

Environmental Protection Agency

Evaluation of the EPA Office of Civil Rights

Final Report

March 21, 2011

Presented by

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RE: Final Report on the Evaluation of the EPA Office of Civil Rights

Dear Ms. Carrillo:

This document serves as the final deliverable for the Office of Civil Rights (OCR) project. This deliverable presents our findings and recommendations to improve the overall efficiency and effectiveness of the Office of Civil Rights and its three program offices:

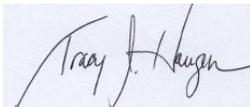
- External Complaints and Compliance (Title VI);
- Employment Complaints Resolution (Title VII); and,
- Affirmative Employment and Diversity (AED).

Given the urgency within the Agency to rapidly transform the OCR function, Deloitte developed a plan that highlights the priority and sequencing for implementing each recommendation.

We have very much enjoyed working with the Agency on this engagement. Civil Rights and Diversity and Inclusion are core tenets that are promoted within Deloitte's culture. We hope you find our firm's passion for this subject matter is reflected in the depth of the analysis and quality of the recommendations within this report. Moreover, we are looking forward to continued discussions with the Agency regarding our findings and recommendations.

Please do not hesitate to contact me at 202-758-1750, or by e-mail at thaugen@deloitte.com.

Sincerely,



Tracy Haugen, Director
Deloitte Consulting LLP

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Approval Statement

I have read and understood the above named document and accordingly wish to formally convey Sign-Off to the above named document.

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1. Executive Summary

The Environmental Protection Agency (EPA) contracted with Deloitte Consulting (Deloitte) to conduct an assessment of the Office of Civil Rights (OCR). The contract objectives were to:

- Conduct a comprehensive review and program evaluation to determine how effectively OCR is meeting its mission and regulatory mandates.
- Complete a comprehensive review of the OCR structure, staff and functions to pinpoint strengths and weaknesses.
- Assess Headquarters, field office, and laboratory interactions, present findings and deliver high-level recommendations.
- Deliver an objective evaluation which EPA officers can use to guide improvements for OCR functions and day-to-day operations.

Findings and Conclusions

EPA's senior leadership has increased the Agency's emphasis on resolving civil rights issues that are critical to fulfilling its mission. Recently, EPA leaders have been providing significant support to OCR, investing both time and resources needed to address significant performance challenges, including the following:

- The Office has not adequately adjudicated Title VI complaints – those addressing allegations of discrimination against communities of citizens affected to environmental rules promulgated by the EPA.
- OCR has struggled to track, investigate, and resolve Title VII cases – those addressing Equal Employment Opportunity (EEO) violations inside the Agency – in a timely or effective manner.
- OCR has 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.
- OCR has not consistently filed its statutory affirmative employment reports over the past five years, although the 2010 MD-715 was submitted on time.

These challenges emerged over the past decade and have continued to erode OCR's performance. To a significant extent, they are attributable to OCR's difficulty in building a staff with the qualifications, knowledge and training to effectively complete its mission-related work, much of which is highly technical and complex. Over a period of several years, required competencies have not been well-defined, nor has there been any attempt to determine the extent to which staff possess the necessary competencies to perform successfully. There are limited formal training or career development programs to provide training in the work they have been assigned to perform, despite the challenging, sensitive, and often complex nature of the work.

OCR staff members also suffer from the absence of the rudiments of organizational infrastructure – well-documented policies and procedures, standardized processes, and effective systems. Staff members are often confused about their job duties. Managers lack the performance tracking and management systems and processes needed to manage the office's business and hold staff members accountable for effectively executing their jobs. OCR has not implemented the processes needed to collect and maintain information needed to fulfill statutory recordkeeping requirements.

Finally, OCR has operated in an insular fashion that has limited its effectiveness. It has not taken full advantage of the extensive technical expertise available in the program areas of EPA that would enable it to conduct better investigations and achieve more expeditious resolutions. OCR has not provided sufficient clarity to the program management, human resources and EEO offices to secure the data it needs to complete its submissions in a timely fashion. Nor has it effectively leveraged other EPA and state government officials whose relationships, contacts and local knowledge would enhance its field investigations. Additionally, OCR has not conducted much outreach to state government departments of environmental quality to build awareness of circumstances that can give rise to allegations of discrimination from communities with environmental concerns.

This set of circumstances has resulted in a record of poor performance:

- Only 6% of the 247 Title VI complaints have been accepted or dismissed within the Agency 20-day time limit.^{1 2}
- OCR's backlog of Title VI cases stretches back to 2001. At the time of this report's publication, there were numerous cases that have been awaiting action for up to four years. Two cases have been in the queue for more than eight years.
- In the area of Affirmative Employment and Diversity, OCR did not even complete its annual Management Directive 715 (MD-715) EEO report (a basic administrative task required of all Federal agencies) for 2006, 2007, and 2008.^{3 4} It is our understanding that 2010 MD-715 was filed on time.
- OCR's Title VII function is known for poor investigative quality and a lack of responsiveness. It has not been able to perform its most fundamental Title VII administrative tasks related to filing mandatory reports and processing complaints and writing final agency decisions.

This situation has exposed EPA's Civil Rights programs to significant consequences which have damaged its reputation internally and externally. In the Rosemere Neighborhood Association case regarding the timeliness of a Title VI complaint response, it was found that "OCR's failure to process the Retaliation Complaint in accordance with the timeline set forth in 40 C.F.R. S7.115(c)(1) constitutes agency action unlawfully withheld pursuant to the Administrative Procedures Act, 5 U.S.C. S706(1)."⁵ OCR's performance has also damaged its reputation within EPA. It was noted repeatedly in interviews with EPA staff and management that OCR has been viewed as an organization that performs poorly and does not offer specialized expertise.

Much of this owes to OCR's challenges at the leadership levels over a period of years, [REDACTED] [REDACTED] As leaders and staff struggled within this turbulent environment, OCR seemed to lose sight of its mission and priorities. It appeared to place too much emphasis on minor responsibilities, like executing heritage events, and not enough on the critical discrimination cases affecting employees and disadvantaged communities. In addition to not setting the right tone, past OCR leaders seemingly abdicated responsibility for crafting a vision, developing strategies, setting objectives, tracking performance and

¹ "Settlement Agreement" 3/17/2010 between Rosemere Neighborhood Association (RNA) and EPA, p 3, paragraph 1.

² "Final OCR T6 Complaint Listing (10.15.2010).xls" received from Helena Wooden-Aguilar, Friday 11/19/2010 at 3:10 PM.

³ "Inside EPA: Personnel Disputes Roil EPA's Rights Office, Undermining Equity Agenda." February 19, 2010.

⁴ Confirmed during AED staff interviews.

⁵ "Settlement Agreement" between Rosemere Neighborhood Association (RNA) and EPA. March, 17, 2010. p3, paragraph 1.

making critical decisions that would have improved OCR's effectiveness. While a new Director was recently appointed, other key leadership positions remain unfilled.

Recommendations

EPA has taken the initial steps to address OCR's current challenges. First, the Agency commissioned this study as a vehicle to engage OCR and its stakeholders in the process of evaluating organizational performance improvement opportunities. Second, it has appointed an experienced Director with a strong understanding of OCR priorities. Third, and most importantly, it has made improving the OCR function a top priority, recognizing its importance to achieving the overall objectives of the EPA.

Yet, much work remains. The recommendations in this report are intended to address the near term need to effectively perform fundamental processes such as complaint resolution, while establishing the organizational and operational infrastructure needed to transform OCR into a model Civil Rights organization for the longer term. Immediate steps should focus on making OCR more effective in its day-to-day operations and expanding responsibilities for civil rights across EPA. In the long run, EPA should develop a strategy anchored in complaint prevention in order to effectively address both Title VI and Title VII issues.

EPA's first improvement actions must address current deficiencies in OCR's leadership and workforce competencies:

- Complete efforts to fill OCR's leadership positions expeditiously with qualified, experienced, and motivated civil rights professionals. A competent leadership team will enable OCR to implement all of the other needed changes, while building its credibility.
- Reevaluate all staff job roles and formally document required skills, competencies and experiences for each role. With well-defined job roles, OCR can evaluate its current workforce against the requirements and identify gaps.
- Develop and execute a workforce plan that includes creation of well-defined career paths, employee performance management processes, new training programs and employee recruiting and selection processes.

Building a more capable workforce from top to bottom will enable EPA and OCR to address its significant day-to-day operating issues and implement the other more strategic changes that are required.

To expand responsibility for achieving the Agency's civil rights objectives and to bring needed Agency support to OCR, the Administrator should establish two cross-functional or "networked" teams. A networked team brings together people from different areas within EPA to work as a project team in accomplishing a set of specific goals but does not alter formal reporting relationships,

These "networked" teams should help OCR set priorities, marshal resources and remove obstacles that challenge timely and effective completion of important tasks. These teams should be accountable and report to the Administrator for driving achievement of the EPA's civil rights objectives through broad involvement of program offices, field offices, and the other Headquarters human capital and legal functions.

The External Civil Rights Networked Team (External Team) should be established to address the pressing need to expedite effective resolution of complex Title VI cases. It should adopt a standard process to charter cross-functional investigative teams that bring together the right expertise to address each complaint. Specifically, the External Team should:

- Assist the OCR to prioritize complaints, ensuring their alignment with overall EPA and Administration objectives.
- Bring the right program and field leaders together to assess the investigative requirements of each complaint.
- Work with program and field leaders to identify and commit the right experts to each cross-functional investigative team.
- Hold those outside of OCR accountable for fulfilling their commitments to investigative analysis on behalf of the Administrator.

The External Team should be chaired by the Environmental Justice Lead. It should be composed of leaders from Office of Enforcement and Compliance Assurance (OECA), the Civil Rights and Finance Law Office (CRFLO), ORD, the Office of Grants and Debarment (OGD), and the Title VI program office.

The Internal Diversity and Inclusion Networked Team (Internal Team) should be established to address OCR's deficiency in gathering, analyzing and reporting important EEO data for reporting and remedial actions. It should help Affirmative Employment and Diversity (AED) facilitate the participation of other EPA departments in the timely collection of accurate data. Additionally, AED should:

- Clarify and reinforce to staff that its primary role is to identify barriers and implement remediation strategies.
- Use the MD-715 submission as the focal point to guide all communications with stakeholders across the Agency.
- Hire, train, or realign staff members who possess a balance of barrier analysis expertise and passion for civil rights and diversity.
- Coordinate programming, guidance and direction through its network of EEO Officers.
- Develop awareness and training programs that will help managers across EPA preclude complaints and promote the agency's civil rights objectives.

The Internal Team should be chaired by the AA for the Office of Diversity, Outreach and Collaboration (ODOC). It should be composed of leaders from Associate Regional Administrator (ARA) EEO, the Office of Human Resources (OHR), CRFLO, Title VII and AED.

Two other organizational changes should be adopted. EPA should re-establish the dotted line relationship between ARA EEO Officers and the Director of OCR for tighter integration and collaboration with the field. In addition, OCR should establish a Headquarters EEO Officer position to develop and manage EEO and AED programs for the staff at headquarters, which currently represents a significant percentage of overall EEO complaints. (For additional background information and alternatives, see Section 4.1).⁶ Executing these initiatives should greatly enhance EPA's ability to achieve and maintain compliance with Equal Employment Opportunity Commission (EEOC) reporting requirements, while providing a firmer foundation for AED to identify and address barriers.

To achieve its Title VII objectives, OCR must upgrade its workforce capabilities in the areas of analysis, legal research and communications. It should also develop standard quality assurance processes and use

⁶ Recommendation based on analysis and interviews. Section 4.1 begins on page 20.

them to identify performance issues. A number of other operational improvements are required to reduce backlog and increase quality. OCR should:

- Implement a case management tool to enable case tracking, reporting, analysis, and performance measurement.
- Increase the use of the Alternative Dispute Resolution program at both the Headquarters and field offices, and institute conflict management training program targeted for staff and management.
- Assign high-performing field-level EEO Officers on a temporary basis.
- Prepare staff to manage investigations function performed by contractors.

Implementing these improvements should lead to significant reductions in the backlog while instituting higher standards for quality.

Implementation Considerations

The changes needed to address current organizational and operational issues will require a 12-24 month timeframe. Instituting changes that have the potential to make OCR a model civil rights organization is likely to take longer. While EPA should be thinking long term, it must focus implementation efforts initially to address specific performance gaps, such as the quality of work products and an ad hoc approach to coordination with key internal operating partners, i.e., Human Resources (HR), Office of General Counsel (OGC), and OGD. Implementation should proceed in phases to address both immediate operational needs and the agency's desire to fulfill a higher order of objectives for its civil rights function:

- **Stabilize** (March to October, 2011) – Address operational challenges to improve current effectiveness.
- **Reassess** (October, 2011) – Review progress of improvement efforts and develop strategies to institutionalize changes.
- **Institutionalize** (October, 2011 to March, 2013) – Drive institutional changes and make strategic investments.

In the Stabilize Phase, EPA should focus on implementing recommendations that address current deficiencies in leadership and workforce competencies, organizational changes, and basic process improvements. The Reassess Phase should be a time to assemble key leaders and stakeholders to take stock in progress to date, revisit civil rights objectives drawing on new insights, and develop plans for longer-term institutional changes and strategic investments. The Institutionalize Phase should focus on implementing strategic investments in training, awareness and prevention programs, and new information systems. Subject to constraints posed by conflicting priorities, new initiatives, and emerging directives from outside EPA, the Agency should set a goal to implement the recommendations within a 12-24-month period.

2. Introduction

2.1 Purpose and Scope

The Environmental Protection Agency (EPA) contracted with Deloitte Consulting (Deloitte) to conduct a comprehensive review and program evaluation of the Office of Civil Rights. The purpose of the assessment was to determine the extent to which the structure, policies, procedures, and resources of the Office of Civil Rights (OCR) facilitate accomplishment of EPA's equal employment opportunity and equal opportunity mission, and to assess whether OCR operates in accordance with applicable laws and regulations (e.g., Equal Employment Opportunity Commission (EEOC) regulations set forth at 29 C.F.R. Part 1614, 40 C.F.R. Part 5 & 7, EEOC's MD-110 and MD-715 and external statutes including Title VI).

