

**U.S. NUCLEAR REGULATORY COMMISSION MANAGEMENT DIRECTIVE (MD)**

<b>MD 10.164</b>	<b>NRC OUTREACH AND COMPLIANCE COORDINATION PROGRAM</b>	<b>DT-16-10</b>
<i>Volume 10,</i> <i>Part 7:</i>	Personnel Management, Employment, and Staffing General Personnel Management Provisions	
<i>Approved By:</i>	Stephen G. Burns, Chairman	
<i>Date Approved:</i>	March 17, 2016	
<i>Expiration Date:</i>	March 17, 2021	
<i>Issuing Office:</i>	Office of Small Business and Civil Rights Small Business, Outreach, and Compliance Coordination Directorate	
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<b>EXECUTIVE SUMMARY</b>		
<p>New Directive and Handbook 10.164 serve as a guide for U.S. Nuclear Regulatory Commission employees, supervisors, and managers to the NRC Office of Small Business and Civil Rights Outreach and Compliance Coordination Program (OCCP). This management directive (MD) reflects the agency's commitment to (1) promoting equal opportunity in NRC-conducted and Federal financially-assisted programs and activities, and (2) workforce development and diversity and inclusion by providing support and assistance to minority serving institutions.</p> <p>This MD is issued to—</p> <ul style="list-style-type: none"><li>(1) Define the agency's Federal responsibilities and regulatory requirements related to the programs and services provided under the OCCP, and</li><li>(2) Reflect the structure and functions of the OCCP.</li></ul> <p>Information regarding the NRC's external complaint processing and investigations can now be found in NUREG-2185, "The U.S. Nuclear Regulatory Commission's External Complaint Processing and Investigation Procedures Manual."</p>		

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## **I. POLICY**

### **A. Compliance with Federal and NRC Nondiscrimination Requirements**

It is the policy of the U.S. Nuclear Regulatory Commission to—

1. Foster equal opportunity for NRC employees and members of the public and to promote the principles of nondiscrimination in NRC-conducted and Federal financially-assisted (FFA) programs and activities.
2. Ensure compliance with NRC guidance and Federal laws, rules, regulations, Executive Orders (EOs), and court decisions involving compliance oversight, coordination, and enforcement (e.g., outreach, technical assistance, training, compliance reviews, informal and formal complaint processing) in accordance with—
  - (a) Title IV of the Energy Reorganization Act of 1974 (Title IV) (42 United States Code (U.S.C.). 5801 et seq.);
  - (b) Title VI of the Civil Rights Act of 1964 (Title VI) (42 U.S.C. 2000d et seq.);
  - (c) EO 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”;
  - (d) EO 13166, “Improving Access to Services for Persons with Limited English Proficiency”;
  - (e) Title IX of the Education Amendments Act of 1972, as amended (20 U.S.C. 1681 et seq.);
  - (f) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 701 et seq.);
  - (g) Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d); and
  - (h) Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.).
  - (i) EO 13160, “Nondiscrimination on the Basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and Training Programs.”

### **B. Commitment to Workforce Development and Diversity and Inclusion**

It is the policy of the NRC to support Federal workforce development and diversity and inclusion initiatives by conducting a Minority Serving Institutions Program (MSIP). The MSIP assists minority serving institutions (MSIs) in their efforts to develop a diverse, skilled Science, Technology, Engineering, and Mathematics (STEM) workforce to benefit the NRC, the industry, and the Nation.

## **II. OBJECTIVES**

- Provide regulatory oversight and promote nondiscrimination in NRC-conducted and FFA programs and activities.
- Implement and enforce applicable NRC and Federal regulations that provide, in whole or part: No person in the United States shall, on the ground of race, sex, color, national origin, handicap [hereinafter referred to as “disability”], religion, age, sexual orientation, and status as a parent, be excluded from participation in, be denied the benefits of, or subjected to discrimination under any NRC-conducted or FFA program or activity (42 U.S.C. Chapter 21, Subchapter 5; 42 U.S.C. 5801; 29 U.S.C. 701 note; 42 U.S.C. 3001 note).
- Promote NRC’s organizational values of integrity, service, openness, commitment, cooperation, excellence, and respect as the guiding force in reaching Outreach and Compliance Coordination Program (OCCP) goals and promoting nondiscrimination in NRC-conducted and FFA programs and activities.
- Ensure the prompt, fair, and impartial processing of discrimination complaints filed under applicable civil rights statutes, and the elimination or modification of policies, procedures, and practices that give rise to valid discrimination complaints.
- Establish and maintain partnership programs with MSIs to promote a diverse, skilled STEM workforce.
- Assist MSIs in their efforts to develop human capital (faculty and students); build capability, capacity, and infrastructure; gain knowledge and skills to effectively compete for grants, contracts, cooperative agreements, and Federal resources; and participate in Federal and public programs.
- Manage an MSI grants program that provides funds for capacity and infrastructure building, institutional projects and activities, internships, scholarships, fellowships, and various types of assistance, in exchange for knowledge and skill transfer.

## **III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY**

### **A. Chairman**

1. Provides leadership and personal commitment to promote the NRC’s organizational values and an open, collaborative, and discrimination-free environment.
2. Ensures that the NRC maintains an effective OCCP to continue its progress in assuring nondiscrimination in NRC-conducted and FFA programs and activities, and achieves workforce development and diversity and inclusion goals related to the MSIP.

3. Approves agency compliance (Titles VI and IX) and MSI plans and reports (e.g., EO 12250, "Leadership and Coordination of Nondiscrimination Laws"; EO 13160, "Nondiscrimination on the Basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and Training Programs"; and EO 13166, "Improving Access to Services for Persons with Limited English Proficiency") submitted to the White House, Congress, Office of Management and Budget (OMB), Department of Education, Department of Health and Human Services (HHS), Environmental Protection Agency (EPA), and other oversight agencies.
4. Promotes strategies that improve the agency's capacity to assure equal opportunity in NRC-conducted and FFA programs and activities, and provides agencywide support and assistance to the MSIP and MSIs.
5. Approves the final disposition of complaints, compliance, and settlement agreements involving compliance with NRC and Federal regulations. This authority may be delegated to the EDO, who in turn may delegate to other senior officials.
6. Accepts and processes timely appeals of the findings of fact and conclusions of law related to disability complaints filed under Title 10 of the *Code of Federal Regulations* (10 CFR), Part 4, Subpart E, "Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the U.S. Nuclear Regulatory Commission." This authority may be delegated by the Chairman to other senior officials.
7. Delegates to the Office of Small Business and Civil Rights (SBCR) the authority to—
  - (a) Provide for prompt, fair, and impartial processing of discrimination complaints involving NRC-conducted and FFA programs and activities filed under applicable civil rights statutes, and
  - (b) Advise on the elimination or modification of procedures and practices that give rise to valid complaints under these statutes.

## **B. Commission**

1. Provides leadership and personal commitment to promote NRC's organizational values and an open, collaborative, and discrimination-free environment.
2. Ensures that the NRC maintains an effective OCCP to continue its progress in assuring nondiscrimination in NRC-conducted and FFA programs and activities, and achieves workforce development and diversity and inclusion goals related to the MSIP.
3. Promotes strategies that impact the agency's capacity to assure equal opportunity in NRC-conducted and FFA programs and activities, and provides agencywide support and assistance to the MSIP and MSIs.

**C. Executive Director for Operations (EDO)**

1. Provides leadership and personal commitment to promote NRC's organizational values and an open, collaborative, and discrimination-free environment.
2. Ensures sufficient resources are available to administer effective compliance programs and the MSIP and achieve the goals related to these programs.
3. Promotes strategies that impact the agency's capacity to assure equal opportunity in NRC-conducted and FFA programs and activities, and provides agencywide support and assistance to the MSIP and MSIs.
4. Approves proposed changes to OCCP and MSIP policies, practices, and structures based on changes in applicable NRC and Federal laws, rules, regulations, guidance, EOs, and legal decisions.

**D. Office of the General Counsel (OGC)**

1. Provides legal advice, guidance, and assistance to SBCR in the areas of equal opportunity compliance and the MSIP and has final authority to make interpretations of law.
2. Concurs on all determinations of legal significance, including, but not limited to, determinations to accept or dismiss complaints, jurisdictional determinations, settlement agreements, closure letters (regardless of whether a violation is found), and all enforcement actions to include referrals to the Department of Justice (DOJ).
3. Reviews all reports of investigation for legal sufficiency and drafts agency findings, if applicable.
4. Ensures that the final disposition of discrimination complaints, termination of or refusal to grant or to continue FFA, notices, orders, and other documentation meet legal sufficiency standards and can withstand scrutiny on administrative and judicial review and/or review by the Congress, DOJ, HHS, EPA, or other oversight agencies.
5. Represents the agency in administrative hearings and appeals.
6. Represents the agency in the alternative dispute resolution process or other stages of the compliance or discrimination complaint process.

**E. Director, Office of Public Affairs**

Assists and supports OCCP, SBCR, in achieving mutually shared initiatives.

**F. Director, Office of Small Business and Civil Rights (SBCR)**

As delegated by the Chairman—

1. Provides for the overall direction, implementation, and execution of the OCCP.
2. Oversees compliance with NRC and Federal policy and regulations.
3. Recommends to the Chairman, Commission, EDO, office directors, and regional administrators, modification or elimination of policies, procedures, or practices that give rise to noncompliance with NRC and Federal laws, rules, regulations, EOs, court decisions, and guidance.
4. Provides resources to effectively conduct the OCCP (e.g., interpretation and translation services, sign interpretation), within the agency's budget process.
5. Provides periodic public briefings and reports to the Commission on the progress of the OCCP and other SBCR programs and initiatives, in coordination with the Office of the Chief Human Capital Officer (OCHCO).
6. Provides overall guidance and direction for the development, implementation, and management of the OCCP to ensure compliance with applicable NRC and Federal laws, rules, regulations, guidance, EOs, and court decisions.
7. Ensures that SBCR staff provides outreach, technical assistance, compliance coordination, equal opportunity training, and guidance as defined in this management directive (MD) to assist NRC-conducted and FFA programs in their efforts to comply with NRC and Federal regulations.
8. Promotes and provides overall guidance and direction for the development and implementation of the OCCP strategies.
9. Guides decisions and practices that impact equal opportunity and agencywide support and assistance to the MSIP and MSIs.
10. Provides periodic reports to the EDO on the progress of office directors and regional administrators in achieving OCCP compliance and MSIP goals. Ensures compliance with requests for standard and ad hoc reports or statistical data required by the White House, Congress, OMB, DOJ, HHS, EPA, or any other oversight agency.
11. Provides guidance and direction for the development, implementation, maintenance, and evaluation of the agency's OCCP discrimination complaint process to ensure an effective process for receiving complaints filed by NRC employees, other Federal employees, and members of the public. Ensures prompt, fair, and impartial processing and disposition of discrimination complaints as

established by applicable Federal civil rights statutes, laws, rules, regulations, mandates, EOs, guidance, and agency directives.

12. Makes recommendations to the Chairman, the EDO, and OGC, or their respective designees regarding OCCP matters and disposition of complaints, including settlements and final agency decisions involving issues that may set precedent or impact policy.
13. Provides guidance and direction for the development, implementation, maintenance, and evaluation of the agency's administrative equal opportunity civil rights training for employees, managers, supervisors, applicants, recipients, and members of the public. Provides an annual or periodic reporting to Congress and oversight agencies.
14. Ensures, in coordination with OCHCO, the Office of the Chief Information Officer (OCIO), and the Office of Administration (ADM), compliance oversight and implementation of policies, procedures, and practices to achieve nondiscrimination on the basis of disability in NRC-conducted programs and activities.
15. Ensures, in coordination with OCHCO, compliance oversight, and implementation of policies, procedures, and practices to achieve nondiscrimination in NRC-conducted education and training programs.
16. Ensures, in coordination with ADM, compliance oversight and implementation of policies, procedures, and practices to improve access to NRC-conducted programs and activities for persons with LEP.
17. Ensures, in coordination with the Office of Investigations (OI), the Office of Enforcement (OE), and affected NRC offices, compliance oversight and implementation of policies, procedures, and practices to assure that individuals are not excluded from participation in, denied the benefits of, or subjected to discrimination on the basis of sex under any program or activity licensed by the NRC.
18. Coordinates with ADM on efforts related to OCCP activities so that SBCR may provide compliance oversight.
19. Supports NRC offices in their efforts to assist the MSIP and MSIs.
20. Appoints an OCCP program manager (PM).

