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**BUREAU OF
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Thomas A. Morrison
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BSP Organizational Circular No.: BSP-2012-001

AUG 23 2012

TO: All BSP Employees

FROM: Director, Bureau of Statistics and Plans

SUBJECT: Guam Bureau of Statistics and Plans Procedures for Addressing Complaints Alleging Discrimination from Employees, Clients, Customers or Programs Participants of the Guam Bureau of Statistics and Plans and from Employees, Clients, Customers or Program Participants of Subrecipients Implementing Funding from U.S. Department of Justice Grant Programs

Buenas yan Háfa Adai! As a recipient of U.S. Department of Justice federal grants, the Bureau of Statistics and Plans must comply with the federal statutes and regulations that prohibit discrimination in federally assisted programs or activities regardless of race, color, national origin, sex, religion, disability, and age. In light of this compliance, the Bureau with guidance and assistance from the U.S. Department of Justice, Office for Civil Rights has developed procedures for employees of the Bureau to follow when they receive a complaint that alleges services discrimination and employment discrimination.

As such, I hereby adopt BSP Organizational Circular No. BSP-2012-001 in reference to the *Guam Bureau of Statistics and Plans Procedures for Addressing Complaints Alleging Discrimination from Employees, Clients, Customers or Programs Participants of the Guam Bureau of Statistics and Plans and from Employees, Clients, Customers or Program Participants of Subrecipients Implementing Funding from U.S. Department of Justice Grant Programs, and the procedures is as follows:*

I. Purpose

The purpose of this document is to establish written procedures for employees of the Bureau of Statistics and Plans (BSP) to follow when they receive a complaint that alleges the following:

1. Services discrimination against clients, customers, program participants, or consumers of BSP or of a subrecipient implementing funding from DOJ or
2. Employment discrimination from an employee or applicant of a subrecipient implementing funding from DOJ.

II. Policy

Recipients of financial assistance from OJP, OVW, and COPS must comply with the federal statutes and regulations that prohibit discrimination in federally assisted programs or activities. All individuals have the right to receive services or benefits through programs and activities operated by BSP and subrecipients regardless of race, color, national origin, sex, religion, disability, and age. All employees and applicants of BSP's subrecipients shall be treated equally regardless of race, color, national origin, sex, religion, and disability.¹

BSP will ensure that its subrecipients comply with all applicable federal laws regarding nondiscrimination and are aware of the following statutes and regulations:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of **race, color or national origin** in programs or activities funded by OJP, the Office on Violence Against Women (OVW), or the Office of Community Oriented Policing Services (COPS) (42 U.S.C. § 2000d), and the DOJ implementing regulations of 28 C.F.R. part 42, Subpart C;
- The Omnibus Crime Control and Safe Streets Act of 1968, as amended, which prohibits discrimination on the basis of **race, color, national origin, religion, or sex in the delivery of services and employment practices** in programs or activities funded by OJP, OVW, or COPS (42 U.S.C. § 3789(c) (1)), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart D;
- Section 504 of the Rehabilitation Act, which prohibits discrimination on the basis of **disability in delivery of services and employment practices** in programs or activities funded by OJP, OVW, or COPS (29 U.S.C. § 794), and the DOJ implementing regulations at 28 C.F.R. part 42, Subpart G;
- Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of **disability in the delivery of services and employment practices** in programs or activities funded by OJP, OVW, or COPS (42 U.S.C. § 12132), and the DOJ implementing regulations at 28 C.F.R. Part 35;
- Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of **sex in education programs** funded by OJP, OVW, or COPS (20 U.S.C. § 1681), and the DOJ implementing regulations at 28 C.F.R. Part 54);
- The Age Discrimination Act of 1975, which prohibits discrimination on the basis of **age in the delivery of services** in programs or activities funded by OJP, OVW, or COPS (42 U.S.C. § 6102), and the DOJ implementing regulations at 28 C.F.R. part 42, Subpart I; and
- The DOJ regulations on the Equal Treatment for Faith-Based Organizations, which **prohibit discrimination on the basis of religion in the delivery of services and prohibit organizations from using DOJ funding for inherently religious activities** (28 C.F.R. Part 38; see also Executive Order 13279 and Executive Order 13559).

¹ BSP is subject to the Personnel Rules and Regulations of the Guam Department of Administration, which contains an employment nondiscrimination policy and procedures for resolving discrimination complaints in employment. The Bureau is also subject to the Guam Office of the Governor's Executive Order No. 2006-16, which reestablished Guam's Equal Employment Opportunity Program.

These laws prohibit BSP and subrecipients from retaliating against an individual for taking action or participating in action to secure rights protected by these laws.

III. Definitions

- a. 'Complaint Coordinator' means the person who is responsible for coordinating the series of actions found in the complaint procedures.
- b. 'Complainant' means the person who files a complaint.
- c. 'Discrimination' means to act on the basis of (i) race, color, national origin, sex, religion, disability, or age in programs and/or activities or (ii) race, color, national origin, sex, religion, or disability in employment.
- d. 'OCR' means the Office for Civil Rights, Office of Justice Programs, DOJ.
- e. 'EEOC' means the U.S. Equal Employment Opportunity Commission.
- f. 'Subrecipient' means any organization or agency to which BSP administers DOJ funds.

