

**Forest Service Handbook  
National Headquarters - Washington Office  
Washington, DC**

**Forest Service Handbook 1709.11 – Civil Rights Handbook  
Chapter 70 – Federal Financial Assistance Programs**

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**Digest:** Following is an explanation of the changes throughout the directive by section.

**Chapter 70:** Updates all references to form FS-1700-0006 to FS-1700-0006A.

**Section 73.51:** Exhibit 01 Special Use Authorizations Subject to Equal Opportunity Program Delivery Review – Revises terminology and content in the exhibit for use codes 139 and 162 to conform with changes made in other handbooks. Replace Tramway with Ropeway, adds FLREA Organic Act of 1897, Update Review Frequency.

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This chapter explains the basis and legal requirements for establishing and implementing Forest Service Federal Financial Assistance Programs (FSM 1770).

Information contained in this chapter is designed to assist managers, specialists, and line officers with procedural requirements and general guidelines for implementing FSM 1770.

## **70.1 - Authority**

**Departmental Regulation 4330-2.** Ensures nondiscrimination in programs and activities receiving Federal financial assistance from Department of Agriculture (the Department or USDA), July 27, 2021, which provides departmental policy and guidance to ensure compliance and enforcement of the prohibition against discrimination in programs and activities funded whole or in part by the Department.

**Departmental Regulation 4330-6.** Establishes the USDA policies and procedures for conducting civil rights compliance reviews of all USDA federally conducted and federally assisted programs and employment, issued August 26, 2022.

**Title 7 Code of Federal Regulations, subtitle A, Part 15–Nondiscrimination, subpart A–Nondiscrimination in Federally Assisted Programs of the Department of Agriculture–Effectuation of Title VI of the Civil Rights Act of 1964 (7 CFR subtitle A, part 15, subpart A).**

Implements Title VI of the Civil Rights Act of 1964, dated December 1964 and Section 504 of the Rehabilitation Act of 1973 for Federally Assisted Programs.

**Title VI of the Civil Rights Act of 1964, as amended Title 42, United States Code, section 2000d through 2000d-6 (42 U.S.C. 2000d through 2000d-6).** States that no person in the United States shall, on the “ground of race, color, or national origin, be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

**Title 28, Code of Federal Regulations, Part 42.406-- Data and Information Collection (28 CFR 42.406).** Federal agencies shall in regard to each assisted program provide for the collection of data and information from applicants for and recipients of Federal assistance sufficient to permit effective enforcement of Title VI of the Civil Rights Act of 1964, as amended.

**Rehabilitation Act of 1973, as amended.** This act prohibits discrimination on the basis of disability. Section 504 states that "no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subjected to discrimination under" any program or activity that either receives Federal financial assistance or is conducted by any Executive agency.... It further defines the rights of individuals with disabilities to participate in, and have access to, program benefits and services.

**Title IX of the Education Amendments of 1972.** The principal objective of Title IX is to prohibit sex or gender discrimination in federally conducted or assisted education and training programs and activities.

**Age Discrimination Act of 1975, as amended.** This act prohibits discrimination on the basis of age. The act states that: “no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal Financial Assistance.”

**Executive Order 13166 Improving Access to Services for Persons with Limited English Proficiency.** This Executive Order ensures that persons with limited English proficiency have adequate access to federally funded services consistent with Title VI of the Civil Rights Act, which prohibits discrimination based on national origin.

## **70.4 - Responsibility**

### **70.41 - Washington Office**

1. The Deputy Chief for Business Operations ensures the application of the requirements for nondiscrimination in the Federal Financial Assistance Programs of the Forest Service.
2. The Director of Civil Rights has the responsibility to ensure implementation of requirements for nondiscrimination in the Federal Financial Assistance Programs of the Forest Service.
3. All Deputy Chiefs shall provide leadership and direction to their program offices for reviewing and monitoring nondiscrimination at all organizational levels in the delivery of programs and activities relative to Federal financial assistance.

### **70.42 - Regions, Stations, Forest Products Laboratory (FPL) and International Institute of Tropical Forestry (IITF)**

The Regional Foresters, Station Directors, and FPL and IITF (R/S) directors have the responsibility, through their respective staffs, to affirmatively administer the Civil Rights Program.

## **70.5 - Definitions**

**Applicant.** Any person that submits an application, request, or plan requiring approval by the Forest Service and/or primary recipients, as a condition of eligibility to receive Federal funding for a program or activity.

**Assurances.** Applications that as a condition of its approval contain a signed statement, clause, or provision assurance that confirms the parties will agree to comply with appropriate laws and policies, and cooperate during the length and delivery of the agreement.

**Beneficiary.** Any person who receives a benefit, such as goods or services, from a recipient entity of a federally funded program or activity.

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**Compliance Review.** Periodic assessments, inspections, or investigations of a Federal financial assistance program offered by a recipient to determine the level of compliance with Civil Rights laws and statutes.

**Continuing State Program.** Programs that remain in effect from year to year and are administered by a state or local agency, such as a county. Forest Service continuing state programs include the cooperative forestry programs and the revenue sharing programs; however, exclude programs administered by an institution of higher education.

**Discrimination.** As it relates to the delivery of assisted programs, is the unequal treatment of persons because of race, color, national origin, sex, age, or disability. Retaliation or reprisal based on prior civil rights activity is prohibited. Unequal treatment may involve but, is not limited to: the quality or timing of assistance, the method used to provide a benefit, or the fees charged for a benefit. Discrimination includes:

1. Denying a person any benefit provided under the program.
2. Providing a person any benefit that is different or is provided in a different manner from that provided to others.
3. Subjecting a person to segregation, separate or difference of treatment.
4. Restricting a person from taking part in any benefit that is enjoyed by others.

**Equal Opportunity.** Compliance with Civil Rights laws prohibiting discrimination in both federally assisted programs and federally conducted programs.

**Federal Financial Assistance.** Federal financial assistance includes:

1. Grants and loans of Federal funds;
2. The grant or donation of Federal property and interests in property;
3. The detail of Federal personnel;
4. The sale and lease of and the permission to use (on other than a casual or transient basis) Federal property or any interests in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipients, or in recognition of the services to the recipient; and
5. Any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

**Federal Financial Assistance Program.** All programs or activities where assistance is granted to a recipient who extends a service or benefits to others. Federal financial assistance does not apply to:

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1. Assistance by insurance or guaranty contracts.
2. Assistance extended before January 3, 1965.
3. Employment practices of a recipient, except where the purpose of the assistance is to provide employment, or where the conditions of employment affect the fairness in services rendered.