**G. Associate Director (AD), Office of Small Business and Civil Rights (SBCR), Outreach and Compliance Coordination Program (OCCP)**

1. Performs those duties identified under the Director of SBCR, Sections III.F.1 – III.F.20, as delegated.
2. Maintains programmatic oversight and responsibility over OCCP.



3. Provides overall direction for the development and implementation of the OCCP.
4. Ensures resources (e.g., full-time equivalents, money, time) are available to effectively conduct the OCCP.
5. Ensures that OCCP staff performs the responsibilities and duties as defined in this MD or as assigned by the Associate Director (AD) or PM.

**H. Outreach and Compliance Coordination Program (OCCP) Manager, Office of Small Business and Civil Rights**

1. Performs those duties identified under the Director and AD of SBCR, Sections III.F.1 – III.F.20 and Sections III.A.2-3 and A.5, as delegated.
2. Administers, manages, oversees, and coordinates the day-to-day operations and activities of the OCCP.
3. Assists the AD to ensure that appropriate resources are available to conduct effective programs and activities.
4. Assists the AD to ensure staff performs the responsibilities and duties outlined in this MD.

**I. Director, Office of Administration (ADM)**

1. Assists and supports OCCP, SBCR, in achieving mutually shared initiatives.
2. Assists agency offices to provide NRC employees and members of the public with disabilities access to NRC facilities, equipment, programs, and activities in compliance with Section 504 of the Rehabilitation Act of 1973; 10 CFR Part 4, Subpart E; MD 10.162, "Disability Programs and Reasonable Accommodation," and this MD.
3. Ensures, in coordination with OCIO that all electronic and information technology that is developed, procured, maintained, or used by the NRC is accessible and in compliance with Section 508 of the Rehabilitation Act of 1973.
4. Coordinates policies, procedures, practices, and standards related to SBCR and NRC office roles and participation in the conduct of pre- and post-award compliance reviews or monitoring consistent with the provisions set forth in applicable Federal civil rights laws, 10 CFR Parts 4 and 5, and MD 11.6, "Financial Assistance Program."
5. Ensures that ADM staff oversees grant administration and establishes uniform policies, procedures, and practices consistent with applicable Federal grants regulations, OMB guidance, MD 11.6, and this MD, to achieve uniform agencywide fair and equitable practices in NRC pre- and post-award grant administration processes and practices.

6. Ensures that Division of Administrative Services (DAS), ADM staff, with LEP administration oversight, in coordination with SBCR, establishes uniform policies, procedures, and practices to achieve agencywide compliance with SBCR goals and objectives in compliance with EO 13166; DOJ guidance; NRC's LEP Plan, "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons"; MD 3.5, "Attendance at NRC Staff-Sponsored Meetings"; MD 3.11, "Conferences"; MD 3.12, "Handling and Disposition of Foreign Documents and Translations"; and this MD.
7. Assists and supports OCCP, SBCR, in achieving mutually shared initiatives related to the MSIP and MSI grants program.

**J. Chief Information Officer (CIO)**

1. Assists and supports OCCP, SBCR, in achieving mutually shared initiatives.
2. Provides, in coordination with SBCR, support, resources, training, and technical assistance to achieve goals, objectives, and activities as defined in this MD.
3. Assists agency offices in providing NRC employees and members of the public with disabilities access to NRC facilities, equipment, programs and activities, in compliance with Sections 504 and 508 of the Rehabilitation Act of 1973; 10 CFR Part 4, Subpart E; and this MD.
4. Ensures that OCIO staff comply with NRC's policy and procedures in Section 508 of the Rehabilitation Act of 1973.
5. Coordinates efforts with SBCR, ADM, and OCHCO, in support of compliance objectives.
6. Ensures that the agency's Section 508 Coordinator assists agency offices to provide NRC employees and members of the public with disabilities access to NRC electronic and information technology in compliance with Sections 504 and 508 of the Rehabilitation Act of 1973, MD 10.162, "Disability Programs and Reasonable Accommodation," and this MD.
7. Provides, in coordination with SBCR and other lead offices, training to support agencywide awareness of Section 508 of the Rehabilitation Act of 1973, to understand accessibility requirements and to help other offices learn how to comply with Section 508; OMB guidance; and 10 CFR Part 4, Subpart E.
8. Assists SBCR in efforts to help offices provide LEP individuals equal and meaningful access to NRC-conducted programs and activities in accordance with EO 13166, DOJ guidance, NRC's LEP Plan, MD 3.5, MD 3.11, MD 3.12, and this MD.

9. Provides reasonable notification of public meetings sponsored and conducted by the NRC through a wide variety of media (e.g., community organizations) to allow an opportunity for meaningful involvement and participation by all eligible members of the public in accordance with Federal and NRC regulations, EO 12898 (Sec. 2-2, "Federal Responsibilities for Federal Programs"), EO 13166, MD 3.11, and this MD.
10. Assists and advises NRC offices to comply with Sections 504 and 508 of the Rehabilitation Act of 1973; 10 CFR Part 4, Subpart E; MD 10.162; and this MD. These activities may include defining requirements, acquiring and managing goods and services, or developing information and data to share with the public. This information and data would be provided in formats that allow access to persons with disabilities.
11. Assists and supports OCCP, SBCR, in achieving mutually shared initiatives related to the MSIP and MSI grants program.

**K. Chief Human Capital Officer (CHCO)**

1. Assists and supports OCCP, SBCR, in achieving mutually shared initiatives.
2. Develops and implements, in coordination with SBCR, policies, procedures, practices, and standards to achieve nondiscrimination in NRC-conducted education and training programs in compliance with EO 13160.
3. Ensures the agency's 508 Coordinator assists agency offices to provide NRC employees and members of the public with disabilities access to NRC facilities, equipment, programs, and activities; appropriate auxiliary aids; effective communications; and reasonable modifications in compliance with 10 CFR Part 4, Subpart E; MD 10.162; and this MD.
4. Ensures, in coordination with SBCR, that staff complies with policies, procedures, practices, and standards related to the conduct of pre-award reviews and post-award compliance activities legislatively mandated by applicable Federal civil rights laws, statutes, regulations, and legal decisions; 10 CFR Part 4, "Nondiscrimination in Federally Assisted Programs or Activities Receiving Federal Financial Assistance from the Commission"; 10 CFR Part 5, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance"; MD 11.6; and this MD.
5. Provides, in coordination with SBCR, support, resources, training, and technical assistance to achieve SBCR goals and objectives related to the MSIP and MSI grants program.

#### **L. Office Director and Regional Administrators**

1. Assist and support OCCP, SBCR, in achieving mutually shared initiatives.
2. Ensure staff complies with applicable civil rights statutes, laws, rules, regulations, guidance, mandates, EOs, and MDs as defined or associated with compliance with the programs discussed in this MD.
3. Provide public stakeholders (e.g., minority, low-income, LEP, and disabled populations) timely access to clear and understandable NRC information and the opportunity to participate in NRC processes to contribute ideas and expertise. (NRC offices that frequently conduct public meetings include the Office of Nuclear Material Safety and Safeguards (NMSS), the Office of New Reactors (NRO), the Office of Nuclear Reactor Regulation (NRR), and the Office of Nuclear Security and Incident Response (NSIR).) This allows the NRC to make regulatory decisions with the benefit of information from a wide range of stakeholders consistent with guidance from EPA provisions under the National Environmental Policy Act, as amended (42 U.S.C. 4321 et seq.), and commit to achieving the goals and objectives of EO 12898; EO 13166; Section 504 of the Rehabilitation Act of 1973; NRC's organizational values of openness and transparency, as expressed in the "Principles of Good Regulation," available at <http://www.nrc.gov/about-nrc/values.html#principles>; and NUREG-1614, "Strategic Plan: Fiscal Years 2014-2018," (as updated), Volume 6, available at <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1614/v6/index.html>.

#### **M. Affected Committees and Boards**

1. Assists and supports OCCP, SBCR, in achieving mutually shared initiatives.
2. Ensure staff collaborates across agency boundaries, as needed, to support and achieve SBCR goals and objectives as defined in this MD.

### **IV. APPLICABILITY**

The policy and guidance in this MD apply to all NRC employees.

### **V. DIRECTIVE HANDBOOK**

Handbook 10.164 provides guidance to the staff of the NRC Outreach and Compliance Coordination Program.

## **VI. EXTERNAL COMPLAINT PROCESSING AND INVESTIGATIONS PROCEDURES MANUAL**

NUREG-2185, "The U.S. Nuclear Regulatory Commission's External Complaint Processing and Investigation Procedures Manual," provides additional guidance on the NRC complaint processing process, including the following:

- A.** The policy and guidance in NUREG-2185, Chapter 1, apply to NRC-conducted programs and activities.
- B.** The policy and guidance in NUREG-2185, Chapter 1, apply to NRC FFA programs and activities.

## **VII. REFERENCES**

### ***Code of Federal Regulations***

2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

10 CFR Part 2, "Agency Rules of Practice and Procedure."

10 CFR Part 4, "Nondiscrimination in Federally Assisted Programs or Activities Receiving Federal Financial Assistance from the Commission."

Subpart A, "Regulations Implementing Title VI of the Civil Rights Act of 1964 and Title IV of the Energy Reorganization Act of 1974."

Subpart B, "Regulations Implementing Section 504 of the Rehabilitation Act of 1973," as amended.

Subpart C, "Regulations Implementing the Age Discrimination Act of 1975," as amended.

Subpart E, "Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the U.S. Nuclear Regulatory Commission."

10 CFR Part 5, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance."

10 CFR Part 19, "Notices, Instructions and Reports to Workers: Inspection and Investigations."

28 CFR 41.6, "Interagency Cooperation."

28 CFR 41.7, "Coordination with Sections 502 and 503."

28 CFR Part 42, Subpart F, "Coordination and Enforcement of Nondiscrimination in Federally Assisted Programs."

28 CFR 50.3, "Guidelines for the Enforcement of Title VI, Civil Rights Act of 1964."

37 CFR 401, "Governmentwide Implementing Regulations for the Bayh-Dole Act."

### ***Executive Orders***

EO 12250, "Leadership and Coordination of Nondiscrimination Laws," November 2, 1980.

EO 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994.

EO 13160, "Nondiscrimination on the Basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and Training Programs," June 23, 2000.

EO 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000.

EO 13515, "Increasing Participation of Asian Americans and Pacific Islanders in Federal Programs," October 14, 2009.

EO 13532, "Promoting Excellence, Innovation, and Sustainability at Historically Black Colleges and Universities," February 26, 2010.

EO 13555, "White House Initiative on Educational Excellence for Hispanics (EEH)," October 19, 2010.

EO 13592, "Improving American Indian and Alaska Native Educational Opportunities and Strengthening Tribal Colleges and Universities," December 2, 2011.

EO 13621, "White House Initiative on Educational Excellence for African Americans (EEAA)," July 26, 2012.

### ***Limited English Proficiency Resources***

Common Language Access Questions, Technical Assistance, and Guidance for Federally Conducted and Federally Assisted Programs, Department of Justice, August 2011, available at [http://www.lep.gov/resources/081511\\_Language\\_Access\\_CAQ\\_TA\\_Guidance.pdf](http://www.lep.gov/resources/081511_Language_Access_CAQ_TA_Guidance.pdf).

### ***Nuclear Regulatory Commission***

“Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons,” available at <http://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-VI/>.

