

OVERVIEW OF THE PRE-AWARD FORM 4700-4 REVIEW PROCESS

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- **ECOS WORKSHOP PT.2**

- DECEMBER 15, 2023

- EPA OFFICE OF EXTERNAL CIVIL RIGHTS COMPLIANCE

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GOALS

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Part I

Demystify Complaint and
Compliance Review Process

Part II

Demystify Pre-Award Review Process

EPA'S EXTERNAL CIVIL RIGHTS COMPLIANCE PROGRAM

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Mission: Enforce the Federal Civil Rights Laws, including Title VI

The Office of External Civil Rights Compliance (OECRC) within the Office of Environmental Justice and External Civil Rights (OEJECR) is responsible for carrying out this Agency mission.

BACKGROUND

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- Applicants for EPA assistance shall submit an assurance with their applications stating that they will comply with the requirements of EPA's nondiscrimination regulations, along with any other information that OECRC determines is necessary for preaward review. The Applicant's acceptance of EPA assistance is an acceptance of the obligation of this assurance. [40 CFR 7.80\(a\)\(1\)](#)
- [EPA General Terms and Conditions](#) (Para. 41): 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.***

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:** pending civil rights lawsuits and administrative complaints and compliance reviews

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 average 0.5 hours per response. Send comments on this 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

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 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 and/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.
- 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.***

CURRENT SIX-MONTH AGREEMENT BREAKDOWN (AS OF 12/14/2023)

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136 6-Month Agreements

59 Agreements Resolved

Type of Organizations:

- State Agency (Env't'l Health, DNR, Energy)- **15**
- Municipal/Local Gov't- **45**
- Env't'l Interest Groups (Watershed Associations, Basin Groups, Research Organizations, etc.)- **45**
- Universities- **10**
- Other (Water Districts, Wastewater Organizations, Sewer Authorities, Oil & Gas Board, Fire Marshal Agency, Redevelopment Authority)- **21**

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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[Tips for Completing 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.

POST-AWARD AUDITS OF FORM 4700-4

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Purpose: To confirm whether the Recipient fulfills the nondiscrimination regulation requirements as indicated on the Recipient's Form that was reviewed by EPA at the time of application for EPA financial assistance.

*Four Audits have been initiated to date.



POST-AWARD AUDITS - PROCESS

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- **Selection of Recipient to be Audited**
 - OECRC will select Forms for Audit utilizing the [Process and Criteria for Selecting Form 4700-4 for Audit](#)
 - ✦ Initiate the Audit with a letter sent by email to Recipient Point of Contact
 - ✦ Follow up with Recipient within 5 business days of initiation to ensure acknowledgement by Recipient of the audit initiation and to schedule a conversation between OECRC and Recipient
 - Explain Audit purpose and process

AUDITS PROCESS (CONT.)

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- **Request for Information (RFI)**

- OECRC requests information from the Recipient to determine whether a Recipient's responses on a Form 4700-4 fulfill the nondiscrimination regulation requirements as indicated on that Form, which was reviewed by EPA at the time of application for EPA financial assistance.
 - ✦ Specifically, the audits focus on verifying the truth, accuracy, and completeness of Recipient's responses on the specified Form 4700-4, as indicated in the initiating correspondence.
- Recipients have 10-business days to respond to RFI.

AUDITS PROCESS (CONT.)

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- RFI Response Review
 - Review of Recipient's RFI responses to determine if those responses fulfill the requirements for the questions on Form 4700-4.



POST-AWARD AUDITS- RESOLUTION

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- No further action required by Recipient
 - Determination that the Recipient responses generally fulfill the requirements for the questions on Form 4700-4.
 - Technical Assistance may be provided.
- Agreement with Recipient
 - Determination that one or more of the Recipient responses to the questions on Form 4700-4 do not fulfill the requirements.
 - Technical Assistance provided.

FORM 4700-4

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Do you have
any
Questions? 😊