

FORM 4700-4 PROCESS REVISION OVERVIEW

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**ECOS ENVIRONMENTAL JUSTICE (EJ)
WORKGROUP MEETING
DECEMBER 19, 2022**

KURT TEMPLE (EPA OECRC)

BACKGROUND

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- **General.** Applicants for EPA assistance shall submit an assurance with their applications stating that, with respect to their programs or activities that receive EPA assistance, they will comply with the requirements of this part. Applicants must also submit any other information that the [OECRC] determines is necessary for preaward review. The applicant's acceptance of EPA assistance is an acceptance of the obligation of this assurance and this part. 40 C.F.R. 7.80
- **EPA General Terms and Conditions** (Para. 39): This term and condition incorporates by reference the signed assurance provided by the recipient's authorized representative on: 1) EPA Form 4700-4, "Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance"; and 2) Certifications and Representations in Sam.gov or Standard Form 424D, as applicable. These assurances and this term and condition obligate the recipient to comply fully with applicable civil rights statutes and implementing federal and EPA regulations.

TERMS & CONDITIONS OF ASSISTANCE

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39. Civil Rights Obligations

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Public Policy Requirements

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These assurances and this term and condition obligate the recipient to comply fully with applicable civil rights statutes and implementing federal and EPA regulations.

a. Statutory Requirements

- i. In carrying out this agreement, the recipient must comply with:
 1. Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP), by entities receiving Federal financial assistance.
 2. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities by entities receiving Federal financial assistance; and
 3. The Age Discrimination Act of 1975, which prohibits age discrimination by entities receiving Federal financial assistance.
- ii. If the recipient is an education program or activity (e.g., school, college or university) or if the recipient is conducting an education program or activity under this agreement, it must also comply with:
 1. Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities operated by entities receiving Federal financial assistance. For further information about your compliance obligations regarding Title IX, see 40 CFR Part 5 and <https://www.justice.gov/crt/title-ix>
- iii. If this agreement is funded with financial assistance under the Clean Water Act (CWA), the recipient must also comply with:
 1. Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex in CWA-funded programs or activities.

b. Regulatory Requirements

- i. The recipient agrees to comply with all applicable EPA civil rights regulations, including:
 1. For Title IX obligations, 40 C.F.R. Part 5; and
 2. For Title VI, Section 504, Age Discrimination Act, and Section 13 obligations, 40 CFR Part 7.

PRE-AWARD REVIEW: FORM 4700-4

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- Notice of nondiscrimination
 - 40 C.F.R. § 7.95(a); 40 C.F.R. § 5.140
- Demographic Data
 - 40 C.F.R. 7.85(a)
- LEP Policy/Procedure
 - Title VI, 40 C.F.R. Part 7; *Lau v Nichols*, 414 U.S. 563 (1974))
- Nondiscrimination Coordinator
 - 40 C.F.R. § 7.85(g); 40 C.F.R. § 5.135(a)
- Grievance Procedures
 - 40 C.F.R. § 7.90; 40 C.F.R. § 5.135(b)
- List All: 1) pending civil rights lawsuits and administrative complaints; 2) those decided against the applicant (w/in last year); 3) fed civil rights compliance reviews (last 2 years)

OMB Control No. 2030-0020
Approval expires 06/30/2024

**Preaward Compliance Review Report for
All Applicants and Recipients Requesting EPA Financial Assistance**

Note: Read instructions before completing form.

This collection of information is approved by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. (OMB Control No. 2030-0020). Responses to this collection of information are required to obtain an assistance agreement (40 CFR Part 30, 40 CFR Part 31, and 40 CFR Part 33 for awards made prior to December 26, 2014, and 2 CFR 200, 2 CFR 1500, and 40 CFR Part 33 for awards made after December 26, 2014). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The public reporting and recordkeeping burden for this collection of information is estimated to be 0.5 hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the Regulatory Support Division Director, U.S. Environmental Protection Agency (2821T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

I. A. Applicant/Recipient (Name, Address, City, State, Zip Code)

Name:
 Address:
 City:
 State: Zip Code:

B. Unique Entity Identifier (UEI):

C. Applicant/Recipient Point of Contact

Name: Phone: Email:
 Title:

II. Is the applicant currently receiving EPA Assistance? Yes No

III. List all pending civil rights lawsuits and administrative complaints filed under federal law against the applicant/recipient that allege discrimination based on race, color, national origin, sex, age, or disability. (Do not include employment complaints, unless covered by 40 C.F.R. Parts 5 and 7.)

IV. List all civil rights lawsuits and administrative complaints decided against the applicant/recipient within the last year that alleged discrimination under federal law based on race, color, national origin, sex, age, or disability and enclose a copy of all decisions. Please describe all corrective actions taken. (Do not include employment complaints, unless covered by 40 C.F.R. Parts 5 and 7.)

V. List all civil rights compliance reviews of the applicant/recipient conducted under federal nondiscrimination laws by any federal agency within the last two years and enclose a copy of the review and any decisions, orders, or agreements based on the review. Please describe any corrective action taken. (40 C.F.R. § 7.80(c)(3))

VI. Is the applicant requesting EPA assistance for new construction? If no, proceed to VII; if yes, answer (a) and/or (b) below.

Yes No

a. If the grant is for new construction, will all new facilities or alterations to existing facilities be designed and constructed to be readily accessible to and usable by persons with disabilities? If yes, proceed to VII; if no, proceed to VI(b).