“Information on Civil Rights Compliance Requirements Imposed as a Condition of Award of NRC Federal Financial Assistance,” available at <http://www.nrc.gov/about-nrc/civil-rights/civil-rights-compliance-requirements-sec6.pdf>.

Management Directive—

3.5, “Attendance at NRC Staff-Sponsored Meetings.”

3.7, “NUREG-Series Publications.”

3.11, “Conferences.”

3.12, “Handling and Disposition of Foreign Documents and Translations.”

10.162, “Disability Programs and Reasonable Accommodation.”

11.6, “Financial Assistance Program.”

NUREGS—

NUREG/BR-2185, “The U.S. Nuclear Regulatory Commission’s External Complaint Processing and Investigation Procedures Manual.”

NUREG/BR-2186, “NRC Internal Desk Reference Guide for Conducting Pre-Award Reviews and Post-Award Compliance Reviews.”

NUREG/BR-0344, “Know Your Rights: Limited English Proficiency (LEP),” available at <http://nrcweb.nrc.gov:400/reading-rm/doc-collections/nuregs/brochures/br0344/index.html>.

NUREG/BR-0345, “Affirming LEP Access & Compliance in Federal and Federally Assisted Programs,” available at <http://nrcweb.nrc.gov:400/reading-rm/doc-collections/nuregs/brochures/br0345/index.html>.

NUREG/BR-0457, “Your Rights Under Title VI of the Civil Rights Act of 1964,” available at <http://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures/br0344/>.

NUREG/BR-0460, “Nondiscrimination on the Basis of Sex in Federally Assisted Programs,” available at <http://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures/br0460/>.

NUREG-1614, "Strategic Plan: Fiscal Years 2014–2018" (Updated), Volume 6, available at <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1614/v6/index.html>.

OCCP Documents: MSIP Grant Reviewer Process Packet SharePoint Site: <http://fusion.nrc.gov/sbcr/team/Shared%20Documents/Forms/AllItems.aspx?RootFolder=%2fsbcr%2fteam%2fShared%20Documents%2fSBCR%20MSIP%20Grant%20Review%20Process&FolderCTID=0x012000CCA3B24BD1B31341BE31C439DC83C29F>.

OCCP: Mediation (ADR), available at <http://nrcweb.nrc.gov:400/about-nrc/civil-rights/occp/mediation.html>.

Office of Nuclear Reactor Regulation (NRR) Office Instruction, LIC-203, Rev. 3, "Procedural Guidance for Preparing Categorical Exclusions, Environmental Assessments, and Considering Environmental Issues," May 2004 ([ML12234A708](#)).

Outreach and Compliance Coordination Program ([ML070871080](#)).

"Policy Statement on the Treatment of Environmental Justice Matters in NRC Regulatory and Licensing Actions," 69 FR 52040, August 24, 2004, available at <https://www.federalregister.gov/articles/2004/08/24/04-19305/policy-statement-on-the-treatment-of-environmental-justice-matters-in-nrc-regulatory-and-licensing>.

Procedures for Processing Requests for Domestic Translation Services, available at <http://fusion.nrc.gov/sbcr/team/OCCP/Shared Documents/LEP%20Policy%20Procedures%20for%20NRC%20Offices.doc>.

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**U.S. NUCLEAR REGULATORY COMMISSION DIRECTIVE HANDBOOK (DH)**

<b>DH 10.164</b>	<b>NRC OUTREACH AND COMPLIANCE COORDINATION PROGRAM</b>	<b>DT-16-10</b>
<i>Volume 10,</i> <i>Part 7:</i>	Personnel Management, Employment, and Staffing General Personnel Management Provisions	
<i>Approved By:</i>	Stephen G. Burns, Chairman	
<i>Date Approved:</i>	March 17, 2016	
<i>Expiration Date:</i>	March 17, 2021	
<i>Issuing Office:</i>	Office of Small Business and Civil Rights Small Business, Outreach, and Compliance Coordination Directorate	
<i>Contact Name:</i>	Tuwanda M. Smith, Esq. 301-415-7394	
<p><b>EXECUTIVE SUMMARY</b></p> <p>New Directive and Handbook 10.164 serve as a guide for U.S. Nuclear Regulatory Commission employees, supervisors, and managers to the NRC Office of Small Business and Civil Rights Outreach and Compliance Coordination Program (OCCP). This management directive (MD) reflects the agency's commitment to (1) promoting equal opportunity in NRC-conducted and Federal financially-assisted programs and activities, and (2) workforce development and diversity and inclusion by providing support and assistance to minority serving institutions.</p> <p>This MD is issued to—</p> <ul style="list-style-type: none"> <li>(1) Define the agency's Federal responsibilities and regulatory requirements related to the programs and services provided under the OCCP, and</li> <li>(2) Reflect the structure and functions of the OCCP.</li> </ul> <p>Information regarding the NRC's external complaint processing and investigations can now be found in NUREG-2185, "The U.S. Nuclear Regulatory Commission's External Complaint Processing and Investigation Procedures Manual."</p>		

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## I. GENERAL OVERVIEW

### A. Introduction

1. The U.S. Nuclear Regulatory Commission is committed to complying with antidiscrimination regulations, provisions, and requirements related to compliance programs that fall under the Outreach and Compliance Coordination Program (OCCP). This management directive (MD), in conjunction with NUREG-2185, “The U.S. Nuclear Regulatory Commission’s External Complaint Processing and Investigation Procedures Manual,” establishes and defines the roles and responsibilities of NRC’s management, staff, and other stakeholders and provides best practices in light of the agency needs.
2. The Office of Small Business and Civil Rights (SBCR) has the delegated authority to administer the agency’s civil rights programs, one of which is the OCCP. The OCCP was approved by the Commission on April 4, 2007, through SECY-07-0065, “Outreach and Compliance Coordination Program” ([ML070660387](#)), and its Enclosure 1 ([ML070871080](#)) to administer the agency’s external civil rights compliance programs. The OCCP Web page is available at <http://www.internal.nrc.gov/SBCR/outreach.html>. The OCCP—
  - (a) Provides oversight, coordination, and enforcement of NRC and Federal regulations related to ensuring that no person is excluded from participation in,

denied benefits of, or otherwise subjected to discrimination in NRC-conducted and Federal financially-assisted (FFA) programs and activities.

- (b) Ensures uniform coordination and agencywide compliance with applicable antidiscrimination statutes, laws, guidelines, Executive orders (EOs), NRC and Federal regulations (e.g., Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2, “Agency Rules of Practice and Procedure”; Part 4, “Nondiscrimination in Federally Assisted Programs or Activities Receiving Federal Financial Assistance from the Commission”; Part 5, “Nondiscrimination on the Basis of Sex in Education Programs, or Activities Receiving Federal Financial Assistance”; Part 19, “Notices, Instructions and Reports to Workers: Inspection and Investigations”); and other applicable legal authorities.
- 3. SBCR administers the agency’s Minority Serving Institutions Program (MSIP) under the OCCP. In 2006, the MSIP was established in accordance with Section 651(c)(4) of the Energy Policy Act of 2005 (42 U.S.C. Section 2015c). The purpose of the MSIP is to assist the agency in its efforts to help the Federal Government achieve its national science, technology, engineering, and mathematics (STEM) workforce development and diversity and inclusion initiatives related to education and employment.

## **B. Design and Structure of the Handbook**

- 1. This handbook is designed to be used as—
  - (a) A supplement to Directive 10.164,
  - (b) A knowledge management transfer tool, and
  - (c) A tool to provide openness and transparency regarding the Commission’s compliance regulatory processes and MSIP efforts.
- 2. This handbook consists of the following two major sections:
  - (a) Section I: Compliance Subprograms that define NRC-conducted programs and activities and NRC FFA programs and activities.
  - (b) Section II: MSIP and Subprograms that define the following:
    - (i) MSIP,
    - (ii) Historically Black Colleges and Universities (HBCUs) program,
    - (iii) Predominantly Black Institutions (PBIs) program<sup>1</sup>,
    - (iv) Tribal College and Universities (TCUs) program,

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<sup>1</sup> See Executive Order 13621, “White House Initiative on Educational Excellence for African Americans (EEAA),” July 26, 2012, for more information on HBCU and PBI programs.

- (v) Hispanic-Serving Institutions (HSIs) program,
- (vi) Asian American and Pacific Islander Institutions (AAPIs) program, and
- (vii) Minority Serving Institutions (MSIs) grants program.

**C. Agencywide Compliance and Coordination with the Outreach and Compliance Coordination Program (OCCP) (Including Compliance Subprograms and the Minority Serving Institutions Program (MSIP))**

1. This MD provides the management framework for the OCCP. This section describes how SBCR ensures the agency meets the requirement of the compliance subprograms and the MSIP (SECY-06-0183, "Minority Serving Institutions Programs"). The specific roles for each program are described in this handbook.
2. SBCR is responsible for planning, directing, and overseeing the implementation of a comprehensive, coordinated, integrated, and cost-effective OCCP, including conducting compliance programs and the MSIP and MSI grants program, consistent with applicable laws; regulations; Commission and Executive Director for Operations (EDO) direction; management initiatives; and policies. Specifically, the different levels of management function as follows:
  - (a) The Director of SBCR serves as the agency's administrator of civil rights and applicable outreach programs and ensures appropriate, effective, and efficient NRC-wide integration, direction, and coordination of the programs that fall under the OCCP.
  - (b) The Associate Director (AD) of the Small Business, Outreach, and Compliance Coordination Directorate, SBCR, serves as the supervisor of the directorate and is responsible for program oversight, resources, infrastructure, and effective administration.
  - (c) The AD of the Small Business, Outreach, and Compliance Coordination Directorate Program Manager (PM), SBCR—
    - (i) Administers and manages the day-to-day operations and activities of OCCP.
    - (ii) Implements the provisions of applicable NRC and Federal regulations, statutes, laws, rules, legislative mandates, guidelines, and court decisions specific to each of the programs under the OCCP.
    - (iii) Performs those duties identified in this MD under the Director and the AD of the Small Business, Outreach, and Compliance Coordination Directorate, SBCR, as delegated.



**D. Role of the NRC Management, Including Office Directors and Regional Administrators**

1. The NRC management's commitment to programs that fall under the OCCP at all levels must ensure that—
  - (a) In accordance with the NRC's "Limited English Proficiency Plan Implementing EO 13166," appoint at least one point-of-contact (POC) for collaboration, coordination, and recordkeeping associated with carrying out the agency's Limited English Proficiency (LEP) Plan and related activities. The POC must have substantial experience dealing with the public and/or LEP persons. If there is no one in the office with the requisite experience, the POC should be someone who will to participate in that office's interactions with the public and/or people with LEP.
  - (b) The POC complies with applicable NRC and Federal civil rights statutes, laws, rules, regulations, guidance, mandates, EOs, and MDs defined or associated with compliance in this MD.
  - (c) The POC supports and assists the OCCP when and where appropriate and provides quarterly reports to the OCCP PM regarding the office's efforts to achieve the LEP Plan.
2. SBCR Coordination Across NRC's Organizational Boundaries
  - (a) The OCCP PM leads and coordinates compliance programs across the agency. In addition, SBCR collaborates with Federal oversight agencies, including the U.S. Department of Justice (DOJ), Department of Education, Department of Health and Human Services (HHS), Environmental Protection Agency (EPA), Office of Management and Budget (OMB), the White House, and other stakeholders, to ensure the agency's compliance and outreach programs are effectively implemented and monitored through business solutions support requirements (e.g., FAIMIS, market research, GSA schedule).
  - (b) The SBCR POC leads and coordinates MSIP programs across the agency. The NRC roles are described in this directive. In addition, SBCR collaborates with Federal oversight agencies such as the White House Initiatives Offices representing HBCUs, PBIs, TCUs, HSIs, AAPIIs, OMB; the Government Accountability Office (GAO); Congress; and the White House Office of Science, Technology, and Policy to ensure the agency's MSIP is effectively implemented and monitored, and business solutions support requirements.