**Other Recipient.** A sub-recipient. Also, recipients below the second level when they exist.

**Primary Recipient.** An entity, such as a state, that extends assistance to a sub-recipient, such as a county, for carrying out a program.

**Program.** Any project or activity that provides services, financial aid, or other benefits to individuals. Also, one that provides facilities that furnishes services, financial aid, or other benefits to individuals.

**Racial/Ethnic Categories:**

1. Ethnicity categories are defined as:
  - a. **Hispanic or Latino.** A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.
  - b. **Not Hispanic or Latino.** A person not of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.
2. Race Categories are defined as:
  - a. **White.** A person having origins in any of the original peoples of Europe, the Middle East, or North Africa. It includes people who indicate their race as “White” or report entries such as Irish, German, Italian, Lebanese, near Easterner, Arab, or Polish.
  - b. **Black or African American.** A person having origins in any of the Black racial groups of Africa. It includes people who indicate their race as “Black, Africa American, or Negro”, or provide written entries such as African American, Afro American, Kenyan, Nigerian, or Haitian.
  - c. **American Indian or Alaska Native.** A person having origins in any of the original peoples of North and South America (including Central America) and who maintain tribal affiliation or community attachment.
  - d. **Asian.** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand,

and Vietnam. It includes “Asian Indian”, “Chinese”, “Filipino”, “Korean”, “Japanese”, “Vietnamese”, and “Other Asian”.

- e. **Native Hawaiian or Other Pacific Islander.** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands. It includes people who indicate their race as "Native Hawaiian," "Guamanian or Chamorro," "Samoan," and "Other Pacific Islander."
- f. **Some Other Race.** Includes all other persons not included in the "White", "Black or African American", "American Indian or Alaska Native", "Asian" and "Native Hawaiian or Other Pacific Islander" race categories described above.
- g. **White Populations.** People having origins in any of the original peoples of Europe, the Middle East, or North Africa.
- h. **Multi-racial Populations.** People having origins in two or more of the federally designated racial categories.

**Recipient.** A person, group, agency, or entities that receives Federal financial assistance for services or benefits that are extended to others.

**Retaliation/reprisal.** No agency, officer, employee, or agent of the USDA, including persons representing the USDA and its programs, shall intimidate, threaten, harass, coerce, discriminate against, or otherwise retaliate against anyone who has filed a complaint of alleged discrimination or who participates in any manner in an investigation or other proceeding raising claims of discrimination.

**Sex Discrimination.** Any action that grants or denies opportunities, privileges, or rewards to a person solely on the basis of their sex (gender), includes “terms or conditions of employment,” such as pay, title, being hired or fired from a job, an advancement, and training opportunities. According to Title IX of the Educational Amendments of 1972, sex discrimination as it relates to program delivery compliance, applies only when discrimination occurs in educational programs and activities.

## **71 - Forest Service Programs Covered by Title VI, Title IX, Section 504, and Age Discrimination Act**

Programs affected by Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975, include programs administered by National Forest Systems (NFS), State and Private Forestry (S&PF), and Research Stations (RS). The Office of the General Counsel (OGC) has determined that the provisions of Title VI apply to virtually all special use permits serving the public, regardless of the amount of fee paid, and to Federal financial assistance grants and cooperative agreements. Refer to FSM 1581.01 for a list of Federal laws that authorize the Forest Service to provide Federal financial assistance to non-Federal parties.



## **72 - Assurance Certification**

Title 7 CFR 15.4 states, “...every application ...shall as a condition to its approval and the extension of any Federal financial assistance, contain or be accompanied by an assurance.” To meet this obligation, require applicants for Federal financial assistance to certify through an assurance statement that the program or activity will be conducted in compliance with all requirements of applicable Federal civil rights laws, rules, regulations, and policies. An assurance clause certifying compliance with civil rights laws is required prior to granting Federal financial assistance.

Regional Foresters or Stations, FPL or IITF directors may include supplemental clauses in authorizations for a specific purpose or use.

An assurance signed by a recipient for a specific authorization, agreement, or other instrument applies only to that instrument. A new assurance must be included in any new authorizations, agreements, and so on.

### **72.1 - Approving Officer**

The officer who approves a Federal financial assistance program for special use authorizations and grants and agreements is responsible for:

1. Obtaining from the primary recipient an assurance that certifies compliance with civil rights laws and statutes.
2. Maintaining all assurances from primary recipients and from sub-recipients when there are two or more levels of recipients.

### **72.2 - Role of Recipients in Obtaining Assurances**

Primary recipients obtain assurances from sub-recipients and provide all signed assurances to the appropriate Forest Service unit.

### **72.3 - Authorities for Assurances**

Recipients of Federal financial assistance must certify compliance with DR 4330-2; 7 CFR Subtitle A, Part 15 - Nondiscrimination, Subpart A; Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and other relevant laws, regulations, and Department and agency requirements (sec. 71 and FSM 1770.1).

### **72.4 - Assurances**

Use the standard OGC and Office of Management and Budget (OMB) approved assurances, as appropriate, for all authorizations, agreements, and other instruments as described in sections 72.41 and 72.42.

The OGC has reviewed the authorized terms and conditions for legal sufficiency. Any alterations, deletions, or additions to the standard terms and conditions of assurances, except as provided for in user instructions, must be approved by the appropriate staff(s) in the Washington Office.

#### **72.41 - Assurances in Special Uses Authorizations**

Applications for special use authorizations involving public service or public accommodations must be accompanied by an assurance clause. This requirement is met by incorporating an assurance clause in the permit and obtaining the applicant's signature before the authorized officer executes the authorization. Nondiscrimination assurance clauses are incorporated in some of the standard authorization forms, such as outfitting and guiding (FS-2700-4i), Granger-Thye concession campgrounds (FS-2700-4h), resorts and marinas (FS-2700-5c), and ski areas (FS-2700-5b). However, these nondiscrimination clauses must be added to other authorization templates whenever they are used to authorize public services on National Forest System lands. The nondiscrimination assurance clauses are located at FSH 2709.11, section 52.2 as clauses B-1, Nondiscrimination, and B-2, Equal Access to Federal Programs.

#### **72.42 - Assurances in Grants and Agreements**

Civil rights assurances for Federal financial assistance take the form of a collection of provisions/statements certifying compliance as required by civil rights laws. For domestic grants and cooperative agreements an applicant assurance statement (use Standard Form 424B, Assurances-Non-Construction Programs, or use Standard Form 424D, Assurances-Construction Programs) must be signed by the applicant. The 424B and 424D forms also contain a nondiscrimination assurance clause. Challenge cost-share agreements, participating agreements, joint venture agreements, and cost-reimbursement agreements only require a nondiscrimination clause (FSH 1509.11, sec. 91.2) be included in the authorizing instrument that is signed by the recipient.