This study evaluated the organizational structure, external civil rights programs, non-discrimination laws and statutes, internal operations, staff competencies, and resources of the Office of Civil Rights to determine its ability to meet its functional responsibilities and operations. In addition, the study conducted interviews with nine federal agencies and other external research to benchmark EPA's civil rights function. Below is the listing of agencies and interviewed personnel:

Figure 2-1. Agencies and Personnel Interviewed

| Federal Agencies Interviewed | |
|--|---|
| Federal Highway Administration | Office of Civil Rights Brenda Armstead, Internal Programs and External Investigations and Adjudications Director Thalia Williams, EEO Specialist-Title VI |
| Department of the Interior | Office of Civil Rights Sharon D. Eller, Director Office of Civil Rights Lola Hatcher-Capers, Deputy Director, Office for Civil Rights Alvin Dillings, Senior EO Policy Advisor Jack Andre, Chief, Public Civil Rights Division Sylvia Jones, Special Emphasis Program Manager |
| Department of Energy | Office of Civil Rights Bill Valdez, Acting Director Sharon Wyatt, Attorney-Advisor Neil Schuldenfrei, Senior Attorney-Advisor C. Lloyd Buddoo, Senior Attorney-Advisor Bill Lewis, Deputy Director of Civil Rights |
| NASA | Office of Equal Opportunity and Diversity Brenda Manual, Associate Administrator Frederick Dalton, Conflict Management Program |
| Department of Housing and Urban Development (HUD) | Fair Housing and Equal Opportunity Sara Pratt, Deputy Assistant Secretary-Enforcement and Programs Lynn Grosso, Director-Office of Enforcement Will Brandt, Information Services and Communication Tracy Mullins, Acting Director-Compliance and Disability Rights |
| Department of State | Office of Civil Rights John M. Robinson, Director & Chief Diversity Officer Pamela Britton, Law Clerk |
| U.S. Forest Service | Office of Civil Rights Debra A. Muse, Director, Office of Civil Rights Deborah Lombardino, Branch Chief Eurial Turner, Assistant Director of Programs |
| Department of Labor | Civil Rights Center Julia Mankata-Tamakloe, Chief-Office of External Compliance Violet Parker, Chief- Diversity Management |

| | |
|------------------------------|---|
| | Naomi Barry-Perez, Chief- Office of Internal Enforcement |
| National Institute of Health | Office of Equal Opportunity and Diversity Management Lawrence N. Self, Director Sheila Stokes, Director-Complaints Management and Resolution Rose Pruitt, Manager |

Lastly, the study looked for opportunities for OCR to become more effective and move towards its vision to become a “model Office of Civil Rights for the government.”

During the project kickoff held on September 8, 2010, EPA and Deloitte project team leadership confirmed the list of deliverables for each task as follows:

- Tasks 1 and 2: Develop Interim Report and Deliver Preliminary Briefing
- Tasks 3 and 4: Develop Final Report and Deliver Final Briefing

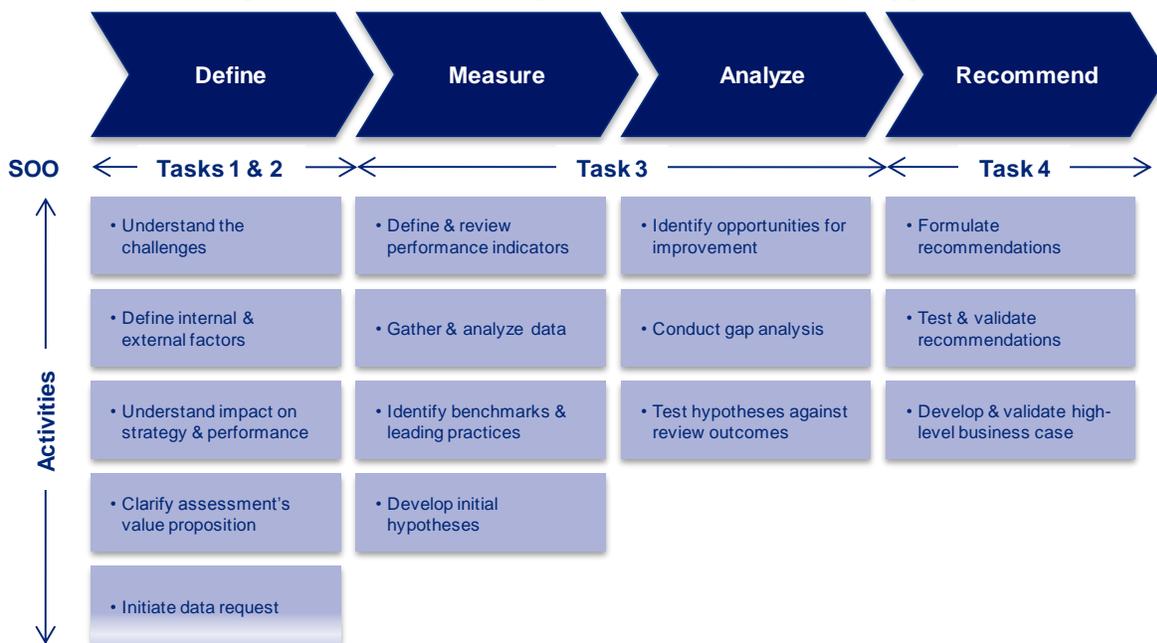
2.2 Approach

Deloitte’s approach included a large number of internal and external interviews, a benchmark effort and a comprehensive desk study of leading practices. The Deloitte team conducted one-on-one interviews and focus group sessions with more than one hundred EPA employees to ensure broad inputs across organizational functions and hierarchies. The team conducted a benchmark study that included interviews at nine other federal agencies and with senior leadership at the Equal Employment Opportunity Commission (EEOC). In addition, Deloitte completed comprehensive desk study of leading practices in civil rights, and where relevant to the study, diversity and inclusion.

During the course of the project, Deloitte solicited continuous feedback during its status meetings to address any scheduling or other project issues, ensure findings and recommendations consistent with EPA’s unique requirements, and to incorporate any missing data points that we may have overlooked. In addition, Deloitte conducted executive briefings to review preliminary findings and themes with EPA executives, including the Chief of Staff and Deputy Chiefs of Staff.

As depicted in Figure 2.2, the Statement of Objectives (SOO) for the evaluation divided the study into four sets of tasks that are aligned with Deloitte’s Organizational Assessment Approach. This final report is the culmination of that work and offers EPA leadership recommendations to revitalize the EPA Office of Civil Rights (OCR) and position it to become a model civil rights organization.

Figure 2-2. Deloitte's Organizational Assessment Approach



2.3 Data Collection

Deloitte collected both qualitative and quantitative data to inform its research activities.

Interviews: Deloitte interviewed agency executives, key stakeholders, and OCR staff to gather current state information and seek validation that proposed recommendations align with EPA's unique culture and values, business strategies, politics and bureaucracy.

Job Analysis: Deloitte administered a web-based job analysis survey as a part of this assessment to 45 OCR and EEO Officer resources from the 10 regions, three laboratories, and Headquarters (HQ). The survey involved 22 questions across the following four categories: workload distribution; skill requirements; internal and external contacts; employee morale and workplace satisfaction; and an open forum to add additional comments.

OCR Document Review: Deloitte reviewed relevant EPA, OCR, and working group documents to better understand the processes, people, structure, and resources of OCR. Additionally, Deloitte sought copies of past "Diversity Action Plans" and any copies available of previously completed OCR Program Reviews though these were not provided.

Leading Practices Analysis: Deloitte interviewed executives and staff of nine other federal agencies' Civil Rights offices (or equivalent naming convention) to assess their approach to people, processes, structure, technology, and other relevant factors contributing to "model" design across Title VI, Title VII, AED, and Reasonable Accommodations functions. Deloitte also reviewed reference material from the Equal Employment Opportunity Commission and the Department of Justice's Federal Coordination and Compliance Section.

EPA Intranet: Deloitte sought access to the EPA Intranet to review stakeholder communications, consistency of mission statements and functional descriptions between HQ and field offices, and to

assess the breadth of recommendation options around web-based technologies.⁷ (Note: EPA was not able to grant access until January 5, 2011, two days before the draft Final report was submitted. EPA did produce a thumb drive on January 5 as an alternative. However due to the timing, it was not considered for this report.)

2.4 Stakeholder Interviews

In an effort to obtain inputs from all parties involved with or affected by OCR's performance, Deloitte recommended representation from staff, oversight organizations, partners, and customers. The project team worked with EPA project leadership to finalize the interviewees, which included all the recommended groups and stakeholders from internal management groups, such as the EPA Human Resources Council. At a high level, the interviews represented the following key stakeholder groups:

- *Office of the Administrator* – Interviews with the top executive team including the EPA Administrator, Deputy Administrator, Chief of Staff;
- *Office of Civil Rights* – Interviews with more than 40 OCR managers and line employees;
- *Office of General Counsel and Office of Inspector General* – Interviews with 5 members, including the General Counsel;
- *EPA Program Offices* – Interviews with 7 senior and mid-level leadership staff from multiple program areas; and
- *Equal Employment Opportunity Commission* – Interview with the senior representative for Federal programs at the EEOC, the main oversight body for the Civil Rights Act.

Deloitte advised participants that interviews were confidential and non-attributable, and provided interviewees the opportunity to give additional input by contacting either the EPA Project Officer or through direct contact with the Deloitte interviewer via email or telephone. The project team aggregated the information collected in these discussions and considered it in conjunction with existing documentation so that no single source had more influence than another, regardless of role.

Two experienced interviewers facilitated each interview, using standardized interview guides focused on six primary questions that were provided to respondents prior to the interview session. The staff interview questions, which covered two areas – organization and job analysis – are listed below:

PART 1: ORGANIZATIONAL QUESTIONS

- What do you think the vision and mission of OCR should be?
- What are the top three priorities for your particular team?
- What would you consider positive and negative about the overall work environment within OCR?
- Does your immediate supervisor provide you with sufficient feedback and guidance?
- What are the resources that you need to do your job effectively and efficiently?
- What are you held accountable for with regards to your work performance? How and when are you evaluated?

⁷ Deloitte was notified on January 05, 2011 at 1:42 PM that the tokens were available. This report was submitted two days later on January 07, 2011. As a result, Deloitte was unable to complete its review of the EPA intranet.

PART 2: JOB ANALYSIS QUESTIONS

- What is your role within the organization?
- What level of knowledge does your job need to have in order to be successful? Please refer to specific product/professional knowledge.
- What previous experience do you believe is needed to be successful?
- What qualifications/training does the job holder need to have to undertake this job successfully?
- What are the job holder's daily, weekly, monthly, and yearly deliverables?
- What processes are the deliverables of this position dependent on?
- What other comments would you like to make regarding your job role?

The EPA non-OCR interview questions are listed below:

NON-OCR INTERVIEW QUESTIONS

- What are your expectations for OCR?
- What do you believe are strengths and successes of OCR?
- Where do you see shortcomings/deficiencies within OCR?
- From your perspective what are the priorities for OCR?
- What do you perceive are the major challenges for change?
- What other stakeholders should we make sure to meet with, such as informal influencers?

3 Overview of the Office of Civil Rights (OCR)

3.1 Background

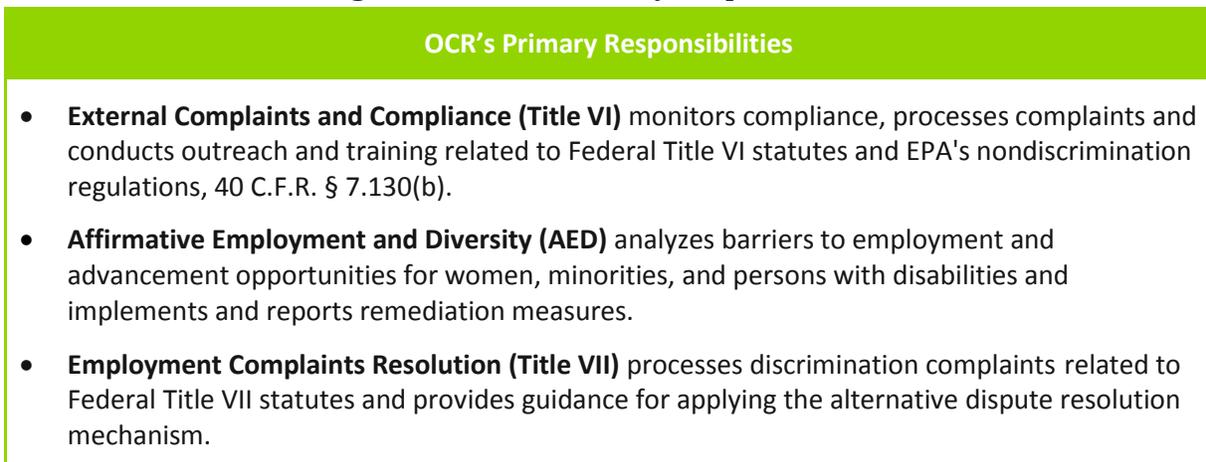
Federal agencies implement The Civil Rights Act of 1964 (i.e., “the Act”), as amended, which prohibits discrimination on the basis of race, color, religion, national origin or sex⁸. Federal agencies commonly organize their civil rights functions into three distinct programs, including Equal Employment Opportunity (EEO), External Civil Rights, and Affirmative Employment.

3.2 OCR Overview

The Office of Civil Rights (OCR) similarly divides the Environmental Protection Agency’s (EPA) civil rights responsibilities into three program offices⁹: External Complaints and Compliance (Title VI); Employment Complaints Resolution (Title VII); and Affirmative Employment and Diversity (AED). Each program office is headed by an Assistant Director who manages headquarters employees and provides leadership, direction, and guidance to carry out the Agency’s equal employment and equal opportunity programs. These programs provide policy and technical assistance to EPA’s Headquarters, regional offices, and laboratories located throughout the country. OCR’s headquarters office also has a Reasonable Accommodations function that serves the needs of both headquarters and field staff.

The Director of OCR has a direct line reporting relationship to the EPA Administrator and takes administrative direction from the Chief of Staff or Deputy Chief of Staff on a day-to-day basis. The Director serves as the principal adviser on EPA’s nationwide internal and external Civil Rights programs and policies. OCR’s principal role is to uphold the Agency’s commitment to EEO, equity, and diversity in the workplace and foster an environment that is free from discrimination, reprisal, and harassment.

Figure 3-1. OCR’s Primary Responsibilities



⁸ Source: <http://www.eeoc.gov/laws/statutes/index.cfm>

⁹ Source: <http://www.epa.gov/civilrights/aboutocr.htm>

External Complaints and Compliance (Title VI) Program

The mission of EPA's External Compliance (Title VI) program is to ensure that recipients of EPA financial assistance comply with relevant non-discrimination requirements under Federal law.¹⁰ The Title VI division is staffed by an Assistant Director, six case managers, and one senior case manager, reflecting the heavy emphasis on the complaints function.

The program has three primary functional responsibilities including outreach and training, compliance and enforcement, and complaints management. The outreach and training responsibility is administered primarily through OCR's web presence which includes a series of links to laws, regulations, and online training. Compliance and enforcement is administered through a pre-award form (form number 4700-4) that is attached to all grant applications and included in grant packages issued by the Office of Grants and Debarment (OGD) and implemented through OCR's network of field-based EEO Officers. The Title VI case management process is divided into three discreet stages: 1) Jurisdictional Review, 2) Investigation, and 3) Final Agency Decision. Each stage concludes in a quality checkpoint with the Assistant Director, the Civil Rights and Finance Law Office (CRFLO), or both and always returns to the Case Manager before moving to the next stage. Jurisdictional Review and Investigation stages have set targeted timeframes. In the Jurisdictional Review stage, Case Managers have twenty days to prepare and finalize an Acceptance Letter. The investigation stage must be completed within one hundred and eighty days unless requests for information from the complainant are not provided in a timely manner.