### **E. Managing NRC Activities**

The legal authorities, EOs, and guidance listed in Section II.B and Section III.B and requirements identified in Section II.C and Section III.C of this handbook require the head of each Federal agency to be responsible for oversight, coordination; and, where applicable, enforcement activities. Additional information on the roles for each major program can be found in Section II.D, Section III.D, and Section III.E of this handbook.

### **F. Applicability**

1. Compliance regulations regarding nondiscrimination in federally conducted programs and activities are applicable to NRC offices.
2. Compliance regulations regarding nondiscrimination in FFA programs and activities are applicable to recipients of NRC FFA.
3. Regulations regarding the MSIP and its programs and activities are applicable to—
  - (a) Administration of the MSIP,
  - (b) MSIs,
  - (c) MSIs that are grantees, and
  - (d) Administration of the MSI grants program.

### **G. Approach**

1. When using this handbook as a guide to comply with applicable NRC and Federal regulations and mandates covered under the OCCP subprograms, managers and employees should—
  - (a) Comply with the requirements for NRC-conducted programs and activities, and NRC FFA programs and activities described in this MD.
  - (b) Where information in this handbook conflicts with other NRC policies, follow the guidance provided in this handbook and contact the OCCP PM for further clarification. When the conflict is with a statute, regulation, or EO, follow the law and contact the Office of the General Counsel (OGC) for further clarification.
  - (c) Contact the OCCP PM or OCCP staff for technical assistance.
2. When using this handbook as a guide to comply with the MSIP specifically, the managers and employees should—
  - (a) Follow the guidance related to MSIP programs and activities.
  - (b) Use this handbook as a supplement to MD 10.164.

(c) Where information in this handbook conflicts with other sources, follow the guidance provided in this handbook and contact the OCCP PM for further clarification.

(d) Contact either the OCCP PM or staff for technical assistance.

#### **H. OCCP-Related Waivers and Exceptions**

When existing policy presents an unacceptable barrier to the accomplishment of business requirements related to OCCP compliance programs, or the MSIP, SBCR reserves the right to make changes in consultation with OGC and affected NRC offices.

## **II. OUTREACH AND COMPLIANCE COORDINATION PROGRAM AND COMPLIANCE SUBPROGRAMS**

### **A. Introduction**

#### **1. Internal Compliance Subprograms**

SBCR administers internal compliance subprograms so that the agency may comply with NRC and Federal nondiscrimination statutes, laws, rules, regulations, guidelines, mandates, EOs, and agency directives applicable to NRC-conducted programs and activities. The internal compliance subprograms are—

(a) The Domestic LEP (DLEP) subprogram leads the agency's efforts to implement and ensure agencywide compliance with EO 13166, "Improving Access to Services for Persons with Limited English Proficiency"; oversees implementation of the agency's LEP Plan; provides technical assistance to all NRC offices, LEP persons, and affiliated groups with respect to the DLEP; administers the domestic translation services contract; identifies channels of contact within the LEP communities and maintains records of all LEP Plan and Program activities and operational functions for reporting purposes as required by Federal regulations and mandates and NRC policies; and provides LEP training to POCs and other employees who provide language assistance services. With the input of agency POCs, DLEP staff conducts ongoing performance monitoring of the implementation of the LEP Plan and ensures that the scope and nature of the language services it provides reflect updated information on relevant LEP populations, their needs, and the experience of NRC staff; and applies specifically to NRC offices whose programs and activities have the most interaction with the public and greatest potential for interaction with LEP persons. Affected NRC offices include the—

(i) The Commission,

(ii) Advisory Committee on Reactor Safeguards (ACRS),

- (iii) Advisory Committee on the Medical Uses of Isotopes (ACMUI),
  - (iv) Atomic Safety and Licensing Board Panel (ASLBP),
  - (v) Office of the Inspector General (OIG),
  - (vi) Office of Public Affairs (OPA),
  - (vii) Office of the Secretary (SECY),
  - (viii) Office of the Executive Director for Operations (OEDO),
  - (ix) Office of New Reactors (NRO),
  - (x) Office of Nuclear Material Safety and Safeguards (NMSS),
  - (xi) Office of Nuclear Reactor Regulation (NRR),
  - (xii) Office of Nuclear Regulatory Research (RES),
  - (xiii) Office of Enforcement (OE),
  - (xiv) Office of Investigations (OI),
  - (xv) Office of Nuclear Security and Incident Response (NSIR),
  - (xvi) Regional offices,
  - (xvii) Office of Administration (ADM), and
  - (xviii) SBCR.
- (b) The Internal Outreach Support (IOS) Program assists NRC regulatory offices in their efforts to involve and provide all eligible members of the public (those populations that cross-cut OCCP areas: e.g., minority, Tribal, LEP, low income, disabled populations) access to, participation in, and benefits from participating in NRC-conducted programs and activities (e.g., rulemakings, licensing, decommissioning and license renewal, high-level waste, environmental impacts). The IOS Program supports outreach activities of NRC technical offices (e.g., NRR, NRO, and NMSS) (see NRR Office Instruction, LIC-203, Rev. 3, "Procedural Guidance for Preparing Categorical Exclusions, Environmental Assessments, and Considering Environmental Issues").
- (i) The IOS Program assists NRC regulatory and licensing offices (1) to fulfill the agency's obligations under the National Environmental Policy Act (NEPA); health, safety, and other requirements of the Atomic Energy Act; and other Federal environmental laws, and (2) to provide openness and transparency regarding NRC regulatory processes.

(ii) OCCP staff may assist NRC offices with responsibilities under NEPA with—

- Increased outreach to representatives of a broad cross section of the public (e.g., minority, Tribal, LEP, disabled populations) who may be affected by proposed or actual actions;
- Identifying related social, cultural, and economic impacts on minority communities, low socioeconomic populations, and Indian tribes;
- Determining whether minority or low-income populations are present in an area and may be affected by a proposed action;
- Developing effective public participation and communication strategies including identifying and overcoming linguistic (e.g., providing appropriate LEP assistance), cultural, institutional, geographic, and other barriers to meaningful participation;
- Providing interpretation and translation of vital documents, notices, and other information in languages spoken by LEP individuals;
- Assuring complete community representation in the regulatory process and retrieving relevant information/data concerning exposure to human health or environmental hazards;
- Increasing accessibility to information and meetings to LEP, disability, and minority and low-income populations (e.g., timely and effective notices regarding public meetings, hearings, forums, and other NRC activities);
- Facilitating broad and diverse public input (e.g., constructive feedback, new information, ideas, and recommended alternatives);
- Identifying MSI-sponsored programs and activities related to EO issues, research, data collection, and issues and topics of interest to NRC offices;
- Identifying interrelated cultural, social, occupational, historical, or economic factors that may lead to the environmental effects of a proposed agency action;
- Fostering development of meaningful dialogue and partnering opportunities between NRC offices, MSIs, community members, and other stakeholders; and
- Coordinating and assisting with applicable outreach efforts/activities.

(c) The Internal Disability Compliance Program implements the provisions of 10 CFR Part 4, Subpart E, “Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the U.S. Nuclear Regulatory Commission,” that adopts and incorporates Section 119 of the “Rehabilitation,

Comprehensive Services, and Developmental Disabilities Amendments of 1978,” that amended Section 504 of the Rehabilitation Act of 1973, to prohibit discrimination on the basis of disability in programs or activities conducted by Executive agencies or the United States Postal Service.

- (d) The Federal Education and Training Program implements provisions of EO 13160, “Nondiscrimination on the Basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and Training Programs,” in NRC programs falling within its coverage (see EO 13160 Guidance Document, “Ensuring Equal Opportunity in Federally Conducted Education and Training Programs”).
- (e) The Sex Discrimination Compliance Program implements provisions of Title IV of the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5891 et seq.), that relates to nondiscrimination with respect to sex in NRC licensing actions and FFA programs and activities.

## 2. External Compliance Programs

These requirements apply to NRC FFA programs and activities. The eight external compliance subprograms safeguard against discrimination by ensuring recipients of FFA comply with antidiscrimination laws.

- (a) The Title VI Program implements the provisions of 10 CFR Part 4, Subpart A, “Regulations Implementing Title VI of the Civil Rights Act of 1964 and Title IV of the Energy Reorganization Act of 1974”; 28 CFR, Subpart F, “Coordination of Enforcement of Non-Discrimination in Federally Assisted Programs”; NUREG/BR-0457, “Your Rights Under Title VI of the Civil Rights Act of 1964”; and Council on Environmental Quality, related to nondiscrimination with respect to race, color, or national origin in any program or activity receiving FFA from the NRC.
- (b) The LEP Program implements provisions of Title VI and EO 13166 (as related to access to services regardless of national origin or LEP) and provides guidance and ensures NRC recipients of FFA provide eligible LEP persons meaningful access to FFA programs and activities (see NUREG/BR-0344, “Know Your Rights: Limited English Proficiency (LEP),” NUREG/BR-0345, “Affirming LEP Access & Compliance in Federal and Federally Assisted Programs,” and LIC-203, Rev. 1, “Procedural Guidance for Preparing Environmental Assessments and Considering Environmental Issues”).

- (c) The External Outreach Support Program implements provisions of Title VI to ensure applicable NRC recipients of FFA address disproportionate adverse impacts to human health and environment as a result of their programs or activities (see Letter from Assistant Attorney General Kim to Federal agencies about Nondiscrimination on the Basis of Race, Color, or National origin: Hurricane-Related Issues, Civil Rights Restoration Act of 1988).
- (d) The Disability Compliance Program implements provisions of 10 CFR Part 4, Subpart B, “Regulations Implementing Section 504 of the Rehabilitation Act of 1973, as amended,” which relates to nondiscrimination with respect to persons with disabilities in any program or activity receiving NRC FFA.
- (e) The Age Compliance Program implements provisions of 10 CFR Part 4, Subpart C, “Regulations Implementing the Age Discrimination Act of 1975, as amended,” which relates to nondiscrimination on the basis of age in any program or activity receiving NRC FFA.
- (f) The Title IX Program implements the provisions of 10 CFR Part 5, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” with respect to eliminating (with certain exceptions) discrimination on the basis of sex in any education program or activity receiving NRC FFA, whether or not the program or activity is offered or sponsored by an educational institution, as defined in Title IX of the Education Amendments Act of 1972, as amended (20 U.S.C. 1681 et. seq.), and its regulations (see NUREG/BR-0460, “Nondiscrimination on the Basis of Sex in Federally Assisted Programs”).
- (g) The Pre-Award Compliance Review Program conducts reviews consistent with the legal authorities cited in Section D to identify “red flags” or “issues of concern” regarding discrimination before NRC offices provide an FFA award. Pre-award reviews shall be completed by SBCR within 20 business days following SBCR’s receipt of the pre-award package (see MD 11.6, “Financial Assistance Program”).
- (h) The Post-Award Compliance Review Program, consistent with the legal authorities cited in Section II.B of Directive 10.164, provides ongoing oversight and monitoring following receipt of NRC FFA to ensure the recipient is complying with regulatory requirements and mandates for the duration of NRC’s grant award (see NUREG-2186).

## **B. Legal Authorities and Other Guidance Related to the OCCP**

The SBCR PM should ensure that the SBCR OCCP provides civil rights training and guidance to NRC staff and external stakeholders. OCCP staff is required to acquire the breadth and depth of knowledge needed to effectively work with NRC offices and recipients, provide appropriate technical assistance, and help NRC offices and recipients comply with NRC and Federal regulations. Training on Title VI of the Civil Rights Act must, at a minimum, be given to all NRC employees or contractors substantively involved in any part of the Title VI program, including program staff involved in administering Federal financial assistance.

## **C. Federal Requirements for the OCCP (for Informational Purposes only)**

NRC must meet required Federal responsibilities and obligations for outreach coordinating and implementing activities. Examples of inherently governmental requirements are provided below for informational purposes only.