IV. Complaint Procedures

Services discrimination

The following procedures should be used when responding to a complaint of services discrimination from a client, customer, program participant, or customer of BSP or of a subrecipient:

1. Any employee of BSP who receives a complaint of services discrimination subject to this policy should send the complaint to the BSP complaint coordinator, **Terry Cuabo**, within 15 working days of receiving the complaint; and
2. Within 15 working days of receiving a services discrimination complaint subject to this policy, BSP complaint coordinator will seek to resolve a services discrimination complaint filed against BSP before referring it to OCR, if the services discrimination cannot be resolved through mediation then the complaint coordinator will refer that complaint to OCR.

Within 15 working days of a complaint referral, the complaint coordinator will provide written notice to a complainant that BSP received the complaint and forwarded it to OCR. Through its subrecipient monitoring process, BSP will ensure that subrecipients have procedures in place for responding to discrimination complaints that clients, customers, program participants, or consumers file directly with them. If a subrecipient receives a complaint alleging services discrimination, the subrecipient may investigate the complaint and respond directly to the complaining party in writing or refer the complaint to OCR and notify the complainant and BSP of the referral. Through its subrecipient monitoring process, BSP will also ensure that subrecipients notify their clients, customers, program participants, and consumers of prohibited discrimination and the procedures for filing a services discrimination complaint. BSP will also notify its clients, customers, program participants, and consumers of prohibited discrimination and its procedures for filing a services discrimination complaint by

posting the policy on the Bureau of Statistics and Plans website.

Examples of discrimination in the delivery of services

An example of discrimination in the delivery of services based on disability would be the failure of a funded correctional facility to provide interpreter services to hearing-impaired inmates. An example of discrimination in the delivery of services based on race would be a funded police department's practice of stopping and interrogating, without cause, all Hispanic males driving on a particular highway.

Employment discrimination

The following procedures should be used when responding to a complaint of employment discrimination from an employee or applicant of a subrecipient:

- 1) Any employee of BSP who receives a complaint of employment discrimination subject to this policy should send the complaint to the BSP complaint coordinator, **Terry Cuabo**, within 15 working days of receiving the complaint; and
- 2) Within 20 working days of receiving an employment discrimination complaint subject to this policy, the BSP complaint coordinator will refer that complaint to the EEOC and the Government of Guam Department of Administration (DOA) Human Resource Division (HRD) to conduct an external investigation of the complaint. Within 20 working days of a complaint referral, the BSP complaint coordinator will provide written notice to the complainant that BSP received the complaint and forwarded it to EEOC and to the Government of Guam DOA HRD.

Through its subrecipient monitoring process, BSP will ensure that subrecipients have procedures in place for responding to discrimination complaints that employees or applicants file directly with the subrecipient. If a subrecipient receives a complaint alleging employment discrimination, the subrecipient may investigate the complaint and respond directly to the complaining party in writing or refer the complaint to EEOC and notify the complainant and BSP of the referral. Through its subrecipient monitoring process, BSP will also ensure that subrecipients notify their employees of prohibited discrimination and the procedures for filing an employment discrimination complaint.

Example of discrimination in employment practices

An example of discrimination on the basis of sex in the employment practices of a funded law enforcement agency is having a policy preferring males over females in recruiting entry-level patrol officers.

V. Filing a Complaint with EEOC

A complainant may file a complaint of employment discrimination directly with EEOC at the EEOC Los Angeles District Office. The location, contact number, fax number, and TYY are

as follows:

Location: Royal Federal Building
255 East Temple St., 4th Floor
Los Angeles, CA 90012

Phone: 1-800-669-4000

Fax: 213-894-1118

TTY: 1-800-669-6820

The procedures for filing a complaint with the EEOC's Los Angeles District Office are available at <http://www.eeoc.gov/field/losangeles/charge.cfm>.

VI. Filing a Complaint with OCR

A complainant may file a complaint of discrimination against BSP or a subrecipient of DOJ funding directly with OCR. The procedures for filing a discrimination complaint with OCR are available at its Web site at <http://www.ojp.usdoj.gov/about/ocr/complaint.htm>. To file a civil rights complaint, complete a Complaint Verification Form and an Identity Release Statement, which are available at <http://www.ojp.usdoj.gov/about/ocr/complaint.htm>, and return both forms to OCR at the following address:

Office for Civil Rights
Office of Justice Programs
U.S. Department of Justice
810 7th Street, N.W.
Washington, D.C. 20531

If you believe that you have been the target of discrimination, you should file a complaint with OCR as soon as possible. In most circumstances, you may have no longer than one year from the date of the discriminatory incident to file a complaint. Additional tips for filing a complaint are available at <http://www.ojp.usdoj.gov/about/ocr/complaint.htm>.

VII. Training on Discrimination Complaint Procedures

BSP will provide periodic training for agency employees on prohibited discrimination and its complaint procedures, including an employee's responsibility to promptly refer to the complaint coordinator pertinent discrimination complaints from or potential discrimination issues involving BSP or a subrecipient. BSP will disseminate these procedures to agency employees by posting the procedures on the agency website at bsp.guam.gov, providing a copy of the procedures to employees during the training sessions, and distributing the procedures to all new employees during orientation.

Your compliance in this matter is greatly appreciated. If you have any questions or comments regarding this program, please do not hesitate to contact our Acting Planner IV supervisor for

our Socio-Economic Planning Program section, Ms. Lola Leon Guerrero or our BSP Complaint Coordinator, Mr. Terry Cuabo for further clarification.



THOMAS A. MORRISON