The Title VI division is staffed by an Assistant Director, six case managers, and one senior case manager, reflecting the heavy emphasis on the complaints function. Case managers are assigned approximately five cases, while senior case managers are assigned up to seven cases.

Affirmative Employment and Diversity (AED) Program

AED is responsible for providing the leadership, direction and advice to managers and supervisors in carrying out their equal opportunity and civil rights responsibilities¹¹. AED staff manage and oversee the Agency's Affirmative Employment and Special Emphasis and Diversity Programs. The National Special Emphasis and Diversity Program Managers develop internal EEO policies and procedures, develop and implement training, and provide oversight and technical assistance to Headquarters program management offices, regional offices and laboratories.

EPA's Affirmative Employment and Diversity (AED) program implements the following seven National special emphasis programs:¹²

- Black Employment Program
- Federal Women's Program
- Hispanic Employment Program
- Asian American/Pacific Islander Employment Program
- American Indian/Alaska Native Employment Program
- Diversity Programs for Older Workers and Sexual Orientation
- Disability Employment Program

¹⁰ Source: <http://www.epa.gov/civilrights/extcom.htm>

¹¹ Source: <http://www.epa.gov/civilrights/summ.htm>

¹² Source: <http://www.epa.gov/civilrights/summ.htm>

AED has a staff of nine full-time employees including an Assistant Director (GS-15), an Affirmative Employment Program Manager (GS-14) who serves as the custodian of the workforce data, and six Equal Employment Managers (GS-14 and GS-13) who are the lead representatives for their respective employment programs which include targeted recruiting. The Assistant Director and Disabilities Equal Employment Manager positions were vacant at the time of this report. The majority of Equal Employment Managers (EEMs) have previous experience in employment complaints programs or counseling, though few have experience or education directly related to their affirmative employment program area to assist in developing remediation strategies to address the affirmative employment barriers.

Employment Complaints Resolution (Title VII) Program

The mission of EPA's Employment Complaints (Title VII) program is to provide equal employment opportunity; eliminate discrimination in employment; and maintain an environment that is free from any form of prohibited discrimination.¹³ Employees can pursue their allegation through either the informal or Alternative Dispute Resolution (ADR) mechanism, or file a formal complaint with OCR or directly with the Equal Employment Opportunity Commission (EEOC).

When employees choose to file a formal complaint of discrimination with OCR, the case is processed at the Headquarters OCR office by Equal Employment Specialists (EES) directly aligned to the region or laboratory of the case's origination. The formal complaints process moves through three stages including: (1) Jurisdictional Review, (2) Investigation, and (3) Final Agency Decision (FAD).

OCR has a staff of eight EESs reporting to an Assistant Director who reviews outputs along each stage of the case management process and moves completed work products to CRFLO for legal sufficiency review and, finally, the Director of OCR for approval and signature. Six of the eight EES positions are responsible for completing the Jurisdictional Review and Investigation stages while the remaining two EES positions are dedicated FAD writers. Two of the EES positions also hold collateral duty for, respectively, managing intake of formal cases and coordinating the Alternative Dispute Resolution (ADR) mechanism.

3.3 Organizational Context

OCR operates in a highly complex organizational environment and must carefully manage its inter- and intra-agency relationships in order to successfully deliver its statutory and administrative responsibilities. These operating partnerships vary by frequency of interaction and level of authority. Effectively managing these relationships is integral to maintaining OCR's credibility and retaining the neutrality of EPA's civil rights programs.

By placing the OCR within the Office of the Administrator, EPA is well-positioned to achieve several efficiencies, including:

- **Executive Sponsorship** – the Administrator is eager to champion OCR's mission as she is directly held accountable for its success.
- **Organizational Alignment** – OCR can more easily coordinate EPA's Civil Rights programs and meet the Agency's changing priorities by ensuring its neutrality and reinforcing the importance of civil rights within the context of EPA's overall mission.

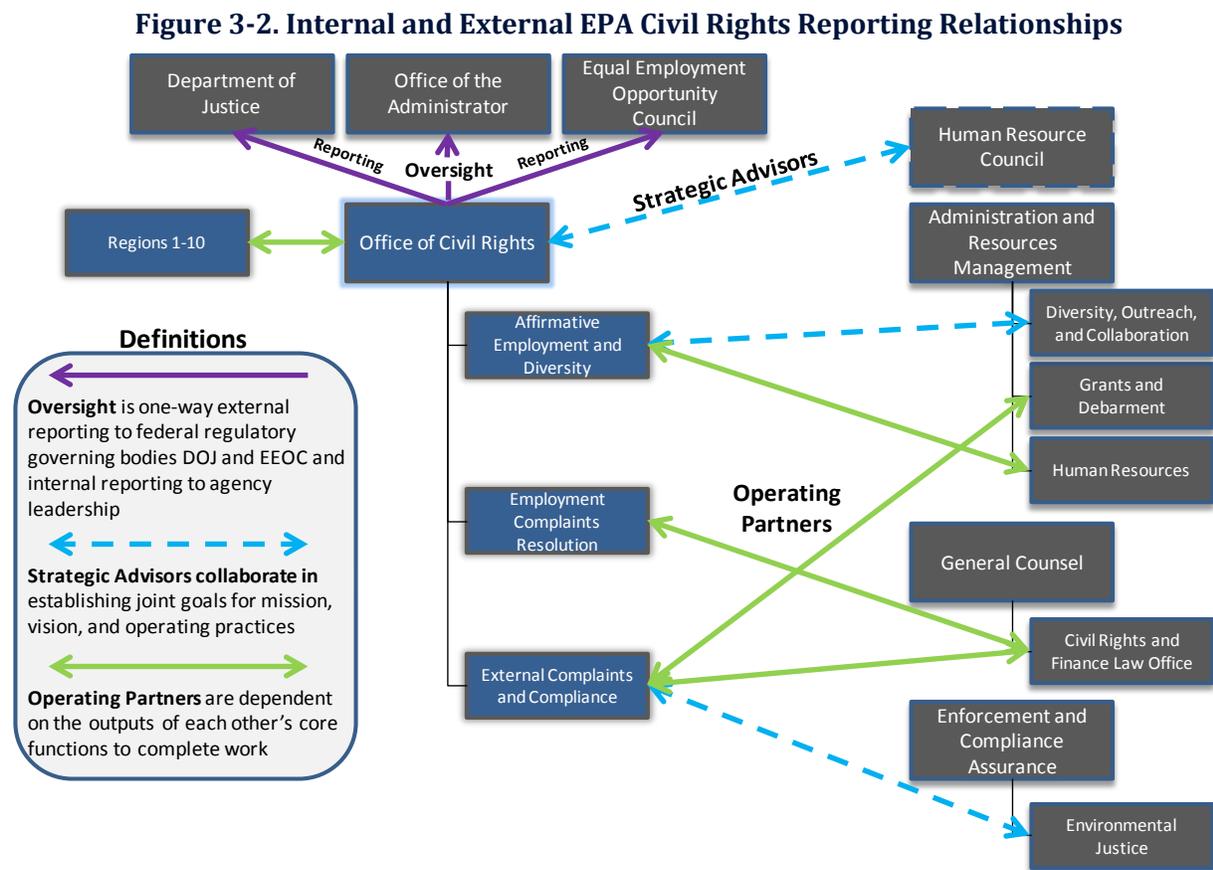
¹³ Source: <http://www.epa.gov/civilrights/crshome3.htm>

- **Oversight** – the Administrator’s Chief of Staff and Deputy Chief of Staff regularly provide strategic direction to OCR and continuous feedback to the Administrator.
- **Visibility** – OCR’s position in the Office of the Administrator enhances its visibility with program and regional leadership.

As illustrated in Figure 3-2, OCR must regularly interact with two outside oversight bodies, the EEOC and the U.S. Department of Justice (DOJ). EEOC and DOJ also provide training and procedural guidance to assist civil rights professionals to implement best practice programs and complete reporting requirements in a timely and accurate manner. EEOC and DOJ oversight is explained below:

Equal Employment Opportunity Commission (EEOC) – EEOC requires federal agencies to complete Management Directive 715 report (MD-715), which details the status of activities undertaken pursuant to its Affirmative Employment program under AED, and activities undertaken pursuant to its affirmative employment obligations under the Rehabilitation Act, Section 501. Additionally, agencies are required to complete the EEOC Form 462, which provides information on Federal equal employment opportunity complaints and ADR activities completed by the Title VII program.

Department of Justice (DOJ) – DOJ requests federal agencies to regularly report in regards to Executive Order 12250, which ensures the consistent and effective implementation of Title VI and other civil rights laws that prohibit discriminatory practices in Federal programs and programs receiving Federal financial assistance.



Internally, OCR maintains operating partnerships with several EPA offices, including the Office of Human Resources (OHR), CRFLO (within the Office of General Counsel (OGC)), the Office of Grants and Debarment (OGD) and its network of field offices at the regions and laboratories; and OCR has an emerging relationship with the Office of Diversity, Outreach and Collaboration (ODOC) and strives to meet more regularly with Office of Environmental Justice (OEJ).

4 Current State Assessment

Deloitte Consulting (Deloitte) identified a reoccurring set of challenges that have impacted the ability of the Office of Civil Rights (OCR) to fulfill its mission:

- The OCR function has lacked stable leadership. While a new director has been appointed, [REDACTED] the organization’s inability to fill subordinate leadership positions continues to be problematic.
- Management practices such as Standard Operating Procedures and operational goals are not well defined.
- OCR and the program offices have not established processes for collaborating to resolve civil rights and Equal Employment Opportunity Commission (EEOC) issues
- OCR staff lack the competencies and skills to get their job done effectively. Information systems support is also lacking.

The following sections discuss the challenges OCR faces. The first addresses organization- wide challenges. The other three address the OCR program offices (Title VI, Title VII and Affirmative Employment and Diversity (AED)). Within each section, we present our current state findings, benchmark practices from other federal agencies, and recommendations to implement corrective actions.

4.1 Organization-wide Challenges

Historically OCR’s leadership had been relatively stable. However in a 16-month period, OCR lost four of its five top leaders [REDACTED]. Below is a summary of OCR Director, Deputy Director and Assistant Director tenure:

| Name | Date Started | Date Left |
|-----------------|--------------|------------|
| <u>Director</u> | | |
| [REDACTED] | [REDACTED] | [REDACTED] |

Key Observations

- Focus has been on reactive, tactical complaint processing with limited effort to implement more proactive, preventative trend analysis and interventions
- 80% leadership attrition [REDACTED] in the last year
- Staff self report confusion on OCR mission
- Processes are non-standard and not repeatable
- Incomplete operating procedures and handbooks
- Lack of case management tracking system
- Internally supplied conflicting information on MD-715 and 462 report on Title VII FADs timeliness¹⁴
- Backlog in Title VI and VII cases
- Failure to meet MD-715 deadlines
- Lack of core competencies such as legal analysis

¹⁴ “Summary of OCR Complaint Processing Issues 12-1-10to 1-3-11.doc”. 01/03/2011, 12:41 p.m. (Page 2-3)

[REDACTED]

Deputy Director

[REDACTED]

[REDACTED]

Assistant Directors

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

As a result of this leadership turnover, OCR has struggled to clarify its organizational vision and articulate its value and relevance to internal operating partners and employees, thereby compromising its credibility with external stakeholders. As such, the overall Agency has little confidence in OCR's programs ability to achieve its goals and objectives.

Without strong and consistent leadership and vision, OCR has drifted in focus and struggled to perform fundamental tasks. There has been a "seesaw" in emphasis between Title VI and VII programs, depending on which had the greatest backlog. Historically, this fire drill mentality has resulted in significant financial and reputational consequences for the Agency. For example, a Title VII case in 2000 led to a \$600,000 settlement and resulted in the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR), drawing attention to EPA's employment discrimination challenges. More recently in 2010, a Title VI infraction led to a settlement and publicized criticism that EPA is ineffective in managing its External Civil Rights caseload. At the same time, OCR's AED program has continually failed to meet its MD-715 reporting deadline for several years. In the 2010 462 report, the Title VII program had to report that when the complainant requested an immediate FAD, EPA delivered "none on time", and seven were delivered after an average of 282.43 days had passed. Where the complainant did not elect a hearing or a Final Agency Decision (FAD), the Environmental Protection Agency (EPA) issued one on time, and the remaining 13 after an average of 332.38 days had passed.¹⁵

These challenges, coupled with dwindling credibility, have inhibited OCR's ability to champion a culture of inclusion, fairness, and respect, values that are fundamental to its mission. Furthermore, the current leadership environment has to address low employee morale, isolated program activities, and ineffective or unclear direction or guidance to the field. As a result, several duplicative civil rights

¹⁵ MD-715 - Inside EPA, Feb 19, 2010, "Personnel Disputes Roil EPA's Rights Office, Undermining Equity Agenda", "Summary of OCR Complaint Processing Issues 12-1-10 to 1-3-11.doc". 01/03/2011, 12:41 p.m. (Page 2-3).

functions have emerged throughout EPA, outside of OCR.¹⁶ In this environment, OCR staff struggle to perform fundamental tasks and creativity and innovation is stymied.

Management and Infrastructure

OCR has not been well-managed. Lack of clear expectations, governance, and processes has created an environment where employees are not provided the structure and guidance required for their roles. Furthermore, inadequate oversight has led OCR to operate as a silo without influence on the greater EPA organization.

At the time of the study in Fall 2010, OCR lacked a clearly articulated strategy to achieve its organizational goals and objectives. Roles and responsibilities lack strategic focus and basic understanding of the core set of tasks and, as a result, staff operates without clear guidance and managerial direction. Meaningful job descriptions, annual work plans, standard and repeatable processes, and performance monitoring and management are limited or altogether absent. While there was evidence of individual ad hoc initiatives to develop manuals, job aids, or performance plans, few were completed and implemented to sustain consistent performance.

Moreover, some staff are not given proper guidance on desired competencies and skills development. For example, the web-based skills survey indicated that less than half of OCR staff felt that EPA programs knowledge was very important to do their job and only 55% of leadership rated legislative awareness as critical/very important. Other civil rights organizations have a required competency for knowledge of Equal Employment Opportunity (EEO) law, regulations and policies¹⁷. If this EEO and program knowledge is not seen as valued, OCR may struggle to connect to the EPA mission and stay current on civil rights legislative mandates.

Inadequate infrastructure is an additional concern. OCR lacks documented processes and standard operating procedures necessary to sustain performance. Additionally, performance management programs and career paths have not been consistently developed and applied resulting in unclear performance feedback and career progression.

Collaboration

Finally, OCR has a heavy reliance on Office of General Counsel (OGC), Office of Human Resources (OHR) and other internal collaboration partners to complete its core tasks yet lacks mechanisms to secure necessary resources and support. For OCR to be successful, it needs to be seen as relevant and part of the Administrator's agenda.