1. Ensure the agency's actions are consistent with the provisions of EO 12250, "Leadership and Coordination of Nondiscrimination Laws," which authorize the U.S. Attorney General to coordinate the efforts of all Federal agencies related to the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments Act of 1972, Section 504 of the Rehabilitation Act of 1973, and any other provision of Federal statutory law that provides, in whole or in part, that no person in the United States shall, on the ground of race, color, national origin, disability, religion, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving FFA.
2. Cooperate with the U.S. Attorney General and the Assistant Attorney General for Civil Rights in the performance of other functions under EO 12250, and unless prohibited by law, furnish such reports and information as they may request.
3. Issue appropriate directives (whether in the nature of regulations or policy guidance) when implementing a nondiscrimination provision of a law covered by EO 12250. To the extent permitted by law, be consistent with the requirements prescribed by the U.S. Attorney General pursuant to EO 12250, and be subject to the approval of the U.S. Attorney General, who may require that some or all of them be submitted for approval before taking effect.
4. Provide oversight, coordination, implementation of provisions, and enforcement in accordance with—
  - (a) Guidance from Federal oversight agencies such as the DOJ, HHS, EPA, and OMB; and



- (b) Applicable NRC and Federal regulations (e.g., 10 CFR Parts 2, 4, 5, and 19, which implement Title IV of the Energy Reorganization Act of 1974; Title VI of the Civil Rights Act of 1964; 28 CFR, Subpart F, “Coordination of Enforcement of Non-Discrimination in Federally Assisted Programs”; Title IX of the Education Amendments Act of 1972; Section 504 of the Rehabilitation Act of 1973, as amended (including Sections 119 and 508); the Age Discrimination Act of 1975; EO 12250; EO 12898; EO 13160; and EO 13166).
  - (c) Implement and enforce applicable NRC and Federal regulations.<sup>2</sup>
- 5. Publish agency regulations to ensure compliance with statutes directed at ensuring nondiscrimination in their federally conducted and FFA programs and activities.
- 6. Provide community outreach, public education, and technical assistance<sup>3</sup> to ensure actual and potential program participants and beneficiaries—
  - (a) Are aware of their rights under EOs and fair practice laws,
  - (b) Are able to determine whether their rights have been violated, and
  - (c) Understand how to file a complaint.
- 7. Translate all outreach materials into other languages as required by EO 13166. (See MD 3.7, “NUREG-Series Publication”; Procedures for Processing Requests for Domestic Translation Services; Commonly Asked Questions and Answers Regarding Limited English Proficient Individuals LEP; Common Language Access Questions, Technical Assistance, and Guidance for Federally Conducted and Federally Assisted Programs; and information about LEP-related statutes and regulations.)
- 8. Ensure that recipients comply with NRC and Federal regulations.
- 9. Provide equal opportunity civil rights training. (See MD 10.162, “Disability Programs and Reasonable Accommodation,” for equal opportunity training requirements.)
- 10. Display equal opportunity posters in prominent places.

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<sup>2</sup> The NRC has a general prohibition which provides that, “No person in the United States shall, on the ground of race, sex, color, national origin, handicap [hereinafter referred to as, ‘disability’], religion, age, sexual orientation, and status as a parent be excluded from participation in, be denied the benefits of, or subjected to discrimination under any NRC-conducted or FFA program or activity.”

<sup>3</sup> Also, these efforts assist program providers (NRC offices and recipients) in their efforts to comply with Federal regulations and mandates.

11. Make available and disseminate equal opportunity and fair practice information and educational materials. (See Common Language Access Questions, Technical Assistance, and Guidance for Federally Conducted and Federally Assisted Programs, on the DOJ Web site, available at [http://www.lep.gov/resources/081511\\_Language\\_Access\\_CAQ\\_TA\\_Guidance.pdf](http://www.lep.gov/resources/081511_Language_Access_CAQ_TA_Guidance.pdf).)
12. Collect and analyze data from NRC offices, applicants, and recipients on a regular basis to—
  - (a) Ensure compliance with regulatory requirements,
  - (b) Safeguard against discriminatory practices,
  - (c) Ensure that that these programs and activities benefit all segments of the population and have no adverse or disparate impact on minorities, and
  - (d) Report progress and outcomes to Federal oversight agencies, the White House, Congress, and NRC officials, as required (e.g., EO 12250, EO 13160, and EO 13166).
13. Collect from applicants for and recipients of Federal financial assistance, information and data on the following:
  - (a) Manner in which the program(s) will provide services;
  - (b) Racial and ethnic composition of the eligible population;
  - (c) Employment in the program, including the use of bilingual employees where necessary to serve LEP individuals;
  - (d) Racial and ethnic impact of the location of the program and any relocation involved in the program;
  - (e) Ethnic composition of planning or advisory bodies that are an integral part of the program;
  - (f) Information pertaining to any lawsuits alleging discrimination filed against them;
  - (g) A list of all other Federal agencies from whom the applicant or recipient receives financial assistance or has a pending application for financial assistance, clearly demarcating the two categories;
  - (h) A description of any civil rights compliance reviews the applicant has undergone;
  - (i) A brief description of any complaint filed against the applicant or recipient alleging discrimination on the basis of race, color, or national origin, and an agreement that each applicant or recipient promptly notify the agency of any additional complaints filed against the recipient for the duration of the Federal financial assistance;

- (j) A statement by any applicant or recipient describing any civil rights compliance reviews regarding the applicant or recipient conducted during the 2-year period before the application, information concerning the agency or organization performing the review, and an agreement to provide periodic updates of any ongoing reviews and to promptly notify the agency of any additional compliance reviews for the duration of the Federal financial assistance;
  - (k) A statement affirming that staff has been designated to coordinate and carry out the responsibilities for civil rights laws;
  - (l) Written assurance that the applicant will collect and maintain required data; and
  - (m) Information on whether the applicant has been found in noncompliance with civil rights laws.
- 14. Monitor affected programs and activities to ensure nondiscrimination and fair practices.
  - 15. Investigate complaints alleging discrimination in affected NRC-conducted activities and programs and activities receiving FFA (see NUREG-2185).
  - 16. Ensure the prompt, fair, and impartial processing of discrimination complaints filed under applicable civil rights statutes, and elimination or modification of policies, procedures, and practices that give rise to discrimination in accordance with the following: 28 CFR 42 Subpart F, "Coordination and Enforcement of Nondiscrimination in Federally Assisted Programs"; 28 CFR 50.3(c)(ii)(a), with emphasis on (a)(2) and (b) ("Guidelines for the Enforcement of Title VI, Civil Rights Act of 1964"); Titles VI and IX Legal Manuals; the "Age Coordinating Regulations"; 10 CFR Part 4; 10 CFR Part 5; EO 12250; EO 13160; and EO 13166.
  - 17. Respond to violations of NRC and Federal regulations through the methods of enforcement authorized by NRC regulations (10 CFR Parts 2, 4, 5, and 19) and applicable Federal laws.<sup>4</sup>
  - 18. Ensure that awards of FFA are only granted to entities that adhere to the nondiscrimination laws. Federal agencies are required to establish and maintain an effective pre-award compliance review program about approved new applications, applications for continuation or renewal of assistance, and all other

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<sup>4</sup> As a best practice, SBCR staff should review the following resources when responding to violations:

- (a) Examples of prohibited discriminatory practices;
- (b) Required or suggested remedial actions; and
- (c) Requirements pertaining to covered employment, data collections, complaints, and public information.

These types of documents provide a useful context for the agency's response. In addition, SBCR staff can find policies, procedures, and DOJ issues guidelines on the SBCR Web site, at

<http://www.internal.nrc.gov/SBCR/outreach.html>. SBCR staff should reference DOJ regulations entitled, "Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs."

FFA programs. Pre-award desk and onsite audits must be conducted before the execution of the grant award to ensure there are no “red flags” or “issues of concern” regarding discrimination and that the prospective recipient is in compliance with applicable Federal regulations and mandates (see NUREG-2186).

19. Establish and maintain an effective post-award compliance review program (by audits and onsite visits) to ensure NRC recipients of FFA comply with applicable Federal civil rights laws, rules, guidelines, mandates, legal decisions, and regulatory requirements (see NUREG-2186).
20. Ensure consistent application and compliance across the agency.
21. Reflect the agency’s values.
22. Perform as part of an agencywide process that considers other agency risks affecting mission and business success.

#### **D. Managing Agencywide NRC Activities for the OCCP**

SBCR OCCP staff performs the following routine compliance managing activities—

1. Provide oversight, outreach, technical assistance, guidance, and coordination of efforts with program providers (recipients of NRC assistance or financial support; and NRC offices) to obtain compliance.
2. Seek, to the fullest extent practicable, the cooperation of NRC offices and recipients of FFA in complying with NRC and Federal regulations and requirements.
3. Administer internal compliance programs applicable to NRC-conducted programs and activities, and external compliance programs applicable to NRC FFA programs and activities.
4. Conduct and/or facilitate civil rights training on equal opportunity.
5. Display equal opportunity posters in prominent places within the agency.
6. In English and other languages, make available and disseminate information and educational materials to the public, NRC recipients, and other stakeholders.
7. Collect and analyze information and data to determine compliance with regulations and for reporting purposes.
8. Monitor programs and activities to ensure nondiscrimination and fair practices.

9. Conduct pre-award compliance reviews (desk and/or onsite audits), before making a grant award in accordance with NRC's Internal Desk Reference Guide for Conducting Pre-Award Reviews and Post-Award Compliance Reviews (NUREG-2186). These reviews will be conducted in accordance with the policy and guidance found in MD 11.6.
10. Conduct post-award compliance reviews (desk and/or onsite audits), during the grant award period in accordance with NRC's Internal Desk Reference Guide for Conducting Pre-Award Reviews and Post-Award Compliance Reviews.
11. Provide prompt, fair, and impartial processing of discrimination complaints in various languages in accordance with the NRC's External Complaint Processing and Investigation Procedures Manual, and consistent with Federal regulations as defined in 28 CFR 42 Subpart F, "Coordination and Enforcement of Nondiscrimination in Federally Assisted Programs"; 28 CFR 50.3(c)(ii)(a), with emphasis on (a)(2) and (b) ("Guidelines for the Enforcement of Title VI, Civil Rights Act of 1964"); Titles VI and IX Legal Manuals; the "Age Coordinating Regulations"; 10 CFR Part 4; 10 CFR Part 5; EO 12250; EO 12898; EO 13166; and EO 13160.
12. Conduct and/or facilitate alternative dispute resolution (ADR) or mediation to resolve disputes (e.g., 10 CFR Part 4, Subpart C, EO 13160).
13. Take required actions to respond to violations of NRC and Federal regulations.
14. Report the progress and outcomes related to the agency's compliance programs and efforts, as requested, to Federal oversight agencies (e.g., DOJ), the White House, Congress, and NRC officials.
15. Ensure consistency in compliance processes and efforts across the agency.
16. Reflect the agency's values in the administration of compliance programs.
17. Conduct the OCCP as an agencywide process and consider agency risks affecting mission and business success.

### **III. MINORITY SERVING INSTITUTIONS PROGRAM AND SUBPROGRAMS**

#### **A. Introduction (for Informational Purposes only)**

1. This section applies to NRC partnership programs with MSIs and efforts to help the Federal Government achieve its STEM workforce development and diversity and inclusion initiatives by assisting MSIs. (See Energy Policy Act of 2005, Section 622, "Nuclear Regulatory Commission Scholarship and Fellowship Program," Higher Education Act of 1965, as amended, and 37 CFR 401, "Governmentwide

Implementing Regulations for the Bayh-Dole Act.”) Examples of inherently governmental requirements are provided below for informational purposes only.