If anticipated there will be development of publications, production of audiovisuals, or information is shared via electronic format, Provision I2 Nondiscrimination Statement - Printed, Electronic, or Audiovisual Material (FSH 1509.1, sec. 91.2, ex. 01) that mandates the inclusion of the USDA nondiscrimination statement, is required.

Nondiscrimination language for international grants and cooperative agreements (FSH 1509.11, sec. 91.1, ex. 01) only applies when the partner is performing in the US, when hiring in the US, or to ensure nondiscrimination against US applicants while overseas.

#### **73 - Compliance Reviews**

The United States Department of Agriculture (USDA) requires the Forest Service to operate a compliance review system to measure the overall effectiveness of program delivery by recipients of Federal financial assistance. Compliance reviews provide reliable mechanisms for:

1. Measuring the overall status of the compliance by applicants and recipients.

2. Identifying areas of noncompliance.
3. Identifying weaknesses in program delivery.

### **73.01 - Authority**

**Departmental Regulation 4330-6.** Provides direction for conducting program compliance reviews.

**Title 7 CFR subtitle A, part 15, subpart A 42 U.S.C. 2000d through 2000d-6.** Requires each Federal department and agency that is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract (other than a contract of insurance or guaranty), is authorized and directed to effectuate the provisions of this section (601) of the act. Federal assistance must be facilitated by Federal departments and agencies through the issuance of rules, regulations, or orders of general applicability consistent with achievement of the objectives of the statute, as approved by the President of the United States. If Federal departments and/or agencies determine that any program or activity does not comply with established requirements for nondiscrimination in program delivery, termination of or refusal to grant or to continue Federal assistance under such program or activity will result. It covers all forms of Federal aid except contracts of insurance and guaranty. It does not cover employment, except where employment practices result in discrimination against program beneficiaries or where the purpose of the Federal assistance is to provide employment.

### **73.02 - Objective**

To measure the level of compliance and identify and address any discriminatory practices in the delivery of Federal financial assistance programs and activities.

### **73.03 - Policy**

1. Develop, maintain, and provide adequate resources and personnel to support the training, monitoring, and evaluation systems to implement the USDA's compliance review policy.
2. Provide equal opportunity program delivery training for program staffs who conduct compliance reviews.
3. Ensure that all recipients and applicants understand their civil rights responsibilities under Federal Financial Assistance Programs.
4. Collect and maintain the required records and data necessary to track compliance and noncompliance in all federally assisted programs that the Forest Service administers.
5. Perform compliance reviews of applicants and recipients. Compliance reviews of recipients made by another Federal agency having civil rights compliance responsibility may be acceptable. Standard practice dictates that any agency conducting a compliance

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review or investigating a complaint of an alleged civil rights violation shall notify any other affected agency upon discovery of its jurisdiction and shall subsequently inform the other agency of the findings. Such reviews or investigations may be made jointly.

6. Complete a post-award review of only the program or activity for which the recipient receives Federal financial assistance.
7. Review the recipient's total facility, as reasonable, when any phase or part operates as the result of an agreement, contract, authorization, and so forth, involving Federal financial assistance. For example: When a ski lodge applies for a private facility authorization for any part of a run to cross National Forest System land, the whole facility must undergo Forest Service compliance reviews.
8. Monitor findings of noncompliance to ensure that corrective actions are implemented by recipients.
9. Provide noncompliance information concerning a recipient to any other agency that provides the recipient with Federal financial funding or assistance.
10. Make records of compliance review activities available for evaluation by the USDA, Office of Adjudication and the Washington Office Forest Service Civil Rights staff, upon request.
11. Conduct pre-award reviews of applicants prior to receipt of Federal financial funding.
12. Ensure that special use authorizations and those domestic grants and cooperative agreements that extend 2 or more years are eligible for post-award reviews.

#### **73.04 - Responsibility**

1. The Authorized Officer who administers or supervises the Federal Financial Assistance Program is responsible for ensuring that recipients are informed of their civil rights responsibilities and that reviews are scheduled, conducted, documented, and reported.
2. Program managers are responsible for ensuring that all recipients and applicants understand their civil rights responsibilities under Federal financial assistance programs.
3. Program managers who conduct compliance reviews have the responsibility to make every effort to seek the cooperation of recipients and help them comply voluntarily pursuant to the assurance certifying compliance with civil rights laws and statutes.
4. (R/S/FPL and IITF, and Civil Rights staffs are responsible for providing technical assistance and guidance to managers on conducting compliance reviews and reporting requirements.

### **73.1 - Criteria for Conducting Compliance Reviews**

Use the following criteria to assess or determine the need for conducting a post-award compliance review of a particular unit, geographical area, or program/activity. These criteria apply to reviews of applicants applying for and recipients of special use authorizations and domestic grants and cooperative agreements. The criteria are not all-inclusive and other criteria may be added if necessary. Criteria include:

1. Routine, on-going review and evaluation necessary to determine the level of compliance with civil rights laws, understanding of civil rights responsibilities, and outreach to beneficiaries/program participants in the delivery of programs and services.
2. Geographic areas where problems have been identified or geographic areas in which there has been little compliance activities.
3. Other legitimate factors and information (for example, issues frequently identified as problems faced by program beneficiaries or raised in complaints and not fully covered within the scope of the complaint investigation). Data and information cited in one or more complaints or other reliable information sources.
4. The receipt of a significant number of complaints that raise the same or similar issue(s) relating to a particular recipient program or activity, or the receipt of one or more complaints that involve politically sensitive matters or have generated significant media interest.
5. Review requested, initiated, or conducted by a Civil Rights staff.
6. Referrals of complaints by outside sources (for example, other Federal agencies, community groups, advocates, and others representing beneficiaries and protected classes) about Forest Service-assisted program delivery.
7. Disclosure of civil rights irregularities through an investigation by the Office of the Inspector General to the USDA, Office of Adjudication, or the Forest Service for follow-up action.
8. Recommendations or special requests, such as from Congress, Secretary of Agriculture, Office of the Inspector General, or Chief of the Forest Service.
9. Information from a required agency review that warrants a more in-depth field review by the Washington Office Civil Rights staff and/or USDA, Office of Adjudication.

However, if a program delivery complaint is filed against a program or activity of a recipient of Federal financial assistance alleging non-compliance with civil rights laws, a compliance review must be conducted during the year in which the complaint is filed.

