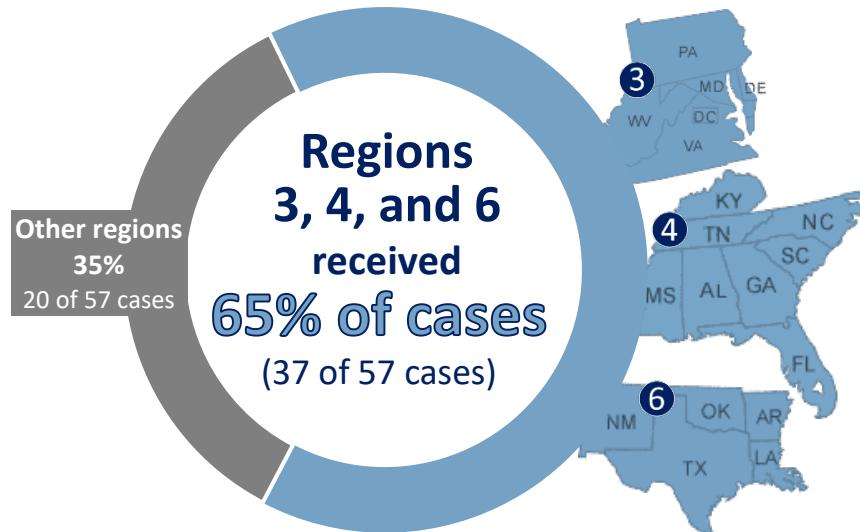
**Figure 2: Accepted EPA Title VI cases, 2016–2020**



Source: OIG analysis. (EPA OIG figure)

Regions 3, 4, and 6 oversee the states that received Title VI complaints in 37 (65 percent) of the 57 cases received or resolved, and 19 (51 percent) of these 37 cases were related to permits (Figure 3). Regional staff told us that they receive Title VI complaints regarding permitting issues and that more guidance is needed to address permit-related issues.

**Figure 3: Regional caseload for Title VI cases from 2016–2020**

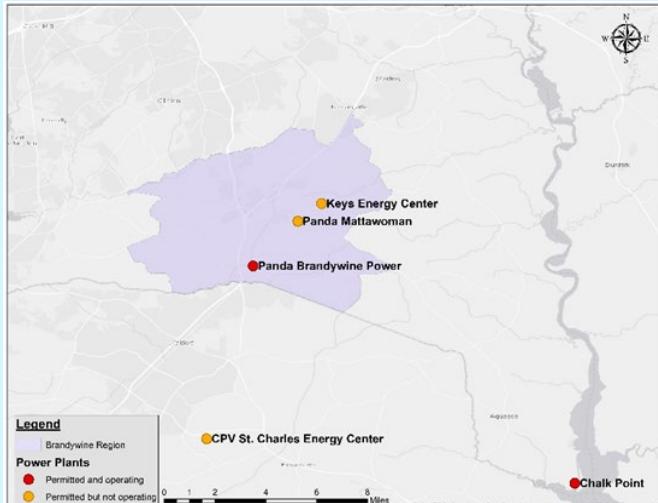


Source: OIG analysis. (EPA OIG figure)

ECRCO should work with EPA program offices on providing needed guidance on permitting to assist with the large caseload. In 2000, the EPA addressed permit-related Title VI challenges in its notice of two draft guidance documents in the Federal Register, under the single title of *Draft Title VI Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs (Draft Recipient Guidance)* and *Draft Revised Guidance for Investigating Title VI Administrative Complaints Challenging Permits (Draft Revised Investigation Guidance); Notice*. These draft guidance documents specifically targeted permitting programs. According to ECRCO, both documents have been rescinded.

On March 21, 2006, the EPA finalized a new version of the Draft Recipient Guidance, titled *Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs (Recipient Guidance)*. This guidance encourages public involvement in the permitting process. However, despite these guidance documents, additional permit-related Title VI challenges remain.