- (a) Achieve academic excellence.
  - (b) Develop human capital (students and faculty).
  - (c) Build capability, capacity, and infrastructure.
  - (d) Gain knowledge and skills needed to effectively compete for grants, contracts, cooperative agreements, and other Federal and public-private resources.
  - (e) Participate in Federal and public-private programs.
  - (f) Produce a diverse, skilled workforce (e.g., STEM-related and other occupations).
2. The five MSIP subprograms authorized by the Energy Policy Act of 2005, Section 631, establish partnership programs with MSIs and implement provisions of EOs focused on underserved and underrepresented MSIs (see SECY-06-0183, “Minority Serving Institutions Programs,” August 16, 2006 ([ML061990461](#)) and Energy Policy Act of 2005, Section 622, “Nuclear Regulatory Commission Scholarship and Fellowship Program”). SBCR administers the following subprograms:
- (a) The Historically Black Colleges and Universities (HBCU) program implements the provisions of EO 13532, “Promoting Excellence, Innovation, and Sustainability at Historically Black Colleges and Universities.” The PBI program implements the provisions of EO 13621, “White House Initiative on Educational Excellence for African Americans.” This program is incorporated under the HBCU program.
  - (b) The Tribal College and Universities (TCU) program implements the provisions of EO 13592, “Improving American Indian and Alaska Native Educational Opportunities and Strengthening Tribal Colleges and Universities.” (See Federally Recognized Indian Tribe List Act of 1994.)
  - (c) The Hispanic Serving Institutions (HSI) program implements the provisions of EO 13555, “White House Initiative on Educational Excellence for Hispanics.”
  - (d) The Asian American and Pacific Islander Institutions (AAPII) program implements the provisions of EO 13515, “Increasing Participation of Asian Americans and Pacific Islanders in Federal Programs.”
  - (e) The Minority Serving Institutions (MSI) grants program funds MSI programs, activities, projects, symposiums, and training for the exchange and transfer of knowledge and skills relevant to nuclear safety, security, environmental

protection, or any other fields the Commission deems critical to its mission. The MSI grants program also—

- (i) Provides funding for MSI programs and activities including, but not limited to, mentoring, leadership development, training, education, instruction, developmental learning, research and development, program evaluation, technical assistance, and recruitment.
- (ii) Provides funding for direct institutional subsidies, facilities and equipment acquisition, internships, fellowships, scholarships, travel, tuition, housing and other types of assistance.
- (iii) Implements provisions of the Federal grant regulations and agency directives under 2 CFR Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.”

#### **B. Training and Other Guidance Related to the MSIP**

The OCCP PM should ensure that the NRC OCCP provides training related to administration of the MSIP program. OCCP staff is required to acquire the breadth and depth of knowledge needed to effectively outreach to NRC offices, MSIs and other stakeholders, provide appropriate technical assistance, and help NRC offices and stakeholders provide support and assistance in compliance with NRC regulations, EOs, and guidance.

#### **C. Federal Requirements for the MSIP**

The NRC and affected staff must meet required Federal responsibilities and obligations for outreach coordinating and implementing activities. Staff must—

1. Be consistent with applicable EOs that require Federal departments and agencies to work with the public, private, and academic sectors; educational associations; philanthropic organizations; and other partners to increase the capability, capacity, and infrastructure of MSIs to—
  - (a) Provide the highest-quality education,
  - (b) Expand educational opportunities,
  - (c) Improve education outcomes,
  - (d) Deliver a complete and competitive education by all MSIs to a greater number of students, and

- (e) Take advantage of MSIs' capabilities in serving the Nation's needs through—
  - (i) Strengthening the capacity of MSIs to participate in Federal programs;
  - (ii) Fostering private sector initiatives and public-private partnerships while promoting specific areas and centers of academic research and programmatic excellence throughout all HBCUs;
  - (iii) Improving the availability, dissemination, and quality of information concerning MSIs to inform public policy and practice;
  - (iv) Sharing administrative and programmatic practices within the MSI community for the benefit of all; and
  - (v) Exploring new ways of improving the relationship between the Federal Government and MSIs.
- 2. Increase the capacity of MSIs to compete effectively for grants, contracts, or cooperative agreements and to encourage MSIs to participate in Federal programs.
- 3. Identify Federal programs and initiatives in which MSIs may be either underserved or underused as national resources and improve MSIs' participation therein.
- 4. Encourage public sector, private sector, and community involvement in improving the overall capacity of MSIs.
- 5. Provide, as appropriate, technical assistance and information to the Executive Directors of the White House Initiatives Offices for purposes of communicating with the various MSI groups; information concerning program activities of the agency; and the assist in the preparation of applications or proposals for grants, contracts, or cooperative agreements.
- 6. Ensure that the Director, AD, or OCCP PM reports directly to the agency head with respect to activities under each of the EOs, and serves as liaison to the President's Board of Advisors and to the White House Initiatives Office.
- 7. Conduct pre- and post-grant administration activities in accordance with 2 CFR Part 200, and other applicable Federal grant regulations and OMB circulars.
- 8. Implement provisions associated with the authority granted under the Energy Policy Act of 2005 related to establishing partnerships with MSIs, issuing FFA (including grants), and carrying out pertinent EO mandates.
- 9. Submit annually performance reports and plans that assess the agency's previous year's performance and anticipated plans for the following year.



#### **D. Managing Agencywide NRC Activities for the MSIP**

SBCR OCCP staff manages the following MSIP activities, which encompass frequent travel to various locations:

1. Provide oversight, outreach, technical assistance, guidance, and coordination of efforts to—
  - (a) Build relationships.
  - (b) Leverage partnerships.
  - (c) Share resources with the White House; Federal agencies; public, private and academic sectors; MSIs; NRC offices; University Champions; Advisory Committees; employee volunteers; and other stakeholders, to help achieve the Federal Government's workforce development and diversity and inclusion initiatives.
2. Implement requirements directed at assisting MSIs in accordance with this handbook and other authorities.
3. Administer MSIP subprograms.
4. Coordinate efforts with NRC University Champions to increase participation of MSIs and student and faculty participation in—
  - (a) Recruitment efforts (e.g., NRC's Nuclear Safety Professional Development Program, Summer Intern Program, Cooperative Education Program);
  - (b) Research and development;
  - (c) Funding opportunities (e.g., grants, cooperative agreements, contracts, other resources); and
  - (d) Other programs and activities.
5. Conduct fieldwork, including campus visits, sponsored training, and participation in MSI-related activities.
6. Report the progress and outcomes related to the agency's MSIPs, other education investment programs, University Champion activities, and advisory committee efforts to provide support and assistance to MSIs, as requested, to Federal oversight agencies, the White House, Congress, and NRC officials.
7. Ensure consistency in office participation in the NRC MSIP metric across the agency.
8. Reflect the agency's values in the administration of MSIP subprograms.
9. Conduct the OCCP as an agencywide process and consider agency risks affecting mission and business success.

**E. NRC Office Assistance and Support for MSIP**

1. Assist and support OCCP, SBCR, in achieving mutually shared initiatives.
2. Assist and support OCCP, SBCR, to coordinate activities and maintain, retrieve, and report on office activities related to the MSIP metrics and applicable reports.

**IV. REPORTING VIOLATIONS**

- A.** Anyone who witnesses or is a part of a violation covered by the compliance subprograms should report the incident to the OCCP PM.
- B.** Anyone who witnesses or is a part of inappropriate conduct related to MSIs, or their faculty and students participating in the MSIP, should report the incident to the OCCP/MSIP manager.
- C.** Any person (member of the public or employee) who believes that he or she or any specific class of persons has been subjected to discrimination or retaliation by either an NRC-conducted or FFA program or activity on the basis of any of the protected classes covered under the OCCP (e.g., race, color, national origin, sex, age, religion, disability) may file a complaint with SBCR (see NUREG-2185, Chapter 4).

**V. ADDITIONAL MANAGEMENT REQUIREMENTS**

**A. Training and Education**

OCHCO and the Office of the Chief Information Officer, in both their lead and/or support roles, will assist SBCR and each other in achieving mutually shared initiatives. These lead offices will assist and support OCCP, SBCR, in providing—

1. Comprehensive civil rights and equal opportunity training for existing and new staff, and
2. Periodic retraining of current staff to establish and update their knowledge of equal opportunity and civil rights statutes and emerging issues.

**B. Compliance Reviews and Complaint Resolution**

1. SBCR conducts compliance reviews (e.g., pre-award and post-award reviews) of recipients or uses other similar procedures that permit it to investigate and correct violations of NRC and Federal regulations. These reviews may be conducted even in the absence of a complaint against a recipient. A review may be as comprehensive as necessary to determine whether a violation of these regulations has occurred (see 10 CFR Part 4 and NUREG-2185 regarding compliance reviews). If a compliance review or pre-award review indicates a violation of these laws and regulations, the NRC will attempt to achieve voluntary compliance with applicable laws and

- regulations. If voluntary compliance cannot be achieved, the NRC will arrange for enforcement as described in 10 CFR Part 4, Section 4.336, "Compliance Procedure."
2. For disputes regarding the OCCP, parties may voluntarily agree to mediation or ADR. (See Federal Mediation Conciliation Services' Mediation Referral Form, available at <https://www.fmcs.gov/resources/forms-applications/notice-of-bargaining-f-7/>.) However, mediation or ADR is legislatively mandated for cases filed on the basis of age (see NUREG-2185, Chapter 1).
  3. SBCR will conduct an informal investigation of a complaint that is unresolved after mediation or that is reopened because of a violation of an agreement reached in mediation. Part of the initial investigation will involve informal fact-finding methods, including separate discussions with the complainant and recipient to establish the facts and, if possible, settle the complaint on terms that are mutually agreeable to the parties. SBCR may seek the assistance of any involved State agency (see NUREG-2185, Chapter 4).
  4. If SBCR cannot resolve the complaint through informal investigation, it will begin to develop formal findings through further investigation of the complaint (see NUREG-2185, Chapter 6). If the investigation indicates a violation of Federal or NRC regulations, SBCR will attempt to obtain voluntary compliance.
  5. If SBCR cannot obtain voluntary compliance, the NRC will begin enforcement as described in the applicable sections of 10 CFR Parts 4 and 5. In accordance with 10 CFR Part 4, Subpart A, the NRC may—
    - (a) Terminate a recipient's FFA from the NRC under the program or activity involved where the recipient has violated the Act or these regulations, after the following procedures are satisfied. First, a recipient has had an opportunity for a hearing on the record before an administrative law judge. Second, the NRC Commissioners have filed a full written report with Congress pursuant to 42 U.S.C. Section 2000d-1. Cases that are settled in mediation or before a hearing will not involve termination of a recipient's FFA from the NRC.
    - (b) Take any other means authorized by law, including, but not limited to, making a referral to the DOJ for proceedings to enforce any rights of the United States or obligations of the recipients created by the Act or these regulations; use of any requirement or referral to any Federal, State, or local government agency that will have the effect of correcting a violation of the Act or NRC regulations in 10 CFR Part 4 (see NUREG-2185, Chapter 11).
    - (c) Action taken pursuant to Section 602 of the Civil Rights Act of 1964 is subject to judicial review as provided in Section 603 of that Act. The enforcement and hearing procedures are set forth in 10 CFR Parts 4 and 5.

6. Under 10 CFR Part 4, Subpart B, SBCR may, where necessary to overcome the effects of discrimination in violation of Section 504, require an NRC recipient of FAA to take remedial action—
  - (a) With respect to persons with disabilities who are no longer participants in the recipient's program or activity but who were participants in the program when the discrimination occurred, or
  - (b) With respect to persons with disabilities who would have been participants in the program or activity had the discrimination not occurred.
7. Investigation, enforcement, and compliance will be done in accordance with applicable sections of 10 CFR Part 4 and NUREG-2185.

**C. Consequences of Noncompliance**

1. The Office of the Inspector General (OIG) is charged with investigation of allegations of staff misconduct, which must be reported to the OIG.
2. If an applicant fails or refuses to furnish an assurance required under 10 CFR Parts 4 and 5, or comply with requirements, FFA may be refused in accordance with applicable Federal laws and regulations.
3. No action to effect compliance by any other means authorized by law can be taken until—
  - (a) The responsible NRC official has determined that compliance cannot be secured by voluntary means.
  - (b) The recipient or other person has been notified of their failure to comply and of the action to be taken to effect compliance.
  - (c) At least 60 calendar days from the mailing of such notice to the recipient or other person. (During this period, additional efforts will be made to persuade the recipient or other person to comply and take appropriate corrective action.)