There is concern that OCR may not have the same clout as other management initiatives raised by Associate/ Assistant Administrators, particularly with the Director in a non-political position, and therefore seen as less of a priority. However, there was equal concern that OCR would be subject to the political whims of each administration if the Director became a political appointee.

When asked about the Director reporting relationship, the nine benchmarking agencies were consistent in their recommendation to leverage the mandated direct reporting line to the head of the Agency to be

¹⁶ See Section 3.3, Figure 3-6, for additional background on "Redundant" civil rights functions outside of OCR.

¹⁷ National Institutes of Health Competency Model, Equal Employment Opportunity Specialist GS-260, Occupation Competency Model

the advocate and voice of civil rights. Each Civil Rights Director indicated they would use the direct access to personally voice concern to the head of the Agency if they felt civil rights were not being upheld. Therefore, the sanctity of this reporting relationship was emphasized as the part of the OCR stewardship during our interviews.

From 1993 to October 2010, OCR has received 247 Title VI complaints, according to the complaint tracking log provided to Deloitte. The tracking file notes the month and year the complaint is received and the month and year the complaint is accepted or closed. Only 6%, or 15 out of 247, were moved to either accepted or rejected within 1-month period, in alignment to the EPA targeted 20 day timeframe for acknowledgement. In fact, half of the complaints have taken one year or more to move to accepted or dismissed status¹⁸.

The staff and management interviews indicated a core challenge with Title VI is the complexity of each case with complicated investigation plans often requiring health impact modeling as reflected in the investigation plan examples provided to Deloitte. The Title VI complaint backlog was directly attributable to OCR’s difficulty in securing the time of the resources in the program and regional offices that have the required technical and regulatory expertise to execute the highly analytical investigation plan.

As of November 19, 2010 when Deloitte received the complaint log, there was an open case submitted in November 1994 with a status of Partial Informally Resolved. [REDACTED] has assisted in locating the appropriate expertise and securing support within EPA, but it may be difficult to sustain commitment to the complaint resolution process due to competing priorities.

Similarly, AED and Title VII need to coordinate diversity efforts with OHR to embed into Human Resources (HR) programs such as recruiting and promotions. Additionally, the newly formed Office of Diversity, Outreach and Collaboration (ODOC) also plays a role in advocating diversity. OCR, OHR and ODOC are in the process of aligning missions and plans.

Benchmark Approaches

Figure 4-1 compares a summary of Deloitte’s key findings to example benchmark approaches from civil rights functions outside of EPA. Model civil rights offices ensure the relevancy to their organizations by integrating civil rights into the larger Agency strategy and goals. The majority of civil rights offices interviewed during the benchmark study participated in regular meetings as part of the top Agency leadership team to discuss civil rights as a mission critical function. This encourages active executive participation in addressing barriers and implementing remediation plans as well as supporting complaint timely resolution.

Figure 4-1. Summary Findings and Example Benchmark Approaches

| Summary Findings | Benchmark Approaches |
|--|--|
| <ul style="list-style-type: none"> OCR staff have varying interpretations of the mission and vision | <ul style="list-style-type: none"> U.S. Department of State OCR mission, vision, values, and goals were designed and ratified by all State Department civil rights employees¹⁹ |
| <ul style="list-style-type: none"> MD-715 is seen as an administrative task with | <ul style="list-style-type: none"> National Institutes of Health MD-715 is produced quarterly at the Institute and Center level and actions and progress reported at the Executive level²⁰. |

¹⁸ “Final OCR T6 Complaint Listing (10.15.2010).xls” received from Helena Wooden-Aguilar, Friday 11/19/2010 at 3:10 p.m.

¹⁹ Copy is provided in Appendix A

| | |
|--|--|
| disjointed process of collecting each element | |
| <ul style="list-style-type: none"> OCR does not have a cohesive leadership team regularly sharing insights into program and regions | <ul style="list-style-type: none"> U.S. Department of Labor Civil Rights Center (CRC) Title VI, Title VII, and AED program leads are a cohesive team that is able to articulate innovations and tools in all program areas, and share staff |
| <ul style="list-style-type: none"> EPA leadership lacks confidence in OCR program offices | <ul style="list-style-type: none"> National Aeronautics and Space Administration (NASA) Office of Diversity and Equal Opportunity (ODEO) Administrator champions diversity and oversees a strategic diversity partnership within NASA that involves top leadership across the agency in influencing and addressing diversity and inclusion. As a result, the Office of Diversity and Equal Opportunity can harness agency wide leadership support for initiatives and programs |
| <ul style="list-style-type: none"> OCR does not have a strategic plan or consistent performance tracking | <ul style="list-style-type: none"> NASA ODEO established a policy to incorporate specific and measurable diversity and inclusion metrics into SES, Managers, and Supervisors performance ratings |
| <ul style="list-style-type: none"> OCR, OHR, and OGC have not engaged in consistent discussion of formalized roles, responsibilities, and data sharing requirements | <ul style="list-style-type: none"> U.S. Forest Service OCR, Solicitor's office, and Human Resources collaborated to map processes from informal to formal complaints and integrated mapping into action plans |
| <ul style="list-style-type: none"> Work product quality is inconsistent and often rejected by partnering offices (e.g. OGC). | <ul style="list-style-type: none"> U.S. Commission on Civil Rights suggests agency head offices develop guidelines for mandatory quality assurance review procedures that require review at various stages of development, and uniformly track witness contact to ensure accountability |

Recommendations

The following recommendations are intended to help address these organization-wide challenges:

- Develop the model OCR vision and strategy to more proactive, prevention mindset for civil rights protection.
- Emphasize complaint trend analysis and predictive modeling to pinpoint potential problem areas for early interventions.
- Increase the effort and expertise to develop and implement remediation strategies to reduce barriers and prevent complaints.
- Develop External Networked Team to include Title VI, Office of Environmental Justice (EJ), Office of Enforcement and Compliance Assessment (OECA), and Office of Research and Development (ORD) resources chaired by overall champion to aggressively resolve Title VI backlog, enhance compliance reviews and develop proactive guidance for recipients to reduce potential for complaints.

Develop a strategic roadmap to direct a complete overhaul of every OCR program area to align with model OCR and institute improvement management system. The roadmap should be coordinated by a senior leader, such as the Chief of Staff or Deputy Chief of Staff. By positioning the effort above OCR, it can create greater confidence that OCR has the Administrator level access to receive all the necessary support and is not trying to make all the improvements by itself.

²⁰ Sample Quarterly NIH MD-715 was not provided to Deloitte. EPA may need to request directly.

The Chief of Staff or Deputy Chief of Staff should formally launch the initiative and serve as an informal ombudsman to both OCR employees and the broader community of EPA and external stakeholders. This concerted effort will restore the trust and confidence in the Office of Civil Rights as well as indicate the significant priority the Administrator has placed on developing a model OCR. The Chief of Staff or Deputy Chief of Staff governs the overall initiative – through regular status meetings – and facilitates access to Agency executives to build consensus among internal partners (e.g., OHR, OGC) and to ensure new OCR work plans are aligned with Agency goals and strategy. The roadmap should overhaul management systems, redefine job roles, and realign staff, as illustrated in Figure 4-2 below.

Figure 4-2. Recommended Management and Resource-Related Improvements

| Improve Management Systems | Redefine Job Roles and Realign Staff |
|---|---|
| <ol style="list-style-type: none"> 1. Update Responsibility Assignment Matrix, or RACI charts, and develop Operating Level Agreements with key process partners to clarify roles, responsibilities, and interdependencies 2. Conduct an end-to-end process improvement program to update processes, embed quality control measures, and define performance measures for all core OCR functions 3. Formulate templates, checklists, handbooks (for new and rotating employees), and other job aids which are critical to empowering employees and ensuring consistent, repeatable processes | <ol style="list-style-type: none"> 1. Define the roles and responsibilities, competencies, and performance elements for each position 2. Map current staff to newly defined roles according to Knowledge, Skills and Abilities (KSA) and career fit 3. Conduct skills gap analysis and plans to develop the employees 4. Provide necessary training and development to close gaps 5. Formulate career paths and implement formal employee performance coaching |

Monitor performance to track progress and course correct. OCR will restore its credibility by improving performance (e.g., reduce backlog) and articulating its value and relevancy to EPA’s goals and strategy through communications which are targeted to specific audiences and make practical sense in the day-to-day lives of EPA employees and other relevant stakeholders.

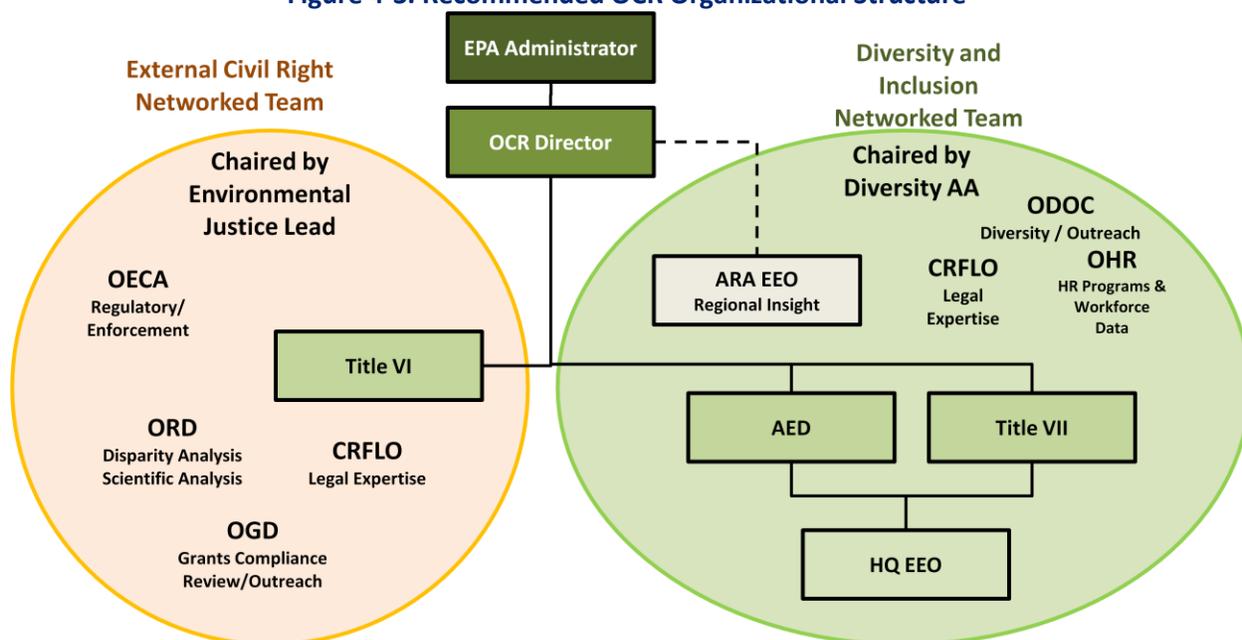
Make a few key changes to the organization of its civil rights functions

Like most federal agencies, EPA has multiple options for organizing the civil rights function and optimizing its ability to accomplish its mission. In order to determine the optimal organizational model for EPA, the Agency should consider the following organizational goals:

- Clarity on civil rights function;
- Dedicated focus on rebuilding and maintaining robust civil rights program;
- Greater influence on the programs and regions; and
- Agility to tap into ad hoc expertise to resolve complex Title VI complaints.

With these goals in mind, we recommend implementing a new OCR organizational structure as depicted in Figure 4-3.

Figure 4-3. Recommended OCR Organizational Structure



The diagram illustrates two “networked” teams. A networked team brings together people from different areas within EPA to work as a project team in accomplishing a set of specific goals but does not alter formal reporting relationships. The networked teams should have a Champion or Chair to lead and sponsor the effort. These teams should supplement, rather than supplant, the OCR organization. One focuses on internal diversity and inclusion and the other focuses on external community civil rights. Each network has a Champion to drive participation and address issues as they arise with his/her Associate/Assistant Administrator peer level.

In addition, Deloitte proposes a champion program to provide integration and coordination across collaboration partners for single point of accountability. The ODOC Associate Assistant Administrator can serve as the Diversity Champion. The Diversity Champion is goaled with action plans to address diversity barriers as identified in MD-715 and other internal EEO analyses. The Diversity Champion sponsors collaboration between OHR, ARA EEO, Affinity groups, Title VII and AED in developing remediation plans to address barriers. If team members are not fulfilling their role, the Diversity Champion can address with the respective Associate/Assistant Administrators for agreement on priority and time commitment. For example, MD-715 might indicate low advancement rates of Hispanic

engineers in region X. The Diversity Champion charters a diversity team of Region Lead, AED, Region X EEO, Region X SEPM, Hispanic Affinity group and OHR to identify underlying root cause and offer suggestions to address. The Diversity Champion holds Region X accountable for finalizing and executing the action plan, which gets monitored at senior management meetings. This championship model provides shared accountability for barrier analysis and remediation plans at the leadership level with an executive sponsor yet still provides the OCR Director with direct line escalation access to the Administrator if issues are too politically sensitive or not getting the adequate attention.

Similarly, Title VI would become part of External Civil Rights Networked Team under Environmental Justice (EJ) Champion linked with Office of Enforcement and Compliance Assurance (OECA), Office of Research and Development (ORD), Civil Rights and Finance Law Office (CRFLO), and Office of Grants and Debarment (OGD). By selecting the Champion from Office of Environmental Justice (OEJ), the External Team will align under the overall EJ mission of “fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations and policies.”²¹ The EJ Champion would review with the OCR Director the Title VI complaint backlog to proactively work with the programs to resolve the complaints as well as take preventative measures based on case trend analysis (i.e., 55 percent of complaints related to public participation). This External Civil Right Networked Team works with DOJ in defining the framework for complaint investigations and compliance guidance.

For example, ORD coordinates the development of scientific analyses and overall benchmarking data such as average number of superfund sites within different minority neighborhoods as part of the disparate impact analysis. When a complaint comes in, Title VI is able to leverage ORD’s benchmark/control group analytics for its investigation plan. OECA supplies the environmental program requirements for public participation, enforcement and permitting which Title VI layers on the civil rights requirements. Title VI provides the civil rights criteria and threshold while OECA determines the regulatory requirements under each program (i.e. public participation steps for Clean Air) with DOJ validating the overall approach. These guidelines can then be integrated into the grants management process, bolstering the current 4700 self assessment during the application phase as well as program evaluation which also considers civil rights requirements.

By allocating the Title VI work elements to the appropriate EPA organizations, this mitigates the current challenge of Title VI having the full spectrum of possible skills required to process highly complex complaints. Title VI supplies the civil rights expertise working with OECA/EJ to supply the environmental regulatory and analysis expertise. With a single EJ Champion, the different parts of the organization receive regular monitoring to ensure the cases are prioritized appropriately.