## 73.2 - Types of Compliance Reviews

There are two types of compliance reviews:

1. **Pre-award review.** An evaluation of the compliance readiness of an applicant for Federal financial assistance prior to the approval of that assistance. An evaluation may be conducted either at a location on-site or through a desk audit (via teleconference). A desk audit is a structured review of compliance using a series of questions concerning: (a) any prior findings of discrimination against the applicant, (b) the applicant's charters, bylaws, and public service record, and (c) verification of an applicant's certification of compliance with civil rights laws (sec. 72.4). A pre-award review may also include a site visit to the applicant's facilities and/or offices.
2. **Post-award review.** An evaluation of the system, procedures, and methods the recipient uses to deliver a program or activity after Federal financial assistance has been provided or extended. An evaluation may be conducted either at a location on-site or through a desk audit (via teleconference), and optional interviews with the recipient's employees and/or with beneficiaries may be conducted as appropriate. Post-award reviews have several major benefits: (a) to identify any deficiency or violation of compliance not revealed by a pre-award review, (b) to recommend corrective and/or preventative actions to deter potential discrimination, (c) to encourage accurate record keeping techniques/systems by the recipient, and (d) to afford an excellent opportunity for the reviewer to provide education and technical assistance to the recipient on site.

For specific guidance on conducting compliance reviews of recipients of Federal financial assistance, see sections 73.5 and 73.6.

## 73.3 - Special Reviews

These reviews generally are not a part of the annual recipient review schedule developed by the R/S/FPL and IITF. They are initiated and conducted by the Forest Service Washington Office, Civil Rights staff and/or USDA, Office of Adjudication when any or all of the following criteria applies:

1. When the Forest Service receives an allegation that reflects prima facie (on the surface) evidence of noncompliance, conduct an immediate review to determine the validity of the allegation.
2. When it is reported to either the Forest Service or USDA that a protected class is being discriminated against in a Forest Service-assisted program, the Forest Service or USDA must review the program area immediately to attempt to resolve the allegation.
3. When the Forest Service determines that there is sufficient evidence of discrimination, the Agency must take immediate action to conduct a review and enforce compliance.

Whenever the Washington Office, Civil Rights staff or a field unit conducts a special field review, a copy of the review report is forwarded to the USDA, Office of Adjudication. The Washington Office, Civil Rights staff ensures that the field unit is provided with a copy of the review report along with suggested actions to monitor and correct any noted deficiencies. When a field unit conducts a review, the unit must send a copy to the Washington Office Director, Civil Rights for transmittal through the Chief to the USDA, Office of Adjudication.

#### **73.4 - Scope and Complexity of Reviews**

The scope and complexity of a review is determined based on the criteria used for selecting a program or activity of an applicant or recipient for review.

The complexity of a review varies from using a “yes - no” checklist, standardized questions, and/or interviews to conduct a desk audit, self-assessment, or general on-site review to conducting an in-depth review of records, data, past complaints and/or allegations of discrimination, and other types of information pertaining to the program or activity reviewed documenting in a formal report, all review findings, recommendations, and corrective actions.

#### **73.5 - Scheduling Compliance Reviews**

Departmental Regulation 4330-2 requires Forest Service units to develop annual schedules or timetables that identify recipients whose programs and activities will be reviewed to determine program delivery compliance with civil rights laws, regulations, and Departmental and agency requirements. Also, the Forest Service will conduct pre-award reviews of applicants for Federal financial assistance using form FS-1700-0006A Civil Rights Compliance Review Record - Federally Assisted Programs. Post-award compliance reviews for both special use authorizations and domestic grants and cooperative agreements may be conducted in conjunction with other types of reviews for efficiency and to maximize use of staff resources.

##### **73.51 - Determining a Review Schedule for Special Uses Authorizations**

Annually, Forest Service units are required to develop and implement a schedule for on-site, post-award reviews, specifying which authorizations will be reviewed in the current or upcoming fiscal year. Only programs and activities of holders of Special Use Authorizations and Other Authorizing Instruments providing services to the public are subject to review. Exhibit 01, depicts the review frequency by use code for existing authorizations subject to program delivery review as a guide for developing an annual review schedule.

At the beginning of each fiscal year, each region’s program staff must ensure the scheduled review dates are entered into the Special Uses Database System (SUDS) to identify authorizations that need post-award compliance review during the fiscal year and provide a copy of this information to the respective civil rights staff. As reviews are completed, the program staff must enter review completion dates into SUDS identifying the authorizations actually reviewed and send a copy of this information to the civil rights staff, at the end of the fiscal year. Staffs also must capture an abbreviated description of findings of each review under the internal remarks database field in the SUDS. The region’s program staffs will consolidate the

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review information provided, both at the beginning and the end of the year and report this information through the regional civil rights staff to the Washington Office Director, Civil Rights. If no reviews are scheduled, the region's staffs must provide a narrative justification explaining how programs and activities were assessed and reason(s) for not conducting the review(s). The Washington Office, Civil Rights staff will use this information to provide mandatory reports on program delivery review compliance to the U.S. Department of Justice via the USDA, Office of Adjudication.



**73.51 - Exhibit 01**

**Special Use Authorizations Subject to Equal Opportunity Program Delivery Review**

**Instructions:**

Additionally, an EO Program Delivery compliance review may be conducted on a holder of a special use authorization under use codes, designated below, when there is evidence or allegations of civil rights violations. (See FSH 2709.11, sec. 19, ex. 01, for further detail on authorizing types of special uses.) If the permitted use does not provide a public service on National Forest land, the permit is not subject to Title VI. The uses should be evaluated on the basis of whether service(s) to the public is being offered.

**Review Frequency Column: Numeral Only.** If the Review Frequency column for a designated Use Code contains only a numeral, this means all the authorizations under this use code are open to the public; therefore, a post-award review must be conducted at the frequency shown, for example, 5 = review once each 5-year period. Additionally, pre-award reviews must be conducted for each of the authorizations within these use codes as a component of the permit application process using the form FS-1700-0006A, Civil Rights Compliance Review Record- Federally Assisted Programs.

**Numeral within Parenthesis.** If the Review Frequency column for a designated Use Code contains only a numeral contained within parentheses, for example, (5), then a post-award review is required **ONLY** if the holder provides services to the public on National Forest land. Additionally, a pre-award review is required only if the use is open to the public.

**PRE.** If the Review Frequency column for a designated Use Code contains only a PRE designation, then only a pre-award review is necessary. Pre-award reviews must be conducted as a component of the permit application process using the form FS-1700-0006A, Civil Rights Compliance Review Record - Federally Assisted Programs.