## Case Study: Brandywine, Maryland



Source: OIG analysis using Esri's ArcMap, a mapping and location analytics platform.

### Title VI Complaint Filed with the EPA

In May 2016, Earthjustice filed a Title VI complaint with the EPA against the Maryland Department of the Environment and other state agencies responsible for authorizing the construction of a natural gas-fired power plant—Mattawoman Power Plant. The complaint stated that the population within ten miles of the approved location of the plant is 67 percent Black, according to EPA data. The Brandywine community is bordered by several other fossil fuel-fired power plants and is the site of other types of facilities, including numerous open pit sand and gravel mines; a coal ash disposal facility; a facility that processes soil contaminated with petroleum products and heavy metals; and the Brandywine Superfund site, which was used to store hazardous military waste.

### EPA Decision and Resolution

The EPA investigated both the decision to authorize the construction of the plant and whether the public participation process was discriminatory. The EPA did not make a formal finding of discrimination but did enter into an Informal Resolution Agreement with the state agencies in January 2019. The agreement directed the state permitting authority to use the EPA's data to identify "affected communities that may be subject to additional impacts." Maryland agreed to make air quality information publicly available during its review of permit applications as well as to evaluate any citizen science, which is scientific research conducted by the public.

### ECRCO Stakeholders Need More Guidance and Training to Address Cumulative Impact Issues

We found that six of the ten regional EPA offices have encountered cumulative impact issues. The 1999 *Report of the Title VI Implementation Advisory Committee*, an EPA-convened group made up of representatives from different stakeholder groups directly affected by Title VI and academia, included several principles for Title VI that highlighted the importance of addressing cumulative impacts. It noted that "community concerns about cumulative impacts are at the heart of many Title VI disputes ... [T]o address the communities' fundamental concerns effectively, appropriate authorities and other responsible parties should recognize the cumulative nature of such impacts and to attempt to take action to reduce and ultimately, eliminate the impacts."

The EPA's EJSscreen is an environmental justice mapping and screening tool that provides a nationally consistent dataset. This tool can be helpful to stakeholders in understanding the racial composition of areas adjacent to proposed facilities. Being aware of existing facilities and racial composition in an area is imperative to knowing whether cumulative and disparate impacts exist. An EPA regional office attorney stated that cumulative impacts are the genesis for many Title VI complaints, but guidance is not available on how to address the issues.

During our interviews, state environmental departments also noted a need for guidance to help address cumulative impact issues. Three of the seven states we spoke to said that guidance addressing cumulative impact issues would be helpful. One additional state indicated that cumulative impact analysis was done on an ad hoc basis.

ECRCO personnel said that their office is not primarily responsible for developing guidance for permitting and cumulative impacts because those are predominantly environmental issues that should be addressed by the EPA's program offices. In 2012, the EPA's Civil Rights Executive Committee reported, however, that "a stronger cross-connection is needed between program guidance designed to assist states in carrying out delegated authorities under environmental statutes such as monitoring or permitting guidance, with the obligations and grant conditions of Title VI for recipients of federal funds." ECRCO has the authority to provide this type of guidance and leads the Agency's Title VI program. ECRCO should collaborate with the regions and program offices to address the development of policy and guidance for cross-cutting issues, such as permitting and cumulative impacts.

### ***EPA Needs to Increase Training for EPA Staff and State Civil Rights Officers***

Most of the states we interviewed indicated that they had not received training from ECRCO on Title VI issues. One state told us that the EPA used to have training videos available online and that it would appreciate something similar being available again to train their staff. In addition, staff from four of the ten regions we interviewed did not recall receiving training or were offered little training from ECRCO. In most cases, DCROs and regional staff are only involved in Title VI if there is an active case in their region. ECRCO is the lead for all cases and relies on regional staff for on-the-ground knowledge and contacts.