Yes No

b. If the grant is for new construction and the new facilities or alterations to existing facilities will not be readily accessible to and usable by persons with disabilities, explain how a regulatory exception (40 C.F.R. 7.70) applies.

VII. Does the applicant/recipient provide initial and continuing notice that it does not discriminate on the basis of race, color, national origin, sex, age, or disability in its program or activities? (40 C.F.R. 5.140 and 7.95) Yes No

a. Do the methods of notice accommodate those with impaired vision or hearing? Yes No

b. Is the notice posted in a prominent place on the applicant's/recipient's website, in the offices or facilities or, for education programs and activities, in appropriate periodicals and other written communications? Yes No

c. Does the notice identify a designated civil rights coordinator? Yes No

EPA Form 4700-4

PRE-AWARD REVIEW: FORM 4700-4

APPLICANT CERTIFICATION

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“I certify that the statements I have made on this form and all attachments thereto are true, accurate and complete. I acknowledge that any knowingly false or misleading statement may be punishable by fine or imprisonment or both under applicable law. I assure that I will fully comply with all applicable civil rights statutes and EPA regulations.”

- A. Signature of Authorized Official
- B. Title of Authorized Official
- C. Date

OIG REPORT RE EPA TITLE VI OVERSIGHT OF RECIPIENTS (2020)

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- FY20, EPA OIG evaluation of EPA’s External Civil Rights Program - to determine whether EPA has implemented an oversight system ***to provide reasonable assurance that organizations receiving EPA funding comply with Title VI of the Civil Rights Act of 1964.***
- OIG Final Report issued with six recommendations on September 28, 2020 (OIG Report “Improved EPA Oversight of Funding Recipients’ Title VI Programs Could Prevent Discrimination” (Report No. 20-E-0333), (Sept. 28, 2020) (https://www.epa.gov/sites/production/files/2020-09/documents/epaoig_20200928-20-e-0333.pdf)).

Recommendation 4: *Verify that EPA funding applicants address potential noncompliance with Title VI with a written agreement before the funds are awarded.*

EPA RESPONSE TO OIG REPORT (2021)

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EPA accepted Recommendation 4. In doing so stated:

- ✦ EPA has developed modifications of its Form 4700-4 pre-award review process intended to achieve the goal of compliance by applicants recommended for competitive and non-competitive funding by EPA program offices.
- ✦ The revised process was developed ***to serve the goal of efficiency, given limitations in resources, while conveying the expectation that applicants and recipients of EPA financial assistance will comply with Federal civil rights laws and EPA's nondiscrimination regulation.***

NEW REVIEW GUIDELINES-FOUR CORNERS REVIEW

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- All applicants for EPA financial assistance must fill out a Form 4700-4.
- The Form is submitted through grants.gov as part of the grant application process for all applicants.
- **“Four-Corners” or “On its Face” Review** – Reviewer ensures that:
 1. each request on the Form is responded to;
 2. the answers are consistent with EPA’s nondiscrimination regulation; and
 3. the Form is signed with a current date.

REVIEW GUIDELINES

INCOMPLETE OR INCONSISTENT RESPONSES

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- If any answers are **incomplete or are inconsistent** with the nondiscrimination regulation, the reviewer will contact the POC on the Form for more information or to inform them which responses fall short of compliance
- The reviewer will inform the applicant that it has **10 calendar days** to respond with additional information or discuss with reviewer.
- **After 7 calendar days**, if no applicant response, reviewer will again contact the applicant requesting a response.
- If the applicant **responds with information that satisfies the four-corner review**, the reviewer will notify the grants office that based on the pre-award review there is no civil rights objection to the award.

REVIEW GUIDELINES

INCOMPLETE OR INCONSISTENT – SIX-MONTH AGREEMENT

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- If the applicant needs more time and/or technical assistance to implement Form 4700-4 procedural safeguards elements (*e.g.*, grievance procedures) the reviewer will *offer the opportunity for the applicant to enter a six-month agreement** during which time the applicant will implement the requirements or make changes necessary for responding to each Form 4700-4 request consistent with the nondiscrimination regulation requirements.
- **If applicant consents to an agreement, OECRC will acknowledge and confirm that the agreement is entered.**

****The form of the agreement may be an exchange of emails with the authorized official who signed the Form 4700-4.***

REVIEW GUIDELINES

FAILURE OR REFUSAL TO IMPLEMENT/CORRECT

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If the applicant

- 1) fails to provide information that makes their Form 4700-4 responses complete and consistent with the nondiscrimination regulation requirements, and
- 2) declines to enter into a six-month agreement

The Form review process will be referred to OECRC for further review and to determine appropriate action consistent with 40 C.F.R. Part 7.

TIPS FOR COMPLETING FORM 4700-4

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<https://www.epa.gov/grants/tips-completing-epa-form-4700-4>

- Form 4700-4 is required of all applicants for EPA assistance.
- The tips address some of the most frequently asked questions that EPA receives or the most common errors on the Form but are not a substitute for the instructions on page 3 of the Form. For, *e.g.*,
 - **Be sure to answer every question.** Failure to answer every question will result in a delay in the review of your Form.
 - **Do not leave questions blank.** If a question does not apply to you, put “NA” so the reviewer knows that it is not applicable.

FORM 4700-4 PROCESS REVISED PROCESS

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