**PRE within Parenthesis.** If the Review Frequency column for a designated Use Code contains only a (PRE), then a pre-award review is necessary **ONLY** if the holder will provide services to the public on National Forest land.

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Use	Use Code	Authority	Authorization	CR Review Frequency
<b>RECREATIONAL SPECIAL USE -</b>				
<b>Privately Owned Improvements Authorized for Groups</b>				
Organization Camp	113	Organic Act of 1897 or Act of March 4, 1915	permit term permit	(5)
Private camp	115	Organic Act of 1897 or Act of March 4, 1915	permit term permit	(5)
<b>Concessions Involving Privately Owned Improvements</b>				
Private lodging	131	Act of March 4, 1915	term permit	(5)
Hotel, motel	132	Act of March 4, 1915	term permit	5
Resort	133	Act of March 4, 1915	term permit	5
Campground, Privately Owned	134	Act of March 4, 1915	term permit	5
Restaurant	135	Act of March 4, 1915, or Organic Act of 1897	term permit or permit	5
Store, Shop, Office	136	Act of March 4, 1915, or Organic Act of 1897	term permit or permit	(5)
Rental Service Facility	136b	Act of March 4, 1915	term permit	5
Service Station	137	Act of March 4, 1915	term permit	5
Marina	138	Act of March 4, 1915	term permit	5
Ropeway	139	FLREA, Organic Act of 1897 or Act of March 4, 1915	Permit Permit term permit	5 5 20 years FS/30 years RF
<b>CONCESSIONS INVOLVING GOVERNMENT-OWNED IMPROVEMENTS</b>				
Concession Campground	141	Granger-Thye Act of April 24, 1950	permit	5
Concession Day Use Site	142	Granger-Thye Act of April 24, 1950	permit	5
Organizational Camp	143	Granger-Thye Act of April 24, 1950	permit	(5)
Recreational Lodging in federally owned Buildings	144	FLREA or Granger-Thye Act of April 24, 1950	permit	(PRE)
Visitor Center	145	Granger-Thye Act of April 24, 1950	permit	5
Resort	146	Granger-Thye Act of April 24, 1950	permit	5
<b>CONCESSION SERVICES</b>				
Rental services (Without Facilities)	151	Organic Act of 1897	temp permit permit	5
Transportation Service	152		temp permit permit	PRE
Outfitter and guide service	153	Recreation Enhancement Act	temp permit permit	PRE
<b>WINTER RECREATION</b>				
Ski Area	161	Ski Area Permit Act of 1986	term permit	5
Ropeway	162	FLREA, Organic Act of 1897 or Act of March 4, 1915	permit permit term permit	5

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Use	Use Code	Authority	Authorization	CR Review Frequency
<b>WINTER RECREATION</b>				
Ski slope, ski trail	163	FLREA or Organic Act of 1897	permit term permit	5
Ski activity	164	FLREA or Organic Act of 1897	permit	5
Snow play	165	FLREA or Organic Act of 1897	Permit	5
<b>OUTDOOR RECREATION IMPROVEMENTS</b>				
Target range	171	Act of March 4, 1915 or Organic Act of 1897	term permit permit	(5)
Park, playground	172	Organic Act	permit	5
Golf course	173	Act of March 4, 1915 or Organic Act of 1897	permit term permit	(5)
Cave, cavern	174	Organic Act of 1897	permit	(5)
Racetrack	175	Act of March 4, 1915 or Organic Act of 1897	permit term permit	(5)
Day Use Facility	176	Organic Act of 1897	permit	5
Visitor Center	177	Act of March 4, 1915	term permit	5
<b>TEMPORARY EVENT</b>				
Recreation event	181	Recreation Enhancement Act	term permit permit	PRE
Vendor, peddler	182	Organic Act of 1897	term permit permit	PRE
<b>AGRICULTURE, CROPS</b>				
Nursery	212	Organic Act of 1897	term permit permit	(10)
Fish hatchery	216	Organic Act of 1897	permit	(10)
<b>SERVICE USES</b>				
School	361	Act of September 3, 1954	permit	<b>[1]</b> 5
Service Building	362	Act of September 3, 1954	term permit	(10)
Shelter	364	Act of March 4, 1915 or Organic Act of 1987	term permit permit	(5)
Visitor center, museum	367	Act of March 4, 1915	term permit	5
Experimental & demonstration	421	Organic Act of 1897	term permit permit	(PRE)
Observatory	425	Organic Act of 1897	permit	(10)
<b>TRAINING</b>				
Education center	432	Act of March 4, 1915	term permit	(10)

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Use	Use Code	Authority	Authorization	CR Review Frequency
<b>CULTURAL RESOURCES &amp; TREASURE TROVE USES</b>				
Disturbing use, 1979 Act	443	Archeological Resource Protection Act	permit	(PRE)
<b>HISTORIC</b>				
Historic building and improvements	451	American Antiquities Act	temp permit	(5)
Historic site	452	American Antiquities Act	permit	(5)
Wind power facility	621	FLPMA	permit	(10)
Fossil fuel power plant	622	FLPMA	permit	(10)
<b>ELECTRIC TRANSMISSION &amp; DISTRIBUTION</b>				
Other utility improvement REA financed	642	FLPMA	permit	(10)
<b>TRANSPORTATION, AIRCRAFT FACILITIES</b>				
Airport, heliport	711	FLPMA	permit	(5)
Hanger and service facility	712	FLPMA	permit	(10)
Airport concession				
Helicopter landing site	715	FLPMA	permit	(10)
<b>MARINE</b>				
Boat dock, wharf, pier	722	Organic Act of 1897	permit	(10)

\* EO Program delivery includes Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

On a case-by-case basis if, a SUP is offering on-site visitor services for a related use that does not traditionally have customers on site for a specific commercial purpose; example: fossil fuel power plant, oil and gasoline related facility, or a utility service; then the use must be reviewed as a visitor center as appropriate, during inspections.

### **73.52 - Determining a Review Schedule for Grants and Agreements**

This section describes the process for determining the type and the frequency of compliance reviews to be conducted on the programs and activities of recipients that receive Federal financial assistance from the Forest Service (for example, State and Private Forestry, National Forest Systems, and Research and Development) through grants and cooperative agreements.

The Forest Service conducts pre-award reviews of applicants for Federal financial assistance, using form FS-1700-0006A.