Considering our findings with respect to the lack of procedural safeguards on a large number of state environmental agency websites, ECRCO could improve Title VI implementation within the regions and states by providing regular and consistent communication beyond its Cooperative Federalism efforts. ECRCO could improve the implementation of Title VI by developing and implementing greater outreach tools to partners and recipients. This includes issuing guidance to assist EPA regions and states in developing stronger connections between cross-cutting environmental issues—such as permitting and cumulative impacts—to civil rights and to provide Title VI training to more fully integrate Title VI prevention and compliance activities into regular and routine EPA activities across all Agency programs.

## **Conclusions**

The EPA should assure that funding recipients' Title VI programs are compliant and prevent discrimination by conducting more robust, systematic oversight activities. ECRCO could improve the implementation of Title VI by collecting additional data from recipient programs. This will enable it to target vulnerable programs to assess and assure Title VI compliance. In addition, ECRCO could improve Title VI implementation by working with EPA program offices to develop and implement guidance for recipients and training for EPA and state staff. These efforts would assure recipients have the tools they need to carry out delegated programs in compliance with their Title VI obligations. Without better oversight to assure compliant Title VI programs, the primary option for a community seeking relief from discriminatory practices would be to file a Title VI complaint with the EPA.

## **Recommendations**

We recommend that the associate deputy administrator:

1. Develop and implement a plan to coordinate relevant Agency program, regional, and administrative offices with the External Civil Rights Compliance Office to develop guidance on permitting and cumulative impacts related to Title VI.

We recommend that the general counsel:

2. Develop and implement a plan to complete systematic compliance reviews to determine full compliance with the Title VI program.
3. Develop metrics to assess the effectiveness of the Cooperative Federalism pilot and other technical assistance efforts, such as the procedural safeguards checklist. Revise these tools and programs as needed based on the metrics.
4. Verify that EPA funding applicants address potential noncompliance with Title VI with a written agreement before the funds are awarded.
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.
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 program.

## **Agency Response and OIG Assessment**

The Agency did not provide a formal response to the draft report with a corrective action plan and milestones but did provide us with informal written technical comments. On September 9, 2020, we met with the Office of General Counsel to discuss the technical comments. We incorporated them into the final report, as appropriate. In addition, we modified Recommendations 1 and 5. The EPA intends to issue a formal response to this report, which will be posted on the OIG's website.

## ***Status of Recommendations and Potential Monetary Benefits***

### RECOMMENDATIONS

Rec. No.	Page No.	Subject	Status <sup>1</sup>	Action Official	Planned Completion Date	Potential Monetary Benefits (in \$000s)
1	17	Develop and implement a plan to coordinate relevant Agency program, regional, and administrative offices with the External Civil Rights Compliance Office to develop guidance on permitting and cumulative impacts related to Title VI.	U	Associate Deputy Administrator		
2	17	Develop and implement a plan to complete systematic compliance reviews to determine full compliance with the Title VI program.	U	General Counsel		
3	17	Develop metrics to assess the effectiveness of the Cooperative Federalism pilot and other technical assistance efforts, such as the procedural safeguards checklist. Revise these tools and programs as needed based on the metrics.	U	General Counsel		
4	17	Verify that EPA funding applicants address potential noncompliance with Title VI with a written agreement before the funds are awarded.	U	General Counsel		
5	17	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.	U	General Counsel		
6	17	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 program.	U	General Counsel		

<sup>1</sup> C = Corrective action completed.  
 R = Recommendation resolved with corrective action pending.  
 U = Recommendation unresolved with resolution efforts in progress.

## Past Actions to Address Title VI Compliance at EPA

The EPA's Title VI program has been reviewed and evaluated several times from 1999 through 2019 by both internal and external entities. These groups have issued several reports with recommendations on how to operate a "model civil rights program," as well as reviewed specific issues such as how to operate permitting programs that are Title VI compliant.