**D. Reporting Requirements, Including Data Collections and Analysis Related to Compliance Programs**

1. The NRC is required to submit to the Secretary of HHS, not later than December 31 of each year, a report that—
  - (a) Describes in detail the steps taken during the preceding fiscal year to carry out the regulations;

- (b) Contains data on the frequency, type, and resolution of complaints and on any compliance reviews sufficient to permit analysis of the agency's progress in reducing age discrimination in programs or activities receiving FFA from the NRC;
  - (c) Contains data directly relevant to the extent of any pattern or practice of age discrimination that the NRC has identified in any programs or activities receiving FFA from NRC and to progress toward eliminating it;
  - (d) Contains evaluative or interpretative information that the NRC determines is useful in analyzing agency progress in reducing age discrimination in programs or activities receiving FFA from the NRC; and
  - (e) Contains whatever other data the Secretary of HHS may require.
2. EO 12250 requires each Executive agency to furnish reports and information that the U.S. Attorney General may request.
  3. EO 13160 requires each Federal agency to provide the U.S. Attorney General a report that summarizes the number and nature of complaints filed with the agency and the disposition of these complaints. For the first 3 years after the date of EO 13160, these reports must be submitted annually within 90 days of the end of the preceding year's activities. Subsequent reports must be submitted every 3 years and within 90 days of the end of each 3-year period.
  4. The NRC is required to submit separate reports to the White House Initiatives Offices, including an Annual Federal Report on Executive Agency Actions to Assist Minority Serving Institutions for—
    - (a) HBCUs,
    - (b) PBIs,
    - (c) Educational Excellence for Hispanics (EEH),
    - (d) American Indian and Alaska Native Education, and
    - (e) Asian Americans and Pacific Islanders.
  5. The NRC is required to submit separate plans to the White House, including an Annual Fiscal Proposed Agency Performance Plan for Increasing Support to Minority Serving Institutions for—
    - (a) HBCUs,
    - (b) PBIs,
    - (c) EEH,

- (d) American Indian and Alaska Native Education, and
  - (e) Asian Americans and Pacific Islanders.
6. Where appropriate, each plan should include the agency's proposed efforts to—
- (a) Establish how the agency intends to increase the capacity of the applicable MSI group to compete effectively for grants, contracts, or cooperative agreements and to encourage HBCUs to participate in Federal programs.
  - (b) Identify programs and initiatives in which the applicable MSI group may be either underserved or underused as national resources, and improve their participation therein.
  - (c) Encourage public sector, private sector, and community involvement in improving the overall capacity of the applicable MSI group.
  - (d) Provide appropriate measurable objectives, and annually assess the agency's performance on the goals set in the previous year's agency plan.

## **VI. ADDITIONAL NRC ROLES AND RESPONSIBILITIES**

### **A. Office of Small Business and Civil Rights**

1. Coordinates with the Department of Labor to enforce requirements concerning employment discrimination with respect to recipients that are also Federal contractors subject to section 503 of the Rehabilitation Act of 1973, as amended (28 CFR 41.7, "Coordination with Sections 502 and 503").
2. Where recipients are receiving assistance for similar or related purposes from two or more agencies, or where two or more agencies cooperate in administering assistance for a given class of recipients, SBCR is required to—
  - (a) Coordinate compliance with Section 504.
  - (b) Designate one of the agencies as the primary agency for Section 504 compliance purposes (28 CFR 41.6, "Interagency Cooperation").
3. When conducting a compliance review or investigating a complaint of an alleged Section 504 violation, notify any other affected agency upon discovery of its jurisdiction and shall inform it of the findings made. Reviews or investigations may be made on a joint basis (28 CFR 41.6, "Interagency Cooperation").

**B. Chief Human Capital Officer**

Assists SBCR to increase recruitment at MSIs and provide opportunities that include career exposure, on-the-job training, and R&D opportunities.

**C. All NRC Offices, Boards, and Committees**

Follow the guidance provided in the agency's LEP Plan and carry out the responsibilities, duties, and tasks identified to comply with EO 13166, consistent with the directives and guidance issued by DOJ (see the NRC LEP Plan).

**VII. COMMUNICATIONS AND OPERATIONS**

**A. Overview of Operational Procedures and Responsibilities**

1. NRC requires consistent application of the OCCP compliance programs and outreach to MSIs across NRC business organizations to ensure uniform compliance with applicable civil rights statutes, laws, rules, regulations, and mandates; and achievement of the agency's MSI measurable objectives.
2. Documented procedures are to be posted on the SBCR Web site.

**B. Monitoring**

SBCR monitors FFA programs to ensure compliance with all applicable NRC and Federal antidiscrimination regulations directed towards prohibiting discrimination in NRC-conducted and FFA programs and activities.

**VIII. GLOSSARY<sup>5</sup>**

**A. Definitions Related to Compliance Programs**

1. **Academic Institution:** Any school, academy, college, university, institute, or other association, organization, or agency conducting or administering any program, project, or facility designed to educate or train individuals.
2. **Alternative Dispute Resolution (ADR):** A confidential, informal, non-adjudicative, and non-adversarial process for reaching mutually acceptable resolutions of disputes covered under the Outreach and Compliance Coordination Program (OCCP) area. The U.S. President and U.S. Attorney General have encouraged the use of Alternative Dispute Resolution (ADR) in matters that are the subject of civil litigation. The ADR Act of 1996 authorizes use of ADR to resolve administrative disputes. The Age Discrimination Act of 1975 mandates Federal agencies to refer age

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<sup>5</sup> This Glossary includes Governmentwide definitions that may not apply to the NRC.

discrimination complaints for mediation as part of the prescribed Federal Government response. The Department of Health and Human Services (HHS) is responsible for ensuring all affected Federal agencies uniformly carry out the Act. HHS has officially designated the Federal Mediation and Conciliation Service to mediate age cases for Federal agencies.

3. **Applicant:** One who submits an application, request, or plan required to be approved by a responsible Federal official, or by a primary recipient, as a condition of eligibility for Federal financial assistance.
4. **Appropriate Agency Official:** Officer or officers within a Federal department or agency designated to determine what, if any, disciplinary action, remedial action, or corrective action should be taken as a result of a violation.
5. **Assurance Agreements and Award Terms and Conditions:** Entities that are awarded FFA must sign assurance agreements and other terms and conditions that require compliance with applicable NRC and Federal civil rights laws and other obligations.
6. **Assurances:** Ensures that applicants and recipients of FFA are aware of their obligations to operate their programs or activities (Title IX refers to education programs) in compliance with nondiscrimination mandates.
7. **Auxiliary Aids:** Includes services or devices that enable individuals with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, NRC programs and activities. For example, auxiliary aids useful for persons with impaired vision include readers, braille materials, audio recordings, telecommunications devices, and other similar services and devices. Auxiliary aids useful for individuals with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDDs), interpreters, note-takers, written materials, and other similar devices.
8. **Complete Complaint:** A written statement that contains the complainant's name, address, and phone number; describes the agency's/recipient's alleged discriminatory action in sufficient detail to inform the agency/recipient of the nature and approximate date of the alleged violation (EO 13160 identifies whether the complainant is an NRC employee and whether the complainant's involvement in the relevant education or training program was related to his or her employment). A complete complaint must be signed by the complainant or by someone authorized by the complainant to sign on his or her behalf. Complaints filed on behalf of classes or third parties must describe or identify (by name, if possible) the alleged victims of discrimination.



9. **Compliance Complaint Process:** NRC's compliance discrimination complaint process, available at <http://www.nrc.gov/about-nrc/civil-rights/occp/complaint-process.html>, is administered by the Office of Small Business and Civil Rights (SBCR), Outreach and Compliance Coordination Program (OCCP) in accordance with applicable NRC and Federal regulations, as defined in MD 10.164. Any person who believes they or any specific class of individuals has been subjected to discrimination prohibited by the applicable regulations may themselves or by a representative file with the responsible NRC official a written complaint. NRC employees and members of the public who believe that they have been subjected to discrimination protected by the applicable regulations, may file a complaint electronically (Standard Form 782).
10. **U.S. Department of Justice Federal Coordination and Compliance Section (FCS):** An office in the Civil Rights Division of the U.S. Department of Justice responsible for ensuring that all Federal agencies consistently and effectively enforce civil rights statutes and EOs that prohibit discrimination in Federal and FFA programs and activities.
11. **Education and Training Programs and Activities:** Includes, but are not limited to, formal schools, extracurricular activities, academic programs, occupational training, scholarships and fellowships, student internships, training for industry members, summer enrichment camps, and teacher training programs. Questions about coverage should be referred to the U.S. Department of Justice Federal Coordination and Compliance Section (FCS).
12. **Equal Opportunity**
  - (a) **Age Discrimination Coordinator:** Is a responsible employee designated by the recipient with major responsibility for organizational compliance with NRC and Federal regulations related to the Age Discrimination Act of 1975.
  - (b) **Section 504 Disability Coordinator:** Is a responsible employee designated by the recipient with major responsibility for organizational compliance with NRC and Section 504 regulations.
  - (c) **Title VI Coordinator:** Is a responsible employee designated by the recipient with major responsibility for organizational compliance with NRC and Federal Title VI regulations.
  - (d) **Title IX Coordinator:** Is a responsible employee designated by the recipient with major responsibility for organizational compliance with NRC and Federal Title IX regulations.

13. **Facility:** Includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provisions of facilities including the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.
14. **Federal Financial Assistance (FFA):** Includes, but is not limited to, grants and loans of Federal funds; grants or donations of Federal property; training; details of Federal personnel; the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient; or any agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.
15. **Federally Conducted Program and Activity:** Anything a Federal agency does. Aside from employment, there are two major categories of federally conducted programs or activities covered by compliance regulations covered in MD 10.164: those involving general public contact as part of ongoing agency operations, and those directly administered by the agency for program beneficiaries and participants. Activities in the first part include communication with the public (e.g., telephone contacts, office walk-ins, or interviews) and the public's use of NRC's facilities (e.g., cafeteria). Federally conducted activities include the provision of Federal benefits or services, the imposition of a burden on a member of the public, and any other activities a Federal agency conducts.
16. **Federally Conducted Education and Training Programs and Activities:** Include programs and activities conducted, operated, or undertaken by an executive department or agency. Federally conducted education and training programs and activities include, but are not limited to, formal schools, extracurricular activities, academic programs, occupational training, scholarships and fellowships, student internships, training for industry members, summer enrichment camps, and teacher training programs. Questions about coverage should be referred to the U.S. Department of Justice Federal Coordination and Compliance Section (FCS).
17. **Grievance Procedure Process:** A mechanism used by NRC or recipients of Federal financial assistance to determine whether a particular act, policy, or practice complies with applicable NRC and Federal regulations, which they have authority to investigate (e.g., 10 CFR Parts 2, 4, 5, and 19; Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments Act of 1972; the Age Discrimination Act of 1975, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; EOs 12898, 13160, 13166). The grievance procedure also provides the steps necessary to correct the policy or practice that does not comply with the regulations and to remedy any effects of discrimination upon affected individuals.

18. **Individual with a Disability**<sup>6</sup>: Any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of the impairment, or is regarded as having such an impairment.
- (a) **Physical or Mental Impairment**: (i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
  - (b) **Major Life Activities**: Functions like caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
  - (c) **Record of an Impairment**: Has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
  - (d) **Regarded as Having an Impairment**: (i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation; (ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (iii) Has none of the impairments defined in paragraph (a)(i) of this section but is treated by a recipient as having such an impairment.
  - (e) **Qualified Individual With a Disability**: (i) With respect to employment, an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the job in question; and (ii) With respect to services, an individual with a disability who meets the essential eligibility requirements for the receipt of such services.
19. **Investigating Office**: An office or offices within an executive department or agency, designated to investigate complaints about violations of this Order or its implementing rules, regulations, policies, or guidance.
20. **Limited English Proficient Person**: An individual who does not speak English as his or her primary language and who has a limited ability to read, speak, write, or understand English can be limited English proficient, or "LEP." An LEP person may be competent in English for certain types of communication, but still be LEP for other purposes, depending on the difficulty of the subject matter or type of

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<sup>6</sup> Many regulations previously used the language "handicapped."

communication (e.g., speaking vs. reading). This individual may be entitled to language assistance with respect to a particular type of service, benefit, or encounter.