The Champion program addresses the concern that the non-political OCR Director is not on equal ground with the Associate/Assistant Administrators. With two champions supporting the main mission of external and internal compliance, they are able to support the Director in peer executive meetings. However, the OCR Director’s direct access to the Administrator is maintained since the formal reporting relationship is preserved and the benefit of confidential sensitive discussions can take place. It is highly recommended that supporting linked performance goals and Standard Operating Procedures (SOPs) are developed to reflect the specialized teams in order to institutionalize these informal structures and

²¹ <http://www.epa.gov/environmentaljustice/basics/index.html>

provide sustainability into future administrations subject to shifts in political appointee focus and preferences.

In this concept, the current Office of Civil Rights structure of the three program areas remains intact for dedicated focus on civil rights. However Title VII adds Headquarter (HQ) focused EEO Officer to handle HQ intake and complaint resolution and administer EEO programs. Over 32% of overall Title VII complaints are from Headquarters, warranting dedicated resource to proactive address and monitor EEO issues.

Further, the proposed model facilitates better coordination with the field. ARA EEO Officers have a dotted line relationship with the OCR Director yet remain solid line to the region to maintain position on regional management team. However OCR Director should be involved in selection, certifying, input and feedback on performance goals, and promotion consideration for ARA EEOs. Similarly, EEOs should provide input for Special Emphasis Program Managers (SEPM) within their region, often 20% collateral duties assignment. This structural matrix addresses the need to be embedded in the mission but yet provides venue for escalation and objective oversight.

Alternative changes to organization of its civil rights functions

The OECA Assistant Administrator (AA) can also be considered for the External Team Chair. As OECA's mission to "aggressively goes after pollution problems that make a difference in communities through vigorous civil and criminal enforcement...advance environmental justice by protecting vulnerable communities ²²", it will bring the enforcement prowess and expertise to adjudicate Title VI cases. OECA, through its main website, has also stated it is "resetting our relationship with states" which is a practice Department of Labor, Fair Housing Equal Opportunity and Federal Highways Transit Authority emphasized in their benchmark interviews. The advantage Deloitte sees with the OEJ Champion is the momentum from the White House in naming EPA as overall EJ Lead. However, given that OEJ sits within OECA, either the EJ lead or OECA AA will bring the enforcement and environmental justice perspective as chair.

EPA can also consider moving Title VI function to OECA as part of overall enforcement. The advantage is the organizational legal competence required to assess cases and the outreach to the states and EPA programs. The disadvantage is the core knowledge and singular focus of civil rights law and regulations resident in OCR. Civil rights offices in other agencies expressed concerns about diluted access to resources, leadership attention if they were integrated into larger offices. This would be of concern as EPA embarks on transforming OCR into a model civil rights office.

Another option for Title VI is to fold the function into OGD as part of grants management. U.S. Department of the Interior's (DOI) Fish and Wildlife Services (FWS) administers Title VI within its grants management. However, FWS Title VI complaints tend to be related mostly to reasonable accommodations, which is much less complex than EPA's Title VI complaint portfolio.

²² http://www.epa.gov/about_epa/oeca.html

4.2 Title VI Program Management

Current State Findings

Administering the Title VI program for environmental regulation is highly complex and may require conducting technical analyses such as causal connection between these facially neutral procedures or practices, if there a disproportionate impact on the protected group and modeling for adverse health claims. This often requires Title VI to request support across EPA's scientific program offices, and OECA.

Due to this complexity, the Title VI program has struggled to develop a consistent framework to analyze complaints, resulting in a lengthy and time-consuming effort to evaluate the complaints and once accepted, to adequately investigate the cases. Only 6%, or 15 out of 247, were compliant with EPA targeted 20-day timeframe for acknowledgement. In fact, half of the complaints have taken one year or more to move to accepted or dismissed status. One case was accepted after nine years and a second case was accepted only after ten years.

Feedback from Title VI employees indicated that major delays result primarily from the complexity of determining whether cases fall within jurisdiction because there is little or no legal precedence for comparison. Investigations are further challenged by a lack of scientific methods to conduct needed analyses. [REDACTED] has assisted in locating the appropriate expertise and securing support but the overall complaint process is too often subject to competing priorities; mission related staff are in high-demand for mission related tasks.

The Title VI program office has taken steps, however, to improve its programmatic success by:

- Relocating the Title VI team to the main OCR office to increase contact with Headquarters Civil Rights, program and Agency executive offices;
- Developing draft Standard Operating Procedures (SOPs) for the investigative process and the compliance process; and
- Supporting training for environmental law proficiency of staff in the Title VI function.

Repeatable Complaints Process

Because each Title VI complaint often must be analyzed with the environmental science in addition to the civil rights regulations, EPA has not been able to develop a repeatable complaint resolution process and framework. As a result, OCR lacks finalized operational documents to govern the program's internal functions, or to communicate meaningful guidance to external stakeholders. Existing standard operating procedures, templates, and job aids are in draft format. Title VI also lacks meaningful compliance guidance for grant applicants. Title VI office has developed draft investigative report templates and outlines, as well as draft investigative procedures. When Deloitte inquired in November 2010 if Title VI complaints portfolio analysis had ever been done, the response was Title VI has not tried to group the complaints. The grouping of potentially related complaints can help determine if the scientific analysis

Key Observations

- 50% of Title VI cases took over 1 year to be accepted, versus EPA target 20 day turnaround
- 55 percent of the Title VI cases coming in to EPA's OCR are related to permitting, enforcement and public participation/involvement
- No tracking system to monitor investigations and complaints and lengthy case management timelines.
- EPA does not provide Title VI compliance guidance to recipients.
- OCR only conducts outreach and training for Title VI through web-based programs.
- Much needed expertise in program and regional offices has no incentive for prioritizing Title VI work

could address a series of like complaints as well as trigger broader Environmental Justice inquiry due to the emerging patterns.

OCR Title VI is just beginning to develop a network of environmental analysis technical expertise to bring together the right skill sets to investigate complaints. However, these resources are often overloaded with their own workload and may not be able to prioritize the complaint resolution in the timely manner required by OCR. The prolonged history of backlog has reinforced a persistent internal perception that EPA intentionally avoids making decisions in its Title VI program amongst OCR staff that further confirms unawareness on overall priority and urgency in Title VI function.

Staff Skills and Competencies

As mentioned in the Approach section, Deloitte administered a web-based job analysis. Responses indicate Title VI employees lack clarity regarding the technical skillset they require for their role. A high variability of answers points to a significant lack of common job role understanding. Furthermore, program staff's competencies are inconsistent and/or misaligned with the highly technical nature of complex Title VI complaints investigations.

The staff competencies required for EPA's Title VI program are unique to EPA in comparison to other Title VI programs due to the highly technical environmental law and policy requirements which are layered on traditional civil rights case law skills. Currently, Title VI staff competencies are largely process-based and many staff do not have the expected environmental policy or law background expected of their role, particularly necessary in completing the investigation plan as indicated in the template provided. Only 42% of the overall staff indicated knowledge of EPA programs to be important (breakdown by program office not available). For Title VI, each complaint must adhere to both civil rights requirements as well as each regulatory act (e.g. Clean Air).

Process Impediments

The highly technical nature of Title VI complaints requires investigative support from subject matter experts in EPA's programs and regions. Although the Title VI Program has started to build a supportive network of technical expertise for environmental analysis, the program and regions have little incentive to prioritize OCR support above their increasing workload. Deloitte identified only one example of successful deployment of intra-agency expertise. This example occurred in 1998 during an investigation of a Title VI case against Select Steel. This investigation concluded in a 'no finding' decision.

Deloitte noted that Final Agency Decisions (FADs) for Title VI has required EPA executives, including Chief of Staff and General Counsel, to meet on a regular basis for review and approval. While a lack of management systems and required expertise are partially the cause for the program's backlog, the necessity to mobilize an executive decision making committee including membership from the General Counsel and Chief of Staff may become a standard process. [REDACTED] was successful in mobilizing this executive body for several months and concluded fifteen cases from the extensive backlog this year.

The higher caseload volume and equally poor work quality from the Title VII program draws resources and attention from Title VI needs, further challenging its opportunities to devise and implement strategies to improve operational performance. [REDACTED]

[REDACTED] The Title VI collaboration has been augmented by a Special Assistant for Title VI who reports directly to the Administrator; however, the role is a temporary detail leaving a void of mentorship, reputational credibility, and access to Agency leaders once the term expires.

Compliance Review and Recipient Guidance

The only compliance review identified during the study is by the field-based EEO Officers in collecting and signing EPA’s 4700-4 mandatory external civil rights compliance form required of all grant recipients. The 4700-4 is a self-assessment web-based form the grant applicants complete. Title VI staff expressed concern in the current practice of requesting their signature on the form without any interaction with the recipient and opportunity to verify the data supplied in the 4700-4. Deloitte was not able to find a management control system that flagged current plaintiffs charged with a Title VI compliant violation if they were to apply for additional grants. Federal Highway Administration has a similarly complex Title VI program with economic, environmental impact and adverse impact assessments. They have been able to develop an extensive recipient handbook that identifies potential issues and recommends actionable and measurable mitigation strategies to prevent complaints. EPA is not currently in a position to develop and communicate similar guidance to applicants and recipients.

Benchmark Approaches

Figure 4-4 compares the Deloitte’s summary findings for the Title VI program to example benchmarked approaches from other U.S. government organizations.

Figure 4-4. Summary Findings and Example Benchmark Approaches

| Summary Findings | Benchmark Approaches |
|--|---|
| <ul style="list-style-type: none"> EPA does not drive recipients to be Title VI compliant EPA underutilizes field staff for pre-award and post-award compliance and there is no indication that the Office of Grants and Debarment (OGD) is integrated into the compliance process | <ul style="list-style-type: none"> Federal Highway Administration (FHWA) Title VI program has placed responsibility on the State Transportation Authority to develop proactive Title VI programs, conduct annual reviews, develop procedures for collecting statistical data, and annual reviews of special emphasis programming. U.S. Department of Housing and Urban Development (HUD) processes over 10,000 external civil rights complaint cases annually. The regions handle the majority of cases and there is heavy reliance on external partners. |
| <ul style="list-style-type: none"> EPA has not finalized its operating tools and templates | <ul style="list-style-type: none"> US Commission on Civil Rights suggests federal agencies should develop management plans that include clear procedures, and classification system regarding case priority. |
| <ul style="list-style-type: none"> EPA has not conducted statistical analysis of higher incidence cases, committed to developing investigative procedures, or implemented preventive measures | <ul style="list-style-type: none"> HUD’s Fair Housing and Equal Opportunity (FHEO) conducts a risk analysis using random sampling based on factors considered high risk to select entities for compliance review. |
| <ul style="list-style-type: none"> EPA has difficulty meeting timelines for complex cases with little or no legal precedence | <ul style="list-style-type: none"> U.S. Department of Labor The majority of OCR senior leadership staff had extensive experience (10 years or more) in civil rights functions, human resources/personnel management, or in an agency’s Solicitor’s General office providing expertise and leadership needed for complex cases. |
| <ul style="list-style-type: none"> Leadership requires further training in project management and effective staff supervision | <ul style="list-style-type: none"> National Institute of Health (NIH) Office of Equal Opportunity and Diversity Management (OEODM) requires Title VII staff to be trained in legal writing and legal analysis. EPA Title VI leadership could have a similar requirement. |

| Summary Findings | Benchmark Approaches |
|--|---|
| <ul style="list-style-type: none"> Staff competencies are inconsistent and/or | <ul style="list-style-type: none"> NIH OEODM has a detailed competency model outlines |

| | |
|--|--|
| <p>misaligned with the highly technical nature of complex Title VI complaints investigations</p> | <p>skills required for Title VII work, and provides customized training curriculum for each employee. The competency model also serves as a basis for conversations regarding performance.</p> |
| <ul style="list-style-type: none"> • There is a lack of focus on long-term strategic resources that integrate ADR and trend analysis to proactively work with repeat offenders | <ul style="list-style-type: none"> • HUD FHEO is upgrading its IT system, TEAPOTs, to perform predictive modeling to identify potential non-compliance, based on extensive available case data. Currently, the system is a real time web-accessible automated system used in the investigation and tracking of complaints and compliance reviews. |
| <ul style="list-style-type: none"> • OCR only conducts outreach and training for Title VI through web-based programs | <ul style="list-style-type: none"> • U.S. Department of Labor Civil Rights Center (CRC) Annual National Equal Opportunity Training Symposium educates recipients of Federal financial assistance about their nondiscrimination and equal opportunity responsibilities. • Federal Highway Administration (FHWA) OCR program specialists, civil rights specialists, and contracted investigators are provided with a Title VI desk reference book. Title VI funding recipients receive a handbook to assess their implementation, compliance, and enforcement efforts. |
| <ul style="list-style-type: none"> • Much needed expertise in program and regional offices has no incentive for prioritizing Title VI work | <ul style="list-style-type: none"> • HUD FHEO regional offices handle the majority of cases, and there is heavy reliance on external partners. Title VI intake, jurisdictional review, investigations, and decisions are all done at regional level. |
| <ul style="list-style-type: none"> • Concluding Final Agency Decision (FADs) requires General Counsel and Chief of Staff input | <ul style="list-style-type: none"> • Department of Energy OCR, General Counsel, and Human Resources have joint monthly meetings. The Office of General Counsel gets involved with cases during very early stages, but is not involved in FAD or managerial processes. |
| <ul style="list-style-type: none"> • Strain from Title VII and AED issues reduces resources and attention from addressing Title VI challenges | <ul style="list-style-type: none"> • HUD FHEO separates its external civil rights function from its internal civil rights function because the functions do not interact with one another, and have uniquely different relationships internally and externally. |

Recommendations

As discussed in Section 4.1, the development of an improvement roadmap will address defining Title VI core functions and related staff development plans and corresponding SOPs and tools. Below are additional Title VI recommendations, based on the findings.

Define a framework to delineate the cross functional teams needed to respond. Building on the recommendation stated in the “Management” section of the report, Title VI should prioritize its management documentation according to highest priority or highest volume cases. Specifically, approximately 55 percent of cases originate from permitting, enforcement, and public participation, therefore, Title VI should concentrate its resources on developing standard, repeatable processes to address these types of cases. Title VI should work closely with DOJ to finalize processes and procedures. Additional stakeholders who should be consulted in developing SOPs including Civil Rights and Finance Law Office (CRFLO), Headquarters (HQ) and field-level OGD staff, subject matter experts from program areas, and the regional employees who maintain relationships with grantees. Coordinating stakeholders is needed to ensure uniformity across regional enforcement offices, particularly for high incidence complaints such as permits, enforcement, and public participation.

Clearly define guidance documents for funding grant recipients and establish formal Title VI compliance processes and procedures. Model agencies can seamlessly integrate a compliance program to help support and hold recipients accountable while also strategically addressing the use of federal funds.

Implement a formal information management system to track, analyze, and forecast important Title VI data. The system should be capable of prioritizing compliance data and complaints cases, escalate high risk issues, and analyze data as required to prevent and proactively address unnecessary exposure.