Use the following guidance for conducting post-award reviews of recipients' programs and activities:

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Refer to section 73.1, Criteria for Conducting Compliance Reviews to determine the reason(s) for reviewing programs or activities. Perform reviews as appropriate to criteria 2 through 9. For ongoing reviews (criterion 1 in section 73.1), use the following procedure:

1. Refer to exhibit 01, Grants and Agreements Compliance Review Matrix, to identify the types of grants and agreements that are eligible for review.
2. For eligible domestic grants or cooperative agreements less than 2 years in length, perform a pre-award review only.
3. For domestic grants or cooperative agreements 2 to 5 years in length, use the following criteria to determine whether to perform a post award review of the recipient's program or activity:
  - a. The dollar amount granted. For recipients having any single grant that is \$50,000 or more or multiple grants with a combined total of \$250,000 or more (for example, states, colleges, and universities), consider factors b through e below to evaluate whether to perform a post award review. Recipients receiving less than the above amounts may be subject to a post-award review as determined by criteria in section 73.1.
  - b. The length of the project or activity, with a longer length having a greater priority.
  - c. The scope and complexity of the project or activity, with greater breadth having a higher priority.
  - d. The frequency and degree of contact with the public in implementing the project or activity, with greater interface having higher priority (for example, a project involving multiple contacts with the public is a higher priority for review than a project developing a publication).
  - e. The number/volume of students, youths, volunteers, and others selected and/or hired to work on the project or activity, with a higher number/volume having a greater priority.
4. Conduct reviews of domestic grants and cooperative agreements that are longer than 5-years (that is, special exceptions) on a cyclic basis, as appropriate.
5. At the beginning of each fiscal year, each appropriate R/S/FPL/IITF program staff must ensure the development of a post-award compliance review schedule based on the above assessment. The schedule must include the following for each program, project, or activity to be reviewed: name of the recipient, scheduled review date, geographical location(s) of the program to be reviewed, program area(s) covered in the review, and whether the review is to be an on-site review or desk audit. If no reviews are scheduled during the year, provide a narrative justification explaining how programs and activities

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were assessed and reason(s) for not conducting the review(s). If possible, the information concerning review schedules should be addressed to the Natural Resource Manager (NRM), the National Grants and Agreements database that can be accessed service-wide, so that the information can be readily accessible for reporting purposes. At the end of each fiscal year, a follow-up summary report must be developed by each R/S/FPL/IITF, showing the number of grants and agreements reviewed.

6. Copies of a consolidated review schedule for each forest/laboratory must be submitted to the R/S/FPL/IITF Director, Civil Rights with a copy to the appropriate deputy area. If no reviews are scheduled, provide a narrative justification explaining how programs and activities were assessed and reason(s) for not conducting the review(s).

In situations where multiple grants are awarded to the same entities annually, the program managers will determine when a single compliance review utilizing form FS-1700-0006 will serve as the assessment for that year and will be included in the NRM database for the civil rights certifications of possible multiple grants for that recipient.

7. Example: consolidated grants or all grants to the same partner (state), sec 73.6, Documenting Compliance Reviews Program managers who conduct compliance reviews shall complete form FS-1700-0006A as a record documenting post-award reviews and may develop an optional narrative report. The FS-1700-0006A form must be used to document the pre-award reviews. The certification tab in the Natural Resource Manager database (previously I-WEB) must be completed and a copy of the form will be attached. For special reviews, a narrative report is required to document the review.

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**73.52 - Exhibit 01**

**Grants and Agreements Compliance Review Matrix**

			Length of G&A		
Type of Grant or Agreement	Applicant Assurance Statement (Refer to FSH 1709.11, chapter 70, section 72.4)	Nondiscrimination Provisions (Refer to FSH 1509.11, chapter 90, section 91.2 B5, I2)	Less than 2 years: Only Pre-award Review required	2 yrs or more: Pre-Award Review required; Eligible for Post-Award Review	Administering Unit
Domestic Grant	X	X*	X	X	NFS, Research, S&PF
Cooperative Agreement	X	X*	X	X	NFS, Research, S&PF
Challenge Cost-Share Agreement		X			NFS
Participating Agreement		X			NFS
Joint Venture Agreement		X			NFS, Research
Cost-Reimbursement Agreement		X			All*

\*The nondiscrimination clause for Domestic Grants and Cooperative Agreements is contained in the SF 424B and SF 424D.

**73.6 - Recordkeeping for Reporting Compliance**

Program managers who conduct compliance reviews shall use form FS-1700-0006A to document compliance reviews. Attach notes of interviews and on-site visits as appropriate. This form is for internal, record keeping only; do not send the form to the applicant or recipient for completion. Retain the original of the entire completed form in the appropriate applicant or recipient record or case file. The planned and actual completion dates for the review should be included in the Special Uses Database System for recreation permits or the NRM database for grants and agreements, to document the review. When one form covers assistance granted to a single recipient under two or more instruments, list all programs and cases included in the review. Cross-reference each case file as necessary.

1. **Objective.** The questions on form FS-1700-0006A are designed to ensure that critical areas needing review are covered to gauge the applicant's or recipient's level of compliance with civil rights laws and statutes.

2. **Suspicion of Discrimination.** Where discrimination exists or is suspected to exist, intensify the review and documentation to establish the specific instances or areas of noncompliance in the record. The reviewer shall document by memorandum and attach to the form, all statements, opinions, findings, observations, and interviews that establish noncompliance. Such documentation must contain reliable evidence that Government attorneys can use in a hearing to support a finding of noncompliance. Documentation should identify who said what, when, and where.
3. **Voluntary Compliance and Conciliation.** USDA strongly encourages agencies to engage in voluntary compliance, where appropriate; therefore, the recipient under review may take corrective actions and/or processes at any stage of the compliance review process. USDA or the Forest Service will provide technical assistance to facilitate a voluntary resolution of any noncompliance issues.
4. **Noncompliance Actions.** When a review reveals noncompliance, the responsible officer shall notify the recipient in writing. This document should outline needed corrective actions that have been discussed with the recipient; should set out what is to be done; and should assign a reasonable time for achieving compliance. When voluntary compliance cannot be obtained by this means, prepare, and submit a noncompliance report to the recipient and to the Washington Office, Civil Rights staff.

### 73.61 - Narrative Report Format

In addition to completing the form FS-1700-0006A, program managers who conduct compliance reviews may develop, as an option, a narrative report to document a compliance review. A narrative report of this nature is beneficial, for example, when conducting a review of a program or activity when allegations of non-compliance with civil rights laws have been filed. Following is an example of the format for a narrative report:

1. **Table of Contents.** List the sections of the report for each program or activity reviewed and for supporting documentation.
2. **Background.** Include the subject and reason for the review; a brief profile of the recipient; the scope of the program operation; the time period covered by the review, and the names of the reviewers.
3. **Summary.** Provide a brief narrative summarizing the specific program area reviewed, the results of the review, and an explanation of noncompliance.
4. **Findings.** State clearly and concisely the facts and findings that require corrective actions.
5. **Recommendations.** Set out actions that must be taken to correct deficiencies and to resolve situations in which the recipients' program operation denies equal opportunity participation to any protected person or group.