21. **Primary Recipient:** A recipient authorized or required to extend FFA to another recipient for the purpose of carrying out a program.
22. **Reasonable Accommodation [Modification]:** A recipient is required to make reasonable accommodation (RA) to the known physical or mental limitations of an otherwise qualified applicant or employee with disabilities unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program or activity. RAs include, but are not limited to making facilities used by employees readily accessible to and usable by individuals with disabilities, including job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions or items.
23. **Recipient:** Any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or other entity, or any individual, in any State, to whom FFA is extended, directly or through another recipient, for any program, including any successor, assignee, or transferee thereof, but such term does not include any ultimate beneficiary under any such program.
24. **Recipient Program:**

A program or activity means all of the operations of any entity described in paragraphs (a) through (d) below, any part of which is extended Federal financial assistance:

  - (a) (i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or (ii) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;
  - (b) (i) A college, university, or other postsecondary institution, or a public system of higher education; or (ii) a local educational agency (as defined in 20 U.S.C. 8801), system of vocational education, or other school system;
  - (c) (i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship - (1) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or (2) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or (ii) the entire plant or other comparable, geographically separate facility to which Federal financial

assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

- (d) Any other entity that is established by two or more of the entities described in paragraph (a), (b), or (c) of this section.

Includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals (including education or training, rehabilitation, or other services or disposition, whether provided through employees of the recipient of FFA or provided by others through contracts or other arrangements with the recipient, and including work opportunities and cash or loan or other assistance to individuals), or for the provision of facilities for furnishing services, financial aid, or other benefits to individuals. The recipient of FFA must meet matching requirements or other conditions which must be met to receive the FFA. Recipients include any facility provided with the aid of FFA or any other non-Federal resources.

25. **Responsible NRC official:** The Director of the Office of Small Business and Civil Rights (SBCR) or any other officer to whom the Executive Director for Operations (EDO) has delegated the authority to administer the agency's civil rights programs and activities including those identified in MD 10.164.
26. **Status as a Parent:** An individual who, with respect to an individual who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is: a biological parent; an adoptive parent; a foster parent; a stepparent; a custodian of a legal ward; in loco parentis over such an individual; or actively seeking legal custody or adoption of such an individual.

#### **B. Definitions Related to the Minority Serving Institutions Program**

1. **Administrative Infrastructure:** The management and administrative framework of an institution of high education.
2. **Agency:** All executive departments, establishments, and agencies of the Federal Government.
3. **Alaska Native and Native Hawaiian-Serving (AN/NH) Institution:** Alaska Native and Native Hawaiian-Serving Institutions are defined in Title III of the Higher Education Act of 1965, as amended (Pub. L. 105-244).
4. **American Indian and Alaska Native-Serving Institution (AIANSI):** "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a et seq.). "American Indian and Alaska Native" means a member of an Indian tribe, as membership is defined by the tribe. The definition of AIANSI is defined in Title III of

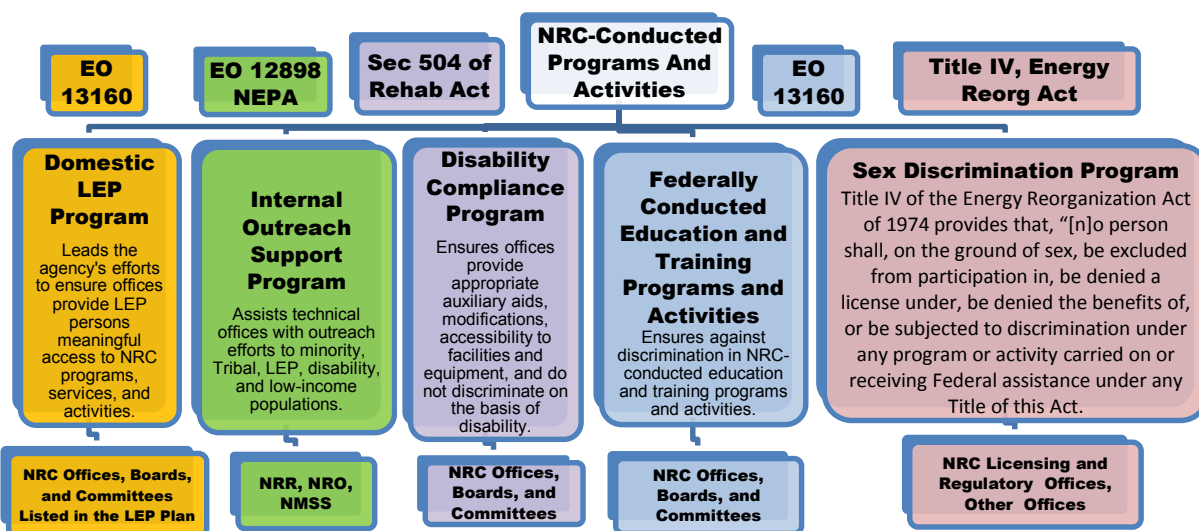
the Higher Education Act of 1965, as amended. “Tribally Controlled Colleges and Universities” are those institutions that are chartered by their respective Indian tribes through the sovereign authority of the tribes or by the Federal Government, and defined in Section 316 of the Higher Education Act of 1965 (Pub. L. 89-329) (20 U.S.C. 1059c).

5. **Asian American and Native American Pacific Islander-Serving Institution (AANAPISI):** The definition of AANAPISI is in Title III of the Higher Education Act of 1965, as amended. The term “Asian American and Pacific Islander” includes persons within the jurisdiction of the United States having ancestry of any of the original peoples of East Asia, Southeast Asia, or South Asia, or any of the aboriginal, indigenous, or native peoples of Hawaii and other Pacific Islands.
6. **Award:** Funds that an agency provides to an institution of higher education under a grant, contract, or other assistance.
7. **Contract:** A legal instrument reflecting a relationship between a Federal agency and an institution of higher education where the principal purpose is to acquire (by purchase, lease, or barter) goods or services.
8. **Direct Institutional Subsidies:** Federal financial support to institutions of higher education for education and general expenses where the Federal Government either places no restrictions on the uses to which the funds may be put or where the Federal Government provides a broad range of allowable activities within which the institution has discretion to use the funds.
9. **Economic Development:** Awards provided to support creation of new businesses or jobs, or expand existing businesses to create new markets.
10. **Facilities and Equipment:** Structures, works, fixed equipment, major repairs, or alterations to structures, works, fixed equipment, facilities, or land for use by an institution of higher education. Also included in this category are major repairs and alterations to these sites.
11. **Fellowships, Internships, Traineeships, Recruitment, and Arrangements under the Intergovernmental Personnel Act (IPA):** Cooperative education, student and faculty internships, visiting professorships, and personnel and student recruitment at institutions of higher education.
12. **Grant:** The method of transferring property, money, services, or anything of value to a recipient to accomplish a public purpose authorized by statute when the agency is not anticipated to be substantially involved in performing the activity.
13. **Historically Black Colleges and Universities (HBCU):** The definition of HBCU is in Title III of the Higher Education Act of 1965, as amended.

14. **Hispanic-Serving Institutions (HSI):** The definition of HSI is in Title V of the Higher Education Act of 1965, as amended.
15. **Institution of Higher Education (IHE):** Qualified institutions are listed in the *Education Directory: Colleges and Universities*, published by the U.S. Department of Education's National Center for Education Statistics.
16. **Measurable Objectives:** Agency activities or support for MSIs that can be quantitatively measured in dollar amounts or in discrete, nonfinancial units of measure.
17. **Predominantly Black Institution (PBI):** The definition of PBI is in Title III of the Higher Education Act of 1965, as amended.
18. **Program Evaluation:** Actions to assess the effectiveness of institutional programs and activities, as well as the effectiveness of Federal programs and activities. In many cases, program evaluation activities are conducted on a continuous basis and are frequently included as salaries or other budgetary expenses.
19. **Research and Development (R&D):** Studies, observations, and other activities concerned with the identification, description, experimental investigation, and theoretical explanation of social, physical, and behavioral phenomena. Implementation activities are also included in R&D.
20. **Student Tuition Assistance, Scholarships, and Other Aid:** Federal funds awarded to an institution of higher education for students or awarded directly to students for payment of such charges as tuition and room and board.
21. **Technical Assistance:** Direct help or services to institutions of higher education in key areas including training for writing proposals, negotiating awards, and managing programs and finances.
22. **Third-Party Awards:** Organizations or entities that receive Federal funds on behalf of Minority-Serving Institutions. Examples of such entities include the National Association for Equal Opportunity in Higher Education (NAFEO); American Indian in Higher Education Consortium; The College Fund/UNCF; National Laboratories, such as Los Alamos or Lawrence Livermore; and other foundations and associations.
23. **Training:** Using professional personnel (Federal and non-Federal) to acquire or enhance knowledge or skills at an HBCU or Minority-Serving Institution.
24. **Tribal Colleges and Universities (TCU):** The definition of the term Tribal Colleges and Universities is in Title III of the Higher Education Act of 1965, as amended. Tribal Colleges and Universities are those institutions that are chartered by their respective Indian tribes.

## EXHIBITS

### Exhibit 1 Flowchart of Internal Compliance Subprograms Applicable to NRC Program Providers





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**Exhibit 2      Acronyms**

AANAPISI	Asian American and Native American Pacific Islander-Serving Institution
AAPII	Asian American and Pacific Islander Institutions
AD	Associate Director
ADM	Office of Administration
ADR	Alternative dispute resolution
AIANSI	American Indian and Alaska Native-Serving Institution
AMD	Acquisition Management Division, Office of Administration
AEA	Atomic Energy Act of 1954, as amended
ADOP	Associate Director for Human Resources Operations and Policy
ADTD	Associate Director for Training and Development
AODR	Authorizing Official Designated Representative
BCM	Business Continuity Management
BCP	Business Continuity Plan
CFO	Chief Financial Officer
CFR	<i>Code of Federal Regulations</i>
CIO	Chief Information Officer
CISO	Chief Information Security Officer
DFS	ADM Division of Facilities and Security
DLEP	Domestic Limited English Proficiency
DOJ	U.S. Department of Justice
EDO	Executive Director for Operations
EEH	Educational Excellence for Hispanics
EO	Executive order
EPA	Environmental Protection Agency
FFA	Federal financially-assisted
FTE	Full-time equivalent
GAO	Government Accountability Office
HBCU	Historically Black Colleges and Universities

HHS	Department of Health and Human Services
HSI	Hispanic-Serving Institutions
IOS	Internal Outreach Support
LEP	Limited English Proficiency
MD	Management Directive
MSI	Minority Serving Institutions
MSIP	Minority Serving Institutions Program
NEPA	National Environmental Policy Act
NMSS	Office of Nuclear Material Safety and Safeguards
NRO	Office of New Reactors
NRR	Office of Nuclear Reactor Regulation
NTEU	National Treasury Employees Union
OCCP	Outreach and Compliance Coordination Program
OCHCO	Office of the Chief Human Capital Officer
OGC	Office of the General Counsel
OIG	Office of the Inspector General
OCIO	Office of the Chief Information Officer
OMB	Office of Management and Budget
PBI	Predominantly Black Institutions
PM	Program Manager
POC	Point of Contact
SBCR	Office of Small Business and Civil Rights
STEM	Science, technology, engineering, and mathematics
TCU	Tribal College and Universities
U.S.C.	United States Code