Source: OIG analysis. (EPA OIG figure)

In 1998, then-EPA Administrator Carol M. Browner commissioned the Title VI Implementation Advisory Committee, which comprised representatives from industry; community advocacy groups; federal, state, and local governments; and academia to review and evaluate "existing techniques" and tools that EPA recipients could use to operate permitting programs that are Title VI compliant and address Title VI concerns. The committee developed eight consensus principles that it believed should guide the EPA's future Title VI efforts. Some of the committee's key consensus principles included "early, proactive intervention ... to deter Title VI violations and complaints;" "transparent and comprehensive standards and decision-making processes;" and the recognition that "cumulative impacts are at the heart of many Title VI disputes" and that they should be researched and addressed to "reduce and ultimately, eliminate the impacts."

Congress established the USCCR in 1957 to, among other things, study and collect information on discrimination and submit reports, findings, and recommendations to the president and Congress. The USCCR has studied the EPA's Title VI and environmental justice programs and has issued reports in 2002, 2003, 2016, and 2019. These reports called on the EPA to provide more guidance to recipients, collect basic program data, and implement formal compliance review programs to ensure nondiscrimination.

In 2010, while trying to address a significant backlog of Title VI cases, then-EPA Administrator Lisa Jackson commissioned an external consulting firm to conduct an "in-depth evaluation" of the EPA's civil rights program. The purpose of the assessment was to "determine the extent to which the structure, policies, procedures, and resources of the [Office of Civil Rights] facilitate

accomplishment of EPA's equal employment opportunity and equal opportunity mission, and to assess whether [the Office of Civil Rights] operates in accordance with applicable laws and regulations."

With respect to the EPA's Title VI program, the firm found that the Agency's Office of Civil Rights had not "adequately adjudicated Title VI complaints" and had "not completed compliance checks of EPA grantees, in a timely or effective manner, to ensure that grantees are not engaging in discrimination in their work." The firm attributed these deficiencies to a lack of qualified and trained staff and limited organizational infrastructure to guide the work of the Office of Civil Rights, including "well-documented policies and procedures, standardized processes, and effective systems." Finally, the firm found that the Office of Civil Rights had operated in an "insular fashion that ... limited its effectiveness" and did not take full advantage of the technical expertise available within the EPA and state governments. Further, the Office of Civil Rights did not conduct much outreach to state environmental entities to build awareness of these entities' civil rights obligations.

In response to the report, the then-EPA deputy administrator was tasked with leading the EPA's Civil Rights Executive Committee, an internal group of EPA senior managers at headquarters and in the regions, to develop a "model civil rights program." The committee's recommendations for the Title VI program included establishing a case management protocol, mobilizing resources across the EPA to address the backlog of cases, and "strengthening Title VI compliance and prevention through grant mechanisms." An April 2012 report by the committee directed the EPA to consider its authorities to improve oversight, including data collection, compliance, monitoring, and reporting, and recognized that recipients' Title VI obligations could be viewed as "pro forma." According to the report:

[S]ignificantly more effort is needed to communicate Title VI responsibilities to recipients of federal funding, and to monitor – through systematic processes – recipient compliance with Title VI requirements. In addition, a stronger cross-connection is needed between "program" guidance designed to assist states in carrying out delegated authorities under environmental statutes (e.g., monitoring or permitting guidance), with the obligations (and grant conditions) of Title VI for recipients of federal funds.

## **Appendix B**

### ***Procedural Safeguards Checklist***

ECRCO developed a “procedural safeguards” checklist, which contains what the office considers foundational elements of a Title VI program. It derives from both explicit regulatory requirements—such as posting a nondiscrimination notice in a “prominent place”—and more general requirements—such as not providing services or benefits differently based on race, color, or national origin.

The version of the procedural safeguards checklist used in our review is below. The final page of the checklist outlines ECRCO’s recommended text for a nondiscrimination notice.