### **73.62 - Distribution of Compliance Review Reports**

In situations of noncompliance, the distribution of final compliance review reports, both form FS-1700-0006 and narratives, is on a need-to-know basis, which could include line officers and staff and the appropriate R/S/FPL and IITF Civil Rights Director. Program managers who conduct compliance reviews must distribute reports, as appropriate; to ensure that corrective action is defined and implemented as required. Letters to recipients may be written by line officers with assistance from Civil Rights staffs as appropriate, following a compliance review advising the recipients of areas of noncompliance, recommended corrective actions, and request(s) for voluntary compliance. Maintain the original review report and follow-up compliance letters as a part of the appropriate applicant or recipient case file or record.

For special uses authorizations, use SUDS to record the completion date of the review and to attach the completed form FS-1700-0006. The original, hard copy of the completed form should be maintained in the holder's case file.

For grants and agreements, completion dates of the review and the completed form

FS-1700-0006A may be recorded by the program manager who conducted the compliance review in the NRM database system. Maintain the original, hard copy of the completed form in the appropriate applicant or recipient case file or record.

### **73.63 - Specific Institution and Organization Exemptions, and Federally Recognized Tribes Considerations**

Specific institutions and organizations have exemptions from the nondiscrimination requirements regarding religious preference, age limitations, gender focus, and tax exemption under section 501(a) of the Internal Revenue Code of 1954. Even though a basis or protected category is exempt in the operation of the organization, other civil rights provisions and protected bases may still apply.

These exemptions for instructional organizations are:

1. Educational institutions controlled by religious organizations.
2. Military and merchant marine educational organizations.
3. Membership qualifications in organizations, such as social fraternities and sororities, Young Women's and Men's Christian Association (YWCA and / YMCA), Girl Scouts, Boy Scouts, Camp Fire Girls, and voluntary youth services organizations.
4. Additionally, some activities have exemptions: Activities sponsored by the American Legion, such as selection of students relative to Girls State Conferences, Girls Nation Conferences, Boys State Conferences, and Boys Nation Conferences; father-son and mother-daughter activities at educational institutions if such activities are available to

both gender groups equally; financial awards and scholarships that result from participation in pageants and contests limited to one gender.

5. Tribal Recipients and the Tribal Employment Rights Ordinances; Tribes are able to exercise Indian preference in training and employment under policies known as Tribal Employment Rights Ordinances (TEROs) as they are not in conflict with Federal nondiscrimination policies. Indian preference ordinances are based on the Indian Self Determination Education and Assistance Act Public Law 93-638 and federally recognized Tribes' status as sovereign governments.
  - a. Nondiscrimination provisions in grants and agreements instruments or commercial Special Uses Permits do not inhibit a Tribe's ability to exercise their rights under TEROs; and
  - b. Tribal recipients of Forest Service Federal Financial Assistance must sign and comply with the required nondiscrimination assurances.

### **73.7 - Recipient Training and Technical Assistance**

The regions, stations, and the Institute must provide training and technical assistance to recipients as follows:

1. Provide training, technical assistance, and support to the recipients and information on their civil rights responsibilities under equal opportunity program delivery and other nondiscrimination laws, regulations, and policies.
2. Monitor and provide oversight of the implementation of the Corrective Action Plan as negotiated with recipients who have been found to be in noncompliance.
3. Provide annual reports summarizing compliance reviews completed, monitoring activities, corrective actions, training, and technical assistance.

### **74 - Complaints**

Any person, or their representative, may file a complaint when discrimination is suspected. The complaint must be in writing and signed, and it should name the program, the prohibited action, and time of occurrence. The complaint should be filed within 180 days from the date of the alleged act. Only the Secretary may extend the time for filing. Complainants should promptly send any complaint of discrimination against a recipient directly to the USDA, Office of Adjudication. The guidance for complaints filing is contained in DR 4300-03, USDA Public Notification Policy.

No employee shall attempt to influence a complainant in any way. Forest Service employees should advise complainants where to file their complaint or request for extension. The identity of a complainant must remain confidential, except as needed to carry out the purpose of the regulations.

## **74.1 - Alternative Dispute Resolution for Program Discrimination Complaints (RESERVED)**

### **75 - Noncompliance**

This includes discrimination by a recipient, or failure or refusal to furnish an assurance.

#### **75.1 - Discrimination**

Discrimination is disclosed by compliance review or by complaint investigation. When established by review or after investigation, make every effort to secure voluntary compliance. When securing voluntary compliance is not possible, submit a noncompliance report (sec. 75.3).

The unit must provide technical assistance, training, or any other assistance the agency can offer to encourage the recipient to voluntarily reach compliance. Establish a timeline for completion, and work with recipients to correct errors.

#### **75.2 - Nonassurance**

When a recipient fails to furnish an assurance, advise them that nonassurance may result in refusal of assistance. In such cases, make personal contact with the recipient and prepare a memorandum that fully documents the recipient's refusal. See section 76.1 for information about refusing assistance.

#### **75.3 - Noncompliance Report**

Report instances of noncompliance when unable to secure voluntary compliance. Base reports on a thorough review and investigation of all pertinent facts.

1. **Field Report.** Submit two copies of each report to the Washington Office, Director, Civil Rights. Prepare a separate report for each recipient. In the National Forest System program, one report can cover two or more instances of noncompliance by the same recipient. A report or fact finding helps those who review it to decide on the actions needed to obtain compliance. Reviewers may be persons who have little or no knowledge about the recipient, the program, or Forest Service procedures. Because of this, it is necessary to provide a complete, concise, and informative report containing:
  - a. **Letter of Transmittal.** The Regional Forester or Director should submit the report. The letter should name the recipient, the program or part affected type of noncompliance, and recommendation. Indicate whether assistance has been refused (sec. 76.1).
  - b. **Noncompliance Notice.** Send a registered letter to the recipient, giving notice of noncompliance. Either the Regional Forester or Station Director should sign such notices.