4.3 Affirmative Employment and Diversity (AED)

Current State Findings

OCR's AED program does not perform to the expectations of its mandated role, including the annual submission of the MD-715. Annual work plans include sections for structure goals, activities and persons responsible, timelines aligned to quarters, goals for recruitment, career development, and advancement of the employee groups. The document review indicated that content varied in breadth and depth. Interviews with program staff, EPA employees, and work plans revealed that AED primarily hosts special observance events – one event for each program area (e.g. Black History Month, etc.) – and compiles data required for the annual MD-715 report.²³ However, AED staff rely on contractors for barrier and trend analysis of underrepresented workforce populations with untimely data. The MD-715 report was not completed between 2006 and 2008. It is our understanding the 2010 MD-715 was submitted on time January 31, 2011.

AED historically has requested narrative information for MD-715 from Program Management Officers (PMO), Human Resource Officers (HRO)s, and Equal Employment Opportunity (EEO) Officers with insufficient clarity (i.e., templates or examples of requested materials), resulting in incomplete and/or untimely submissions²⁴.

Key Observations

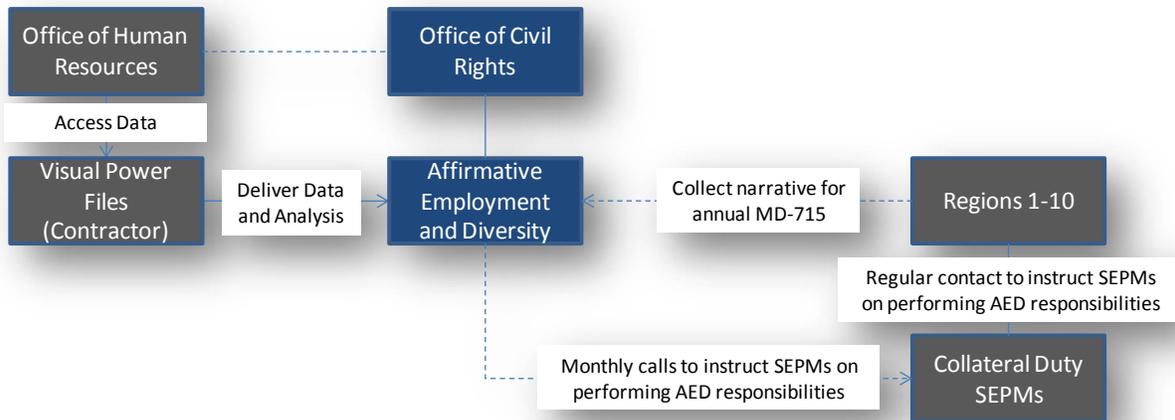
- AED has difficulty accessing data from multiple sources for the MD-715.
- Tendency to complete responsibilities (e.g., MD-715) as last minute exercises
- MD-715 contractor analysis capabilities are underutilized and serve as a redundant function to AED staff. Data accuracy is frequently questioned.
- Redundancy in guidance and inconsistent direction provided to SEPMs. Content and timing of guidance to SEPMs not coordinated with EEO offices
- AED staff tend to have higher grade levels without unique KSAs or competencies typically required to justify high non-supervisory grade level.
- EPA staff lacks focus on staff training and customer service.
- Minimal collaboration with the Title VII program and little engagement with other EPA functions.
- No formal meetings, reporting relationships or operational guidelines to ensure consistency, strategic messaging, and resource allocation.
- Redundant OCR functions have developed outside the purview of OCR.

²³ Agencies are required to submit the MD-715 report annually by January 31.

²⁴ Based on interviews with PMOs and HROs requesting templates to ensure they are providing the correct type of narrative, ideally related to barriers identified.

Figure 4-5 depicts the workflow for compiling MD-715 data, including regional participation.

Figure 4-5. AED Interactions



Note the barrier analysis is not shared by AED with the regions yet they are asked to submit narrative for the annual report. [REDACTED]

Additionally, OHR and ODOC question the accuracy and validity of the numbers and analysis leading ODOC to begin developing its own dashboard tracking diversity workforce demographics based on the same HR database used by OCR for the MD-715 demographic analyses.

Alternatively, it appears the majority of AED’s interactions involve coordinating national observance events (e.g. Women’s History Month) with the Headquarters PMOs and the collateral duty Special Emphasis Program Managers (SEPM) located in the Headquarters, regions, and laboratories. The affirmative employment work plans vary in structure although generally include sections for goals, activities and persons responsible, and timelines aligned to quarters. The content also varied in breadth and depth, though generally included goals for recruitment, career development, and advancement of the employee groups to be conducted in concert with the SEPMs, EEO and OHR.

Collateral duty SEPMs located in the regions and EPA laboratories report to EEO Officers and receive direction from AED Headquarters. AED provides inconsistent centralized guidance and direction to EEO Officers as well as SEPMs. Furthermore, EEO Officers interviewed indicated that they are providing separate guidance and direction to SEPMs. SEPMs are tasked to spend 20 percent to AED functions; however, interviews indicated that SEPMs workload is disproportionate.

Staff Skills and Competencies

[REDACTED] AED has a staff of nine full-time employees including a Director (GS-15), an Affirmative Employment Program Manager (GS-14) who serves as the custodian of the workforce data, and six Equal Employment Managers (GS-14 and GS-13) who are the lead representatives for their respective employment programs. AED has seven GS-14's and above, Title VI and Title VII each have only two GS-14's and above in their similarly sized offices. The Assistant Director and Disabilities Equal Employment Manager positions were vacant at the time of this report was completed.

[REDACTED] AED staff are not conducting analysis nor embedding results into on-going communications with program and regional managers and executives. Furthermore, there is no indication that barriers and trends or Equal Employment Opportunity Commission (EEOC) recommendations are proactively being identified and/or remedied.

As with other OCR program areas, there is a general lack of focus on defining a training curriculum and developing staff competencies. [REDACTED]

Collaboration Partners

Deloitte's assessment indicates that AED does not actively collaborate with other functions in OCR, and minimally partners with other EPA functions, including three program areas outside that support AED's mandate: Minority Academic Institutions (MAI) Program; White House Initiatives (WHI); and the Office of Diversity, Outreach, and Collaboration (ODOC). Several redundant functions now operate outside of OCR, as illustrated in Figure 4-6. Currently, no formal meetings, reporting relationships, and/or operational guidelines exist to ensure consistent and strategic messaging and resource allocation across these similar, yet separate functions.

Figure 4-6. Example Redundant OCR Functions Across EPA

| Location | OCR Function | Finding | Redundancy |
|--|--|--|--|
| Office of Human Resources (OHR) | Targeted Recruitment | <ul style="list-style-type: none"> AED is responsible for designing and coordinating targeted recruitment plans²⁵. Lack of coordination and outreach from AED has led to OHR designing and implementing their own targeted recruitment plans. | <ul style="list-style-type: none"> OHR duplicates AED's responsibility for targeted recruitment |
| Office of Small Business Programs (OSBP) | Minority Academic Institutions | <ul style="list-style-type: none"> AED is responsible for coordinating outreach and targeted recruitment, and cultivating mission-related relationships with Minority Academic Institution²⁶ [REDACTED] | <ul style="list-style-type: none"> OSBP coordinates Minority Academic Institutions |
| Office of Diversity, Outreach and Collaboration (ODOC) | Diversity and Related Workforce Analysis | <ul style="list-style-type: none"> AED is responsible for continually measuring and reporting disparities amongst protected classes of EPA's workforce [REDACTED], ineffective use of contracting, and limited or no outreach to programs, regions, or EPA executives has left a void ODOC conducts workforce analysis demographics (i.e., AED's barrier analysis) to be included in a executive dashboard for on-going diversity performance reporting | <ul style="list-style-type: none"> ODOC duplicates AED's core responsibility for statistical analysis and reporting |

Benchmark Approaches

Figure 4-7 compares the Deloitte's summary findings for the AED program to example benchmark approaches from other U.S. government organizations.

Figure 4-7. Summary Findings and Example Benchmark Approaches

| Summary Findings | Benchmark Approaches |
|---|---|
| <ul style="list-style-type: none"> AED has outsourced its primary focus, MD-715, of which the data accuracy is frequently questioned AED has difficulty accessing data from multiple sources for the MD-715 Tendency to complete responsibilities (e.g., MD-715) as last minute exercises | <ul style="list-style-type: none"> NIH OEODM uses quarterly briefings to Executive Offices, Institutes, and Centers to ensure accuracy of data and analysis needed for the MD-715 and staff accountability. OEODM has direct access to HR databases for MD-715 that can drill down to 27 Institutes and Centers. |
| <ul style="list-style-type: none"> Redundancy in guidance and inconsistent direction provided to SEPMS Content and timing of guidance to SEPMS not coordinated with EEO offices AED uses a contractor to conduct periodic barrier analysis workshops for SEPMS AED work plans varied in content and structure | <ul style="list-style-type: none"> National Nuclear Security Administration SEPMS are issued a comprehensive guide which includes the background and history of the federal program, SEPMS roles and responsibilities, activity guidelines and detailed descriptions, guidance on purchasing requisitions, and an annual report of activities. |

²⁵ Based on AED position description and sample workplans

| Summary Findings | Benchmark Approaches |
|--|---|
| <ul style="list-style-type: none"> AED has a disproportionately higher grade levels yet does not require nor sponsor development plans for specialized knowledge, skills, abilities | <ul style="list-style-type: none"> NIH OEODM has a detailed competency model which they use to assess Title VII skills and provide customized training curriculum for each employee. The competency model also serves as a basis for conversations regarding performance |
| <ul style="list-style-type: none"> [REDACTED] | <ul style="list-style-type: none"> NIH OEODM staff training is available online. Staff can also request training outside of the agency if they can justify that it adds value to their core work and fits within the budget. Title VII staff is provided with online aids such as Cyberfeds, ELI training, and the EEOC Institute. |
| <ul style="list-style-type: none"> EPA OCR staff lacks focus on staff training and customer service | <ul style="list-style-type: none"> U.S. Department of State OCR FY11 Strategic Plan requests customer service training for staff in addition to a dedicated customer service staff role. |
| <ul style="list-style-type: none"> Minimal collaboration with the Title VII program and little engagement with other EPA functions | <ul style="list-style-type: none"> U.S. Department of Labor CRC Title VI, Title VII, and AED program leads are a cohesive team that is able to articulate innovations and tools in all program areas, and share staff. |
| <ul style="list-style-type: none"> No formal meetings, reporting relationships or operational guidelines to ensure consistency, strategic messaging, and resource allocation | <ul style="list-style-type: none"> National Nuclear Security Administration's (NNSA) EEO and Diversity Program Manager issued a comprehensive Special Emphasis Program Manager's guide. The guide includes background, roles and responsibilities of OCR and SEPMS, activity guidelines and descriptions, logistics guidance, sample materials, and annual report of activities. |
| <ul style="list-style-type: none"> Redundant functions exist outside the purview of OCR | <ul style="list-style-type: none"> NIH OEODM Director restructured the office to ensure that field officers report directly to the director, creating a centralized strategy and eliminating duplicate efforts. |

Recommendations

As mentioned in Section 4.1, the improvement roadmap will address defining AED core functions and related staff development plans and corresponding SOPs and tools. Below are additional AED recommendations, based on the findings.

Emphasize AED's primary role in alleviating barriers and implementing remediation strategies and use the MD-715 as the focal point to guide all communications with stakeholders across the Agency, and with executives on a quarterly basis. AED is the public face of EPA's civil rights programs and should lead the development of outreach and training materials which further the cause of fairness, respect, and inclusion in the workplace.

Tactically, AED needs to develop a standard template for work plans which outlines its program of activities and links activities to their impact on identifying and reducing barriers. For example, AED should coordinate with EPA's various Affinity groups to understand their workplace challenges and research these challenges by reviewing data from Human Resource (HR) records (i.e., the number of employees promoted, trained, rewarded, etc.) from the Federal and EPA implemented Affirmative Employment programs.

AED should use this analysis as the basis for advising Affinity groups interested in hosting National Observance events to ensure the events focus on challenges for the employee population. National

Observance events should not be part of AED's program of activities; they should only communicate relevant barriers and recommend speakers, activities or other targeted measures to be included in events as a further means for addressing barriers.

AED should use SEPMs to implement barrier remediation strategies – such as training events, brownbag diversity discussion, town hall meetings, panels, workshops on barrier-related issues – and, as a means to collect additional qualitative data on workplace issues, validate the quantitative data AED uses in its annual MD-715 representation to EEOC. Additionally, Title VII complaints analysis should be included in the barrier analysis as well as assessing the preventative programs such as conflict management training and its subsequent impact on complaints for remediation consideration.

Hire, train, or realign staff that possesses a balance of barrier analysis expertise and experience with a strong passion for civil rights and diversity. Successful AED staff have a command of barrier analysis – both statistical analysis and remediation strategies – and have strong interpersonal skills capable of building persuasive arguments for fairness, respect, and inclusion with both the executive staff and line employees. AED should implement a formal curriculum to ensure all staff have a common understanding for key functions (i.e., barrier analysis, presentation skills, and executive communications) and phase out reliance on contractor support for core statistical analysis responsibilities.

Coordinate programming, guidance, and direction through its network of EEO Officers. AED should not circumvent field-based EEO Officers by providing input and direction to regional SEPMs, but rather leverage the existing network of EEO Officers as the focal point for all AED programming. EEO Officers translate the guidance and direction into specific measures unique to their local context and strengthen relationships with their network of SEPMs while reporting progress against barriers to AED for inclusion in the annual MD-715 report. Furthermore, a headquarters EEO Officer role should be established to coordinate AED functions across the employment programs. The Headquarters EEO Officer would act as the single point of contact for all AED programming, including the data collection and analysis for the annual MD-715 report, and eliminate the current tendency of AED staff to concentrate disproportionately on headquarters needs.

4.4 Title VII Program Management

Current State Findings

Analysis of interview records and Title VII program documentation pointed to a program lacking consistent, repeatable processes [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] and a resulting perception that the Title VII program’s neutrality is at risk. CRFLO is involved in every stage of case processing which is the highest observed interaction between the CRFLO and OCR in comparison to benchmark agencies. EPA’s law office currently provides a high level of editing, notations, and rejections of Title VII staff findings. While much of this is explained by a lack of competence and ineffective quality controls within the Title VII program itself, there remains a need to delineate roles and responsibilities between CRFLO and OCR to clarify who holds the ultimate decision making authority and avoid external scrutiny of the grey area between providing legal advice and performing responsibilities on behalf of OCR.

The Title VII program focuses almost exclusively on meeting the one hundred and eighty day timeline for completing Final Agency Decisions (FADs). EEONet, the database used to track overdue cases, is being reviewed by OCR for the quality and accuracy of EEONet data and reports. Therefore the specific

Example: 462 Reports in 2010 Show Delays

- On December 13, 2010, when the 462 Report was submitted, 15 FADs were over 200 days overdue, 21 FADs were over 100 days overdue.
 - As of the same date, one case was 630 days overdue and seven others with deadlines in December and January were not yet assigned.
- Source: Title VII Special Assistant

quantity and days past due of FADs are not reliable statistics. On January 3, 2011, Title VII management provided past due FADs data for this report, as a substitute for the EEONet figures.