(Revised July 2019)

## **PROCEDURAL SAFEGUARDS CHECKLIST FOR RECIPIENTS FEDERAL NON-DISCRIMINATION OBLIGATIONS**

*Federal Non-Discrimination Laws: Collectively, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Section 13 of Federal Water Pollution Control Act of 1972, and Title IX of the Education Amendments of 1972; and EPA's implementing non-discrimination regulations at 40 C.F.R. Parts 5 and 7.*

Item	Yes, with Supporting Documentation	In Progress	No
<b>Notice of Non-Discrimination under the Federal Non-Discrimination Laws<sup>1</sup></b>			
(See Attachment for recommended text of notice.)			
Post the non-discrimination notice in a prominent place:			
<ul style="list-style-type: none"><li>• in your offices and facilities</li><li>• on your website's homepage</li><li>• in general publications distributed to the public</li></ul>			
Ensure the non-discrimination notice			
<ul style="list-style-type: none"><li>• is accessible to limited-English proficient individuals and individuals with disabilities</li><li>• clearly identifies the non-discrimination coordinator, including name and contact information</li></ul>			
<b>Grievance Procedures to Process Discrimination Complaints filed under the Federal Non-Discrimination Laws<sup>2</sup></b>			
Adopt grievance procedures that are prominently published <sup>3</sup> in print and online and that:			
<ul style="list-style-type: none"><li>• clearly identify the non-discrimination coordinator, including name and contact information</li><li>• explain the role of the non-discrimination coordinator relative to the coordination and oversight of the grievance procedures</li><li>• state who may file a complaint under the grievance procedures and describe the appropriate bases for filing a complaint</li></ul>			

<sup>1</sup> 40 C.F.R. § 7.95(a); 40 C.F.R. § 5.140.

<sup>2</sup> 40 C.F.R. § 7.90; 40 C.F.R. § 5.135(b).

<sup>3</sup> 40 C.F.R. § 5.135(b).

Item	Yes, with Supporting Documentation	In Progress	No
<ul style="list-style-type: none"> <li>• describe which formal and informal processes are available, and the options for complainants in pursuing either</li> </ul>			
<ul style="list-style-type: none"> <li>• state that the preponderance of the evidence standard will be applied during the analysis of the complaint</li> </ul>			
<ul style="list-style-type: none"> <li>• contain assurances that intimidation and retaliation are prohibited<sup>4</sup> and that claims of intimidation and retaliation will be handled promptly and fairly pursuant to your grievance procedures in the same manner as other claims of discrimination</li> </ul>			
<ul style="list-style-type: none"> <li>• assure the prompt and fair resolution of complaints which allege violation of federal non-discrimination laws</li> </ul>			
<ul style="list-style-type: none"> <li>• state that written notice will be promptly provided about the outcome of the investigation, including whether discrimination is found and the description of the investigation process<sup>5</sup></li> </ul>			
<ul style="list-style-type: none"> <li>• are reviewed on an annual basis (for both in-print and online materials), and revised as necessary, to ensure prompt and fair resolution of discrimination complaints</li> </ul>			
<b>Non-Discrimination Coordinator<sup>6</sup></b>			
Designate at least one non-discrimination coordinator to ensure compliance with the federal non-discrimination laws, who will:			
<ul style="list-style-type: none"> <li>• provide information to individuals internally and externally that you do not discriminate on the basis of race, color, national origin, disability, age, or sex in administration of your programs or activities, and you do not intimidate or retaliate against any individual or group because they have exercised their rights to</li> </ul>			

<sup>4</sup> See 40 C.F.R. § 7.100.

<sup>5</sup> Whether ECRCO would consider a recipient's complaint investigation and resolution to be "prompt" will vary depending on the complexity of the investigation and the severity and extent of the alleged discrimination. For example, the investigation and resolution of a complaint involving multiple allegations and multiple complainants likely would take longer than one involving a single allegation of discrimination and a single complainant.

<sup>6</sup> 40 C.F.R. § 7.85(g); 40 C.F.R. § 5.135(a).