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- c. **Case Summary.** The case summary should be a complete schedule of events in narrative form. It should begin with the application by the recipient and discuss in chronological order all actions and related circumstances pertinent to the case. Statements must be factual, not hearsay. Names, titles, dates, places, and so forth should be specific.
  - d. **Documentation.** Furnish copies of all documents that substantiate statements made in the summary. This includes such things as:
    - (1) Letters to and from the recipient;
    - (2) Memorandum of contacts made;
    - (3) Inspection or compliance review reports;
    - (4) Agreement, permit, or contract;
    - (5) Application where applicable;
    - (6) Assurance or plan, and
    - (7) Deeds or other acquisition case file items if the assistance may qualify as an exception on acquired lands.
2. **Washington Office Action.** The Washington Office must:
- a. Review each report.
  - b. Transmit a copy to the USDA Director, Office of Adjudication.
  - c. Inform field units of all action taken by the Secretary.
  - d. Take additional action as directed by the Secretary.

## **76 - Effecting Compliance**

Only the Secretary of Agriculture may make the final decision for effecting compliance by terminating, suspending, or refusing to grant or continue assistance.

### **76.1 - Refusing Assistance**

Though the final decision to refuse rests with the Secretary, responsible Forest Service officers shall refer an application for assistance to the Washington Office Civil Rights staff when all of the following conditions apply:

- 1. The application is made after January 3, 1965.

2. The applicant refuses or fails to furnish an assurance or the officer believes that the applicant is discriminating.
3. The applicant has been advised in writing of the failure or refusal to furnish an assurance or of the belief that the applicant is discriminating.
4. The case has been promptly reported in accordance with section 75.3.

## **76.2 - Terminating or Suspending Assistance**

The Secretary has the responsibility for determining the termination or suspension of assistance in accordance with the procedure in the DR 4330-2. The Secretary may terminate or suspend assistance in the following types of cases:

1. A finding of discrimination by a recipient after an opportunity for a hearing.
2. A finding of failure or refusal to furnish an assurance. On programs approved before January 3, 1965, in which assistance is due on a continuing basis after that date; the assistance may continue pending the outcome of the administrative proceedings provided for in the regulations.

## **77 - Miscellaneous Provisions**

### **77.1 - Site Selection**

Discrimination based on race, color, national origin, sex, age, disability, or retaliation in the selection of sites or locations for existing or proposed facilities connected with the program is prohibited by law, regulation, and Departmental and Agency policies. Recipients or applicants may not make selections of proposed facility sites with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any activity or program covered under Title VI of the Civil Rights Act of 1964; section 504 of the Rehabilitation Act of 1973; as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; 28 CFR 42.406, Data and Information Collection; or other USDA civil rights regulations or Forest Service policies.

Where the requested assistance is for construction, a pre-approval review should determine whether the location and design of the project will provide service on a nondiscriminatory basis and whether persons will be displaced or relocated on a nondiscriminatory basis (28 CFR 42.407, Procedures to Determine Compliance).

### **77.2 - Employment Practices**

When the primary objective of Federal financial assistance extended to a recipient is not to provide employment, and the recipient's employees are not representative of the population in the surrounding area, a compliance review may question the reason for this demographic

disparity. The Forest Service encourages recipients to employ individuals that reflect the potential beneficiaries.

When the primary objective of Federal financial assistance is to provide employment, the recipient is subject to all the compliance responsibilities and monitoring activities.

### **77.3 - Planning and Advisory Bodies**

Recipients may not deny a person the opportunity to participate as a member of a planning or advisory body that is an integral part of the program or activity on the basis of race, color, national origin, sex, age, or disability pursuant to Federal civil rights laws and regulations.

### **77.4 - Participant and Applicant Data Collection**

Pursuant to DR 4330-2, USDA agencies are required to timely collect and make available all data and information as necessary and requested by Civil Rights to enable an efficient and effective evaluation of the Department's civil rights compliance and enforcement programs and activities.

Pursuant to 28 CFR 42.406, Data and Information Collection, Federal agencies must provide for the collection of relevant and current data and information from applicants for and recipients of Federal assistance sufficient to permit effective enforcement of Title VI, in regard to each assisted program, except as determined to be inappropriate in accordance with paragraph (f) of this section or chapter 40 section 42.404(b).

#### **77.41 - Recipient and Applicant Reports**

Forest Service officers administering a Federal financial assistance program or activity may require a recipient or applicant to keep such relevant and current data and records and submit information as appropriate and necessary to ascertain compliance with Civil Rights laws.

Primary recipients should furnish a copy of each assurance statement that they obtain from sub- recipients in the program.

### **78 - Forest Service Reports**

1. **Information and Reporting Requirements.** The Information and Reporting Requirements Report (previously named the Civil Rights Implementation Plan) required in Equal Opportunity/Title VI implementation is an annual submission required by the United States Department of Agriculture (USDA) Office of Adjudication for the U.S. Department of Justice to assess the Forest Service's civil right compliance efforts and achievements. The Regions, Stations, and IITF Staff Directors shall report on their annual compliance review schedules, participation data collection records, pre and post review accomplishments, training and technical assistance provided,

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**2. Civil Rights Compliance Review Record-Federally Assisted Programs, (FS-1700-0006).**

Form FS-1700-0006A provides requirements for conducting Equal Opportunity (EO) Program Delivery (Title VI) Compliance Reviews and is “for internal use only.” The purpose is to record: (a) the reviewer’s observations and information concerning a recipient’s program or activity and (b) the responses to questions listed in this review gauge the recipient’s level of compliance with civil rights laws, rules, regulations, and policies and validate the recipient’s assurance certification to comply with DR 4330-2 and **7 CFR subtitle A, part 15, subpart A** and Subpart B.

Compliance in EO program delivery includes ensuring that no one is denied an equal opportunity to participate in, receive benefits from, and receive access to any program or service funded by the Federal government. Program delivery nondiscrimination compliance applies to both federally conducted programs (that is, conducted directly by Federal agencies) and federally assisted programs (that is, conducted through a recipient/SUP holder). Program delivery compliance for federally assisted programs and activities is covered under the following civil rights acts: Title VI of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975, as amended. No recipient of the Forest Service, including persons representing the USDA and its programs, shall intimidate, threaten, harass, coerce, discriminate against, or otherwise retaliate against anyone who has filed a complaint of alleged discrimination or who participates in any manner in an investigation or other proceeding raising claims of discrimination.

The Forest Service reviewer should complete the form FS-1700-0006A by working with each individual applicant or recipient whose program or activity has been designated for review to determine the level of compliance with Civil Rights laws and Federal regulations and policy. This completed form should be maintained in the applicant’s or recipient’s case file.

For purposes of this form a “recipient” refers to any recipient of Federal financial assistance or funding, that is, a partner receiving a grant or agreement, or a holder (specifically a public service provider) of a Special Use Authorization.