One possible explanation for the delays is the minimal attention to quality when investigating cases, or more specifically, managing the work of contract EEO investigators.

The Investigative Reports (IRs) which conclude this stage of the process are routinely insufficient both in terms of legal research and analysis, questioning the complainant and other persons involved, and lack comprehensible, logical writing. The result is a

heavier burden on FAD writers to address the routine shortcomings or rely on the Special Assistant and OCR leadership to provide support. Deloitte’s assessment identified several shortcomings, including:

- IRs contain references to outdated anti-discrimination policies;

Key Observations

- Title VII guidelines do not include templates, supporting quick reference guides, or other job aids integral for implementing standard, repeatable processes.
- A formal performance measurement, reporting, and evaluation framework has not been institutionalized in the Title VII program.
- Performance monitoring systems for tracking settlement costs, types, and case durations are limited, inconsistent, and include errors and omissions.
- Staff have inconsistent skills and competencies, and lack formalized resources and managerial support.
- No established formal training curriculum and limited emphasis on performance coaching and staff development.
- [REDACTED]
[REDACTED]
[REDACTED]
- Title VII’s heavy reliance on CRFLO threatens the program’s neutrality and delays processing.
- Significant delays and quality control issues experienced in completion of several mandated reports.

- Critical investigative records are absent, incomplete, or illegible;
- IRs lack reference to the Agency policy/guidelines involved in the complaint;
- Complete lack of comparative data, for example, by race, EEO activity, and disability; and
- Record of other instances where employees other than the complainant were denied/approved opportunities (e.g., training) and when such occurrences took place.

[REDACTED]

[REDACTED] has led to continuous intervention from OCR leadership and a process that embeds CRFLO into reviewing outputs at the conclusion of each stage of the investigative process. While CRFLO is independent from the Employment Law Division which represents EPA management, there are still perceptual risks when Office of General Counsel (OGC) is involved at such a granular level.

Performance Management and Guidance

EPA adheres to EEOC's "Management Directive 110: Federal Sector Complaint Processing Manual" and 29 C.F.R. Part 1614 as the standard operating procedures for implementing its formal complaints function and has adapted its own "EEO Investigator Guidelines". However, the guidelines do not include templates, supporting quick reference guides or other job aids integral for implementing standard, repeatable processes. As a remedial step, OCR appointed a Special Assistant for Title VII to implement quality controls – such as a "Quality Assurance Checklist for FADs" – and provide on-going subject matter expertise and performance coaching to assist the Assistant Director and Equal Employment Specialists (EES) staff in improving the quality and timeliness of outputs.

Performance monitoring systems for tracking settlement cost, type, case duration from open to close, and other aspects relevant to employment complaints, are limited and include errors and omissions. For instance, the settlement tracking workbook provided to the research team captured only the settlement fee and not associated attorney fees. Furthermore, the taxonomy of the classification system was non-standard and lacked unique identifiers between the descriptors of complaint sources. The tracking sheet provided to the team only listed cases settled and does not indicate what judgments were awarded by the courts. Available data suggests that only two million dollars in settlement costs were issued over the ten year tracking period, while the real cost to the Agency could be much greater when court ordered fees are accounted.

Management also does not track performance of EEO investigative contractors according to a performance checklist provided by the Title VII program. The program does not maintain records of supplemental investigations, nor attempt to determine whether these costs can be avoided in the future. Supplemental investigations are viewed as normal business practice and not associated with quality problems of contracted EEO investigators.²⁶ Furthermore, OCR management provided Deloitte

²⁶ Note: The number of supplemental investigations, while not known by program leadership specifically, was said to be two or similarly nominal.

with a summary of complaint processing issues that identified 18 quality issues spanning from one month's timeframe, requiring rework.²⁷

Complaints Case Tracking System

Title VII lacks a formal complaints case tracking system. The study team learned that a system was purchased, but it was not evident at the time when or how the system would be implemented. The current approach to managing cases is largely paper-based and relies on the Assistant Director who reviews each new case and assigns to a case manager. During the three proceeding stages of case management: 1) Jurisdictional Review, 2) Investigation, and 3) Final Agency Decision – the document frequently changes hands between the case manager, CRFLO legal advisor, FAD writer, Special Assistant to Title VII, and the Assistant Director before proceeding to the Director of OCR for final signature. The handoffs are not recorded and there is no mechanism to capture comments for post mortem quality review; the current paper-based approach is inadequate for tracking and reporting case progress as it moves through the case management cycle and does not enable continuous process improvement.

Staff Skills and Competencies

Some staff members are consistently high performers, but others demonstrate a need for additional development. Staff roles have been compartmentalized into managing a stage of the complaints lifecycle such as Jurisdictional Review and Investigation, rather than owning a case from intake to close. This level of specialization should lead to standard, repeatable and quality controlled processes and yet work products lack attention to detail and exhibit the spectrum from easy to fix mistakes to incomplete IRs or acceptance of cases which do not meet legal sufficiency requirements for admittance into the formal complaints program. There is no evidence of a formalized learning and development curriculum. Furthermore, the majority of staff did not have routine performance coaching and career development discussions with supervisors. The results of Deloitte's web-based survey highlight that the lack of formal career development appears to be linked to low employee morale and workplace satisfaction.

Proactive and Preventative Program

As Title VII struggles in its basic complaint intake and processes, little emphasis has been given to greater use of Alternative Dispute Resolution (ADR) program or development of conflict management courses to facilitate difficult conversations between employee and management. Deloitte was not able to find evidence of complaint trend analysis to determine repeat offenders or incident anomalies to proactively conduct interventions. These types of programs focus on reducing the likelihood of complaints being generated rather than passively waiting for incidents to occur.

²⁷ Fentonmiller, Laura. "Summary of OCR Complaint Processing Issues 12-1-10 to 1-3-11.doc)". January 3, 2011. 12:41 PM. pp 2-3.

Benchmark Approaches

Figure 4-8 compares the Deloitte’s summary findings for the Title VII program to example benchmark approaches from other U.S. government organizations.

Figure 4-8. Summary Findings and Example Benchmark Approaches

| Summary Findings | Benchmark Approaches |
|---|---|
| <ul style="list-style-type: none"> Title VII guidelines do not include templates, supporting quick reference guides, or other job aids integral for implementing standard, repeatable processes | <ul style="list-style-type: none"> Department of the Interior OCR has a repository of past cases and templates for commonly occurring cases. Boiler plates have been developed for common processes and procedures. |
| <ul style="list-style-type: none"> A formal performance measurement, reporting, and evaluation framework has not been institutionalized in the Title VII program Performance monitoring systems for tracking settlement costs, types, and case durations are limited, inconsistent, and include errors and omissions²⁸ | <ul style="list-style-type: none"> The Department of the Interior and the National Institutes for Health use iComplaints, a universal system for inputting and tracking complaints. The system also tracks staff pay and how long it takes staff to process the inputs of the system. |
| <ul style="list-style-type: none"> Staff have inconsistent skills and competencies, and lack formalized resources [REDACTED] | <ul style="list-style-type: none"> NIH: Title VII EEO specialists are all certified counselors and mediators, and are required to be trained in legal writing and legal analysis. NIH staff training is available online. In addition, staff has access to training outside of the agency, and online aids such as Cyberfeds, ELI training, and the EEOC Institute. |
| <ul style="list-style-type: none"> [REDACTED] | <ul style="list-style-type: none"> The MOU between the United States Postal Service (USPS) and the U.S. Department of Labor allows the Department of Labor to use USPS investigations contractors to ease their procurement process, reduce costs, and share the burden for quality control. |
| <ul style="list-style-type: none"> Title VII’s heavily reliance on CRFLO threatens the program’s neutrality and delays processing | <ul style="list-style-type: none"> Forest Service OCR and General Counsel collaborated to design standard operating procedures for the EEO complaint process. The SOPs outline every step in the process, process owner, and process time breakdown. NASA has an attorney assigned to the ODEO from the Solicitor General’s office. The attorney is only asked to advise when there is an overload. The ODEO Associate Administrator has all final decision rights. |
| <ul style="list-style-type: none"> Significant delays and quality control issues experienced in completion of several mandated reports | <ul style="list-style-type: none"> U.S. Commission on Civil Rights suggests mandatory quality assurance review procedures. The guidelines should require review at various stages of development, and uniformly track witness contact so that investigators are held accountable for quality work. |

Recommendations

As mentioned in Section 4.1, the improvement roadmap will address defining Title VII core functions and related staff development plans and corresponding SOPs and tools. Below are additional Title VII recommendations, based on the findings.

²⁸ Although OCR currently lacks a case management system, it has initiated the implementation of a system.

Enforce a performance management and quality assurance program. The Title VII program should institute a formal performance tracking program which defines specific targets for: timeliness; quality of writing; accuracy of legal research and analysis; and ability to effectively manage contract investigators, specifically to avoid unnecessary costs and rework. The performance tracking program should be preceded by an internal workshop on roles, responsibilities, and individual performance expectations which concludes with a commitment by staff to team and collaborate to take advantage of strengths where others have weaknesses and accept an ‘as-one’ approach to quality management.

Strengthen legal research and analysis skills. Title VII staff should have attorneys on staff to advise the Civil Rights Director on Title VII issues, and perform leadership roles for the office. The lawyers do not need litigation experience, but should be able to provide a deep understanding of Title VII and civil rights related laws, whether through experience, formal education, or a combination of both. Furthermore, this legal acumen will help Title VII program provide prompt, fair and impartial review, and adjudication of any allegation of discrimination.

Develop deep analytical and communication skills. OCR staff should have strong analytical, communication, and writing skills. The frequent interface with complainants and other parties necessitates competence in translating legal jargon into common language. Strong interpersonal skills should be emphasized. Additionally, Title VII staff should have the ability to or at least understand statistical analysis of case origin, issue, and other parameters to proactively identify hot spots of employment complaints and coordinate with the AED program to institute remedial actions, as feasible and appropriate.

Implement a case management tool to manage Title VII workload, track timeliness and results, and complete mandatory reporting. (Deloitte learned this is already underway.) The case management tool should incorporate access rights for each stakeholder involved in the process. Currently, field-based staff are left out of the case management process once they submit a case to Headquarters which turned from informal to formal status. It is important that EPA leverage technology as a vehicle to not only organize, streamline, and track operational performance, but also trigger alerts to inform stakeholders of outcomes which help civil rights colleagues and relevant parties learn from the decisions and outcomes resultant from case closure.

Strengthen the Alternative Dispute Resolution (ADR) mechanism and Conflict Management programs. Assess the statistical outcomes of discrimination complaint origins and issues and develop specific ADR and Conflict Management measures to proactively conduct outreach in high incidence regions and for high incidence issues. Coordinate implementation through EEO Officers in the field who participate in ADR and Conflict Management training and set specific goals for number of supervisors and line employees in high incidence areas trained. The program should be supplemented by specific Affirmative Employment programming from AED wherever the complaint trends indicate higher incidence within one employee thread (i.e. Hispanics, women, American Indians and Native Alaskans, etc.). The training and intervention program should be tracked to measure increased instances of informal complaints resolved through ADR instead of moving into the formal complaints process, as well as an overall reduction in total informal complaints lodged as a result of supervisors and line employees trained in Conflict Management skills and techniques. Executive sponsorship for the ADR and Conflict Management initiative should originate from the top of the Agency, for example, through messaging from the Administrator to relevant regional or program leaders acknowledging high incidences of discrimination complaints and championing the intervention program.

Assign high-performing field-level EEO Officers to part-time or full-time detail to provide a better source of skilled labor to reduce Title VII backlog. The OCR Director coordinates with regional administration to assign high performing EEO Officers to a part-time detail. The Title VII Assistant Director coordinates the assignment of workload according to greatest need, either at the Jurisdictional Review and Investigation stages, or the Final Agency Decision stage. EEO Officers avoid handling cases where there could be a conflict of interest, such as EEO cases originating from their regions. The addition of quality inputs contributes to reducing backlog and also reinforcing a sense of common purpose and shared responsibility between HQ and field-level EEO Officers. The EEO Officers also gain insight into the mechanics of the formal investigation process enhancing their ability to inform prospective complainants through real-life experience.

Document rules of engagement for collaborating with OGC staff to mitigate perceptions that neutrality is compromised by OGC involvement in the formal complaints management stages. Establish appropriate boundaries within OGC to protect OCR's neutrality and its use of firewalled CRFLO staff.

Restructure the Contract Investigations Function. Title VII should develop a more stringent standard for selecting and replacing contracted investigators, such as an approach for blocking underperforming contractors from reenlisting in EPA's investigative program. Title VII should also explore alternatives to its contract management program, by either in-sourcing or outsourcing the function. Given Title VII's inability to consistently meet their existing requirements, Deloitte recommends contracting with the USPS which has an established center of excellence for EEO contract investigators. The DOL uses the USPS contract investigative service and described as a benefit both cost reductions and ease of quality control.

5 Approach to Implementation

5.1 Implementation Plan

This Implementation Plan addresses the activities and milestones to put into operation the recommendations for each of the five areas discussed: 1) Leadership; 2) Management; 3) Title VI Program Management; 4) AED; and 5) Title VII Program Management. Given the urgency within the Agency to rapidly transform the Office of Civil Rights (OCR) function, Deloitte Consulting (Deloitte) developed an Implementation Plan assuming a start date of March 1, 2011 and end date of March, 2013. A Gantt chart illustrating tasks and timeline is on the following pages.

We realize that both the number of recommendations proposed, and subsequent effort, would require a tremendous amount of Agency resources and commitment to accomplish within a one year timeframe. Further constraining matters will be the likelihood of budget reductions that will make it more difficult for the Agency to implement all of our proposed recommendations within a short time. Given this likelihood, we have presented a sequence of activities that would have the most immediate impact. Therefore, the Environmental Protection Agency (EPA) can choose to stretch these recommendations over a two-year time table to better balance resources.

Our plan begins with recognizing that EPA must address its current deficiencies in leadership and workforce competencies. We propose a Stabilize Phase that will begin in March, 2011 and carry through to October, 2011. The intended purpose of this phase is to implement the recommendations that help fill OCR's leadership positions expeditiously with qualified, experienced and motivated senior civil rights professionals; develop and implement a plan that will fundamentally improve OCR's processes; and secure the right overall staff resources, including those who can carry out the fundamental pursuit of improving the specific Title VI program objectives.

We begin by addressing how OCR can overcome problems in the core process areas impeding its effectiveness. This includes determining how the OCR programs can better interact with other EPA offices. For example, OCR can establish a stronger relationship with ORD and OECA to better collect and analyze data that will proactively predict the likelihood of potential Title VI cases. These activities, which include a great deal of interaction and outreach with internal EPA stakeholders, will take approximately two months.