Item	Yes, with Supporting Documentation	In Progress	No
participate in or oppose actions protected/prohibited by 40 C.F.R. Parts 5 and 7, or for the purpose of interfering with such rights			
<ul style="list-style-type: none"> <li>• provide notice of your formal and informal grievance processes and the ability to file a discrimination complaint</li> </ul>			
<ul style="list-style-type: none"> <li>• establish a mechanism (<i>e.g.</i>, an investigation manual) for implementation of your grievance procedures to ensure that all discrimination complaints filed with you under federal non-discrimination laws are processed promptly and fairly. One element of any policy and procedure or mechanism must include providing meaningful access for limited-English proficient individuals and individuals with disabilities to your programs and activities</li> </ul>			
<ul style="list-style-type: none"> <li>• track all complaints filed with you under federal non-discrimination laws, including any patterns or systemic problems</li> </ul>			
<ul style="list-style-type: none"> <li>• conduct semiannual reviews of all formal and informal discrimination complaints filed with you under federal non-discrimination laws and/or any other complaints independently investigated by you to identify and address any patterns or systemic problems</li> </ul>			
<ul style="list-style-type: none"> <li>• ensure that appropriate training is provided for your staff in the formal and informal processes available to resolve complaints filed with you under federal non-discrimination laws</li> </ul>			
<ul style="list-style-type: none"> <li>• provide or procure training services for your staff to ensure that they are appropriately trained on your non-discrimination policies and procedures, as well as the nature of your obligation to comply with federal non-discrimination laws</li> </ul>			
<ul style="list-style-type: none"> <li>• ensure that complainants are updated on the progress of their discrimination complaints filed with you under federal non-discrimination laws and promptly informed as to any determinations you have made</li> </ul>			

Item	Yes, with Supporting Documentation	In Progress	No
<ul style="list-style-type: none"> <li>• undertake periodic evaluations of the efficacy of your efforts to provide services, aids, benefits, and participation in any of your programs or activities without regard to race, color, national origin, disability, age, sex or prior exercise of rights or opposition to actions protected under federal non-discrimination laws</li> <li>• not have other responsibilities that create a conflict of interest (<i>e.g.</i>, serving as your non-discrimination coordinator as well as your legal advisor or representative on civil rights issues)</li> </ul>			
<b>Public Participation</b>			
Ensure your public involvement process is available to all persons regardless of race, color, national origin, disability, age, sex or prior exercise of rights or opposition to actions protected under federal non-discrimination laws.			
Ensure that the factors used to determine the appropriate time, place, location, duration, and security at public meetings are developed and applied in a non-discriminatory manner.			
Develop, publicize and implement written public participation procedures (consistent with EPA's Public Participation Guidance found at 71 FR 14207, 14210 (March 21, 2006)), that include implementation of steps for effective public participation that is accessible to all persons regardless of race, color, national origin (including LEP), disability, age, and sex each time you engage in a public participation or public involvement process. For example: <ul style="list-style-type: none"> <li>• develop a description of the community (including demographics, history, and background)</li> <li>• provide a contact list of your relevant staff members, including phone numbers and email addresses, to allow the public to communicate via phone or internet</li> <li>• develop a list of past and present community concerns (including any complaints filed under the federal non-discrimination laws)</li> </ul>			

Item	Yes, with Supporting Documentation	In Progress	No
<ul style="list-style-type: none"> <li>• develop and implement a detailed plan of action (outreach activities) you will take to address concerns</li> <li>• develop and implement a contingency plan for unexpected events</li> <li>• identify location(s) where public meetings will be held (consider the availability and schedules of public transportation)</li> <li>• develop a list of contact names for obtaining language assistance services for limited-English proficient persons, including translation of documents and/or interpreters for meetings</li> <li>• develop a list of appropriate local media contacts (based on the culture and linguistic needs of the community)</li> <li>• provide the location of the information repository</li> </ul>			
<b>Meaningful Access to Programs and Activities for Persons with Limited English Proficiency</b>			
Conduct an appropriate analysis described in EPA's LEP Guidance, found at 69 FR 35602 (June 25, 2004) and <a href="http://www.lep.gov">http://www.lep.gov</a> , to determine what language services or mix of language services you need to provide to ensure that limited-English proficient individuals can meaningfully participate in your programs and activities, and			
<ul style="list-style-type: none"> <li>• develop a language access plan consistent EPA's LEP Guidance</li> <li>• develop, publicize, and implement written procedures to ensure meaningful access to all your programs and activities for all persons, including access for limited-English proficient individuals</li> <li>• translate vital documents of general interest into prominent languages</li> <li>• translate vital documents of individual interest to LEP individuals</li> <li>• provide for simultaneous oral interpretation of live proceedings (<i>e.g.</i>, town hall meetings and public hearings) in prominent languages</li> <li>• provide for simultaneous interpretation of proceedings, meetings, <i>etc.</i>, for individual LEP person participating in one of your</li> </ul>			

Item	Yes, with Supporting Documentation	In Progress	No
programs or activities (e.g., a LEP individual wishing to file a grievance or complaint)			
<b>Meaningful Access to Programs and Activities for Persons with Disabilities</b>			
Develop, publicize and implement written procedures to ensure meaningful access to your programs and activities for individuals with disabilities that:			
<ul style="list-style-type: none"> <li>• provide, at no cost, appropriate auxiliary aids and services, including but not limited to, qualified interpreters to individuals who are deaf or hard of hearing, and to other individuals as necessary to ensure effective communication and an equal opportunity to participate fully in the benefits, activities, programs and services provided by you in a timely manner and in such a way as to protect the privacy and independence of the individual</li> <li>• ensure that your facilities and other facilities utilized by you (e.g., if you hold a public hearing at a recreational center) are physically accessible for individuals with disabilities</li> </ul>			

**ATTACHMENT – NOTICE OF NON-DISCRIMINATION RECOMMENDED TEXT**

[Recipient Name] does not discriminate on the basis of race, color, national origin, disability, age, or sex in administration of its programs or activities, and, [Recipient Name] does not intimidate or retaliate against any individual or group because they have exercised their rights to participate in actions protected, or oppose action prohibited, by 40 C.F.R. Parts 5 and 7, or for the purpose of interfering with such rights.

[Insert name and title of non-discrimination coordinator] is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7 (Non-discrimination in Programs or Activities Receiving Federal Assistance from the Environmental Protection Agency), including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title IX of the Education Amendments of 1972; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972 (hereinafter referred to collectively as the federal non-discrimination laws).

If you have any questions about this notice or any of [Recipient Name]'s non-discrimination programs, policies or procedures, you may contact:

[Insert name and title of non-discrimination coordinator]  
[Insert Recipient Name and Address]  
[Insert phone number of non-discrimination coordinator]  
[Insert email address of non-discrimination coordinator]

If you believe that you have been discriminated against with respect to a [Recipient Name] program or activity, you may contact the [insert title of non-discrimination coordinator] identified above or visit our website at [insert Recipient website address] to learn how and where to file a complaint of discrimination.

## ***Distribution***

The Administrator

Assistant Deputy Administrator

Associate Deputy Administrator

Chief of Staff

Deputy Chief of Staff/Operations

Agency Follow-Up Official (the CFO)

Agency Follow-Up Coordinator

General Counsel

Principal Deputy General Counsel

Deputy General Counsel for Operations

Associate Administrator for Congressional and Intergovernmental Relations

Associate Administrator for Public Affairs

Director, Office of Continuous Improvement, Office of the Administrator

Director, External Civil Rights Compliance Office, Office of General Counsel

Audit Follow-Up Coordinator, Office of the Administrator

Audit Follow-Up Coordinator, Office of General Counsel

Audit Follow-Up Coordinators, Regions 1–10