An equally important part of this Stabilize Phase is realignment and improvement of the core workforce to support OCR needs and Title VI extended network of resources. These activities will carry into late October 2011, including documenting all staff job roles and determining required skills, competencies and experiences for each role. With well-defined job roles, OCR can evaluate its current overall workforce against the requirements and identify gaps. Then, a comprehensive workforce plan will help OCR fill the gaps through a combination of new training programs and/or targeted staff hiring or alignment. It will also include the development of well-defined career paths and performance management processes.

The other critical aspect of this Stabilize Phase is addressing OCR's pressing need to expedite effective resolution of complex Title VI cases. This begins by helping OCR adopt a standard process to charter cross-functional investigative teams that bring together the right expertise to address each complaint. To catalyze these efforts, a senior leader in the Office of the Administrator should be identified as a "champion" to drive greater cooperation and collaboration between OCR, the program offices that possess unique technical expertise, and the field offices that understand the local context of individual complaints.

Upon the completion of the Stabilize Phase, it is recommended that OCR leadership set aside six weeks to conduct a long-term strategic planning session. This session will address a number of objectives, first and foremost being an assessment of its overall effectiveness. Also, it will give OCR leadership an opportunity to prioritize further improvements in the administering of the Title VI and Title VII programs and last, but not least, AED. Moreover, the group will review and refine the proposed organizational design recommendation. Once refined and approved, OCR will implement the new organizational structure.

Most importantly, the purpose of this session will be to determine how the OCR leadership, in concert with the EPA Administrator, will be able to institutionalize the current Title VI program objectives. This institutionalization will be designed to protect the Title VI program objectives from the shifting political priorities – especially those common as a result of changes in Administrations. The likely result of these planning sessions will be recommendations to draw upon existing environmental authorization legislation in order to fashion a legal basis for regulations that can further justify Title VI objectives.

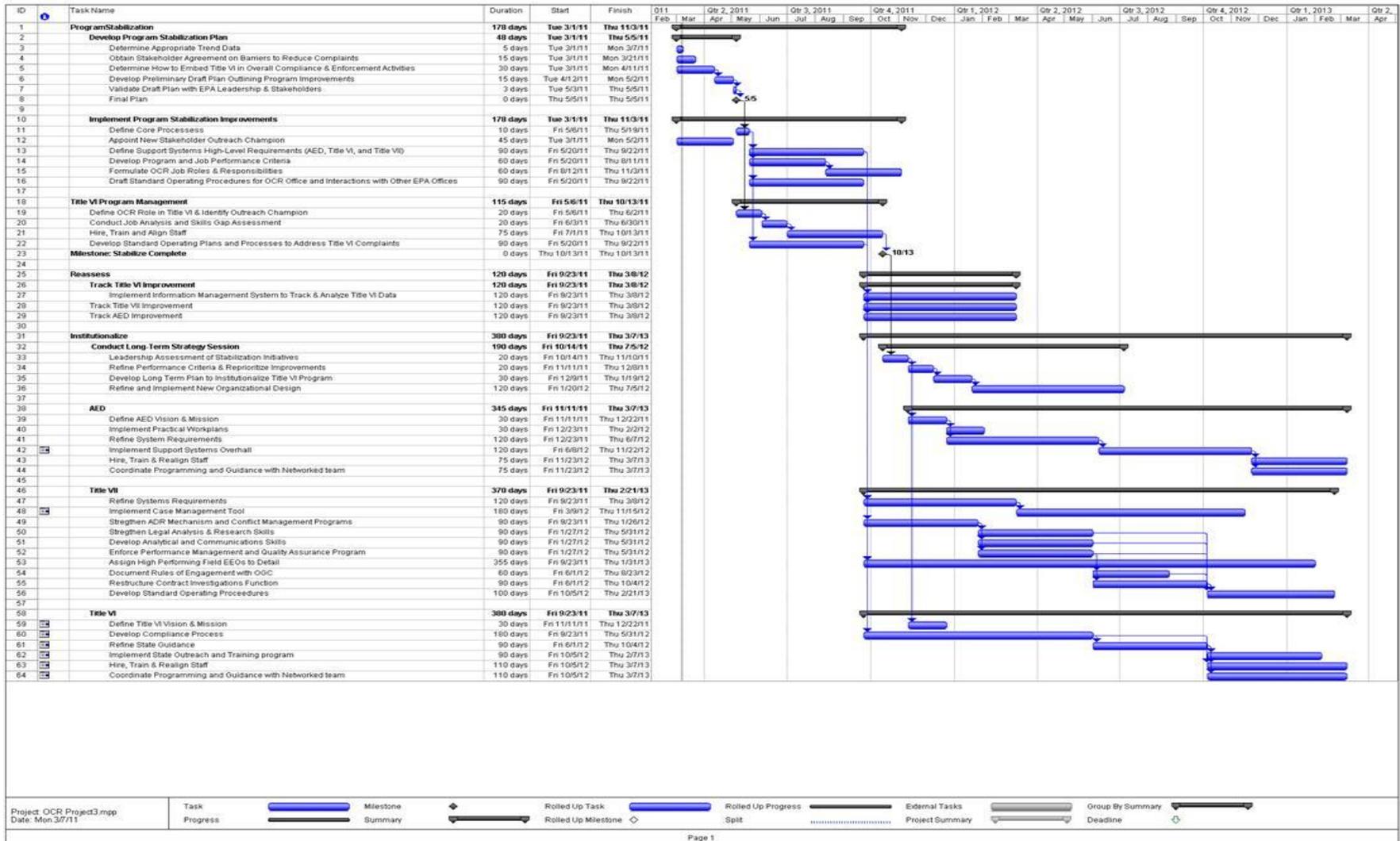
Should EPA have the resources, our Implementation Plan assumes the next series of transformation objectives will focus on process improvements in AED and Title VII, as well as improving the underlying support systems. Focusing on AED first, the majority of recommendations will be conducted beginning in November, 2011 and carry through to March 2013. The initial focus will be on developing practical work plans to improve its ability to coordinate affirmative employment across the Agency. In particular, these plans will focus on activities and outreach initiatives to improve inclusion and diversity in the workplace. This will also include better alignment and leveraging EEO Officers in the field to both promote Affirmative Employment and Diversity (AED) sponsored initiatives as well as improve their ability to gather information about potential barriers. Like the Title VI program, however, one of the most critical and time consuming activities will be staff development and/or realignment for Title VII and AED.

Title VII has the most recommendations in the Institutionalize Phase, as reflected in the project plan. Beginning in September 2011, the majority of Title VII efforts will focus on improving several key processes, including: strengthening the Alternative Dispute Resolution mechanism and conflict resolution programs; determining opportunities to improve staff legal research and analysis skills; and restructuring the Contracts Investigations function. We also recommend bringing experienced Equal Employment Opportunity (EEO) officials into the Title VII program to improve overall program interaction with regional offices. Once these process improvements are complete, they will be documented into a new set of Standard Operation Procedures (SOPs).

Finally, our recommendations discuss implementation of three major systems improvements, including predictive analytics to support Title VI, improved case management support for Title VII (which is already underway), and a general overall of the AED system. We have scheduled these systems improvements for the latter half of the overall effort as business requirements become clear. As discussed above, OCR has to focus on a number of critical process and human capital improvements at the outset, so there is no way to address these systems improvements earlier in the implementation plan. The risk, however, is that the plan calls for the systems improvements in AED, Title VI, Title VII to occur simultaneously. One systems upgrade, no matter how small, is a time and resource consuming initiative. Three upgrades in a near simultaneous schedule would be difficult to manage.

As such, we would believe that OCR should consider spacing these upgrades out over the course of 18-24 months so they can occur sequentially. This sequential systems development approach will also allow OCR to further refine the business and technical systems requirements, as well as explore additional technology alternatives both within the Agency and outside in order to determine the most cost-effective and least risky solutions.

Figure 5-1. Implementation Plan



6 Appendices

6.1 Appendix A: Leading Practices Analysis

See enclosed PowerPoint presentation

Requested Department of State, Office of Civil Rights mission, vision, values and goals

The Department of State, Office Of Civil Rights

Mission
Propagate fairness, equity, and inclusion throughout the Department of State.

Vision
A workplace that is just and respects all people, their knowledge, skills, and abilities.

| Values | Goals |
|--|---|
| <p style="text-align: center;"><i>Integrity</i> S/OCR values honoring differences amongst all people</p> <p style="text-align: center;"><i>Accountability</i> S/OCR values reliability and accepting responsibility</p> <p style="text-align: center;"><i>Knowledge</i> S/OCR values continuous learning</p> <p style="text-align: center;"><i>Creativity</i> S/OCR values new ideas and resourcefulness</p> <p style="text-align: center;"><i>Customer Service</i> S/OCR values providing expertise for the Department</p> <p style="text-align: center;"><i>Flexibility</i> S/OCR values adjusting to situations as they arise</p> | <p style="text-align: center;">Treat all people with dignity, patience, and courtesy.</p> <p style="text-align: center;">Increase awareness and proactively address equal employment opportunity concerns.</p> <p style="text-align: center;">Continue to create opportunities for collaboration and formal information sharing.</p> <p style="text-align: center;">Enhance teamwork through professionalism and cooperation.</p> <p style="text-align: center;">Stimulate an appreciation for differences throughout the Department.</p> <p style="text-align: center;">Provide quality outreach and expert guidance.</p> <p style="text-align: center;">Utilize government resources with care.</p> |

6.2 Appendix B: Case Studies/Additional Leading Practices

See enclosed PowerPoint presentation

6.3 Appendix C: Web-based Survey Results

See enclosed PowerPoint presentation

6.4 Appendix D: Title VI Complaints and Title VII Workload Analysis

See enclosed PowerPoint presentation

6.5 Appendix E: Information Sources

See enclosed PowerPoint presentation

6.6 Appendix F: Roles and Responsibilities

Strategic Advisors

The Human Resource Council (HRC) is a cadre of Senior Executive Service (SES) Environmental Protection Agency (EPA) employees who volunteer to provide strategic guidance and direction in setting future human resource goals and strategies. OCR provides periodic reports to the HRC regarding the Agency's demographic trends and high priority civil rights issues. The benefit of this relationship is access to SES staff overseeing both program and regional administration who can collaborate with the Office of Civil Rights (OCR) to link civil rights objectives to broader Agency goals. The HRC provides key operational insights to civil rights leadership and, vice versa, OCR receives important feedback regarding civil rights performance across EPA programs and regions.

The Office of Environmental Justice (OEJ) maintains an ad hoc reporting relationship with the External Complaints and Compliance (Title VI) program to provide an alternative venue for cases which do not fit within Title VI guidelines but could still be addressed by other EPA program offices. OEJ and the Title VI program also collaborate in developing briefing materials for the White House Initiative on Environmental Justice and to assess whether Title VI processes can be replicated for managing Environmental Justice cases.

The Office of Diversity, Outreach, and Collaboration (ODOC) is a newly established Associate Assistant Administrative level function whose role is to design a cross-cutting and strategic approach to diversity management. ODOC has developed a conceptual framework for an executive dashboard reporting workforce demographics which overlaps with the Affirmative Employment and Diversity's responsibilities. Cultivating this relationship could provide OCR with subject matter expertise and visibility into diversity management.

Operating Partners

The Civil Rights Law and Finance Office (CRFLO) provides legal expertise to assist both Title VI and employment complaints (predominantly Title VII) case managers with complex legal analysis. The relationship has expanded and contracted over the years and presently CRFLO provides quality assurance for documentation developed throughout the lifecycle of case management for both external (Title VI) and internal (Title VII) complaints. CRFLO is a dedicated resource for civil rights related cases and structurally separate from the Employment Law division which represents Agency management.

The Office of Human Resources (OHR) as well as its network of field staff, known as Human Resource Officers (HROs) is the primary partner for all EEO related civil rights programs – including those managed by the Affirmative Employment and Diversity (AED) and Employment Complaints Resolution programs. OHR and the HROs are stakeholders in capturing and reporting workforce data and ensuring affirmative employment and non-discrimination policies are integrated into EPA's talent management practices at Headquarters and with front-line managers at the field level.

The Office of Grants and Debarment (OGD) interfaces with the External Complaints and Compliance (Title VI) program to ensure all requests for federal funds include a pre-award declaration of compliance with federal non-discrimination requirements. OGD reports statistical data on grant applications which the Title VI program uses for ad hoc reporting to Agency leadership and biennial reporting to the Department of Justice. The Title VI program and OGD also coordinate changes to the database of organizations which have existing civil rights disputes or unresolved infractions and are barred from doing business with EPA.

Field offices at the regions and laboratories perform core civil rights responsibilities for AED, Title VI, and Title VII programs while also periodically interfacing with Headquarters OCR to communicate local civil rights challenges and accomplishments.

6.7 Appendix G: Abbreviations Glossary

| | |
|---------|---|
| AA: | Associate/Assistant Administrator |
| ADR: | Alternative Dispute Resolution |
| AED: | Affirmative Employment and Diversity |
| ARA: | Associate Regional Administrator |
| CRC: | Civil Rights Center (Department of Labor) |
| CRFLO: | Civil Rights and Finance Law Office |
| CRT: | Complaints Resolution Team |
| DEQ: | Department of Environmental Quality (State level) |
| DOJ: | Department of Justice |
| DOL: | Department of Labor |
| EEO: | Equal Employment Opportunity |
| EEOC: | Equal Employment Opportunity Commission |
| EES: | Equal Employment Specialists |
| EPA: | Environmental Protection Agency |
| FAD: | Final Agency Decision |
| FHEO: | Federal Housing and Equal Opportunity (HUD) |
| FHWA: | Federal Highway Administration |
| HQ: | Headquarters |
| HRO: | Human Resources Officer |
| HUD: | Department of Housing and Urban Development |
| IR: | Investigative Reports |
| KSA: | Knowledge, Skills, and Abilities |
| MAI: | Minority Academic Institution |
| MD-110: | Management Directive Federal Sector Complaint Processing Manual |

MD-715: Management Directive EEO Reporting Requirements for Federal Agencies

MOU: Memorandum of Understanding

NIH: National Institutes of Health

OA: Office of the Administrator

OCR: Office of Civil Rights

ODEO: Office of Diversity and Equal Opportunity (NASA)

ODOC: Office of Diversity, Outreach, and Collaboration

OECA: Office of Enforcement and Compliance Assurance

OEJ: Office of Environmental Justice

OEODM: Office of Equal Opportunity and Diversity Management (NIH)

OGC: Office of General Counsel

OGD: Office of Grants and Debarment

OHR: Office of Human Resources

ORD: Office of Research and Development

OSB: Office of Small Business

PMO: Program Management Officer

QA: Quality Assurance

RA EEO: Regional Administrator, Equal Employment Opportunity field office

RACI: Responsibility Assignment Matrix

SEPM: Special Emphasis Program Manager

SOO: Statement of Objectives

SOP: Standard Operating Procedure

USPS: U.S. Postal Service

WHI: White House Initiative