

For: State Offices and Service Centers

Findings for FY 2010 Civil Rights and EEO State Management Reviews (SMR's)

Approved by: Administrator



1 Overview

A Background

FSA OCR is responsible for conducting SMR's each FY to determine FSA's compliance with both Civil Rights and EEO regulations and requirements.

B Purpose

This notice provides a summary of similar findings found in the States that had a SMR in FY 2010.

2 General Information

A Scope of Review

Reviews included:

- 5 State Offices
- 20 Service Centers
- 241 interviews of GS and CO employees.

Only 5 reviews were conducted in FY 2010 because of budget constraints with travel funds.

B Definition of Finding

A finding for the purpose of this report is a discovery that:

- does **not** conform to Department Regulations and FSA handbooks
- must be corrected.

Disposal Date	Distribution
March 1, 2011	State Offices; State Offices relay to Service Centers

Notice AO-1476

3 FY 2010 SMR's

A Findings

See Exhibit 1 for FY 2010 findings, grouped by similar subjects, areas, or programs. Each finding may have occurred more than once within a State; however, for the purposes of this report, the finding is counted only once per State.

B SED Action

SED's shall:

- review subparagraph A and determine whether the findings are applicable to their State Office and Service Centers
- correct any deficiencies found. Compliance is a requirement at all times.

C Contact

If there are any questions, contact either of the following:

- Johnny Toles, Jr., Director, OCR by telephone at 202-401-7220
- Carnell McAlpine, Chief, Program Complaints Inquiry Branch by either of the following:
 - telephone at 334-279-3423
 - e-mail at carnell.mcalpine@al.usda.gov.

FY 2010 USDA/FSA Civil Rights and EEO SMR', Findings Grouped by Similar Area/Program/Subject

Finding		No. of States	Percent of Findings
CR and EEO Management			
1	Position descriptions: Did not contain statement about Civil Rights/EEO responsibilities and/or were not current with reference to grade, duties, and/or agency name.	5	100
2	Performance plans: Did not contain the correct Civil Rights/EEO element, either as a separate element for supervisors or combined with another element for nonsupervisory personnel.	4	80
3	Files: Civil Rights, EEO, and/or Outreach files were not properly established and/or contained little or no documentation.	4	80
4	Plans: The State Civil Rights Annual Plan of Work, State Outreach Plan, COC Election Outreach Plans, and/or SEP Plan/Accomplishments Reports were not current and/or not on file in the Service Center and/or State Office.	3	60
5	FSA-831 was incomplete, not completed properly, and/or reports not submitted timely to National Office, and/or a copy was not on file in the Service Center.	2	40
6	Position descriptions: For the State Civil Rights Coordinator, Special Emphasis Program Manager, and/or Outreach Coordinator did not reflect their collateral duties.	2	40
7	Minutes: STC and/or COC executive minutes were not maintained in a locked file cabinet and/or were not properly filed.	1	20
8	FSA-831 was not completed by each DD for 1/3 of the offices in his/her district each year.	1	20
9	Handbooks: Paper copies of 18-AO and/or 19-PM were not current.	1	20
10	Performance plans: Not all employees had a current plan.	1	20
CR and EEO Training			
11	The newly appointed Special Emphasis Program Manager (SEPM) had not received SEPM training and/or Civil Rights and EEO training as required in Departmental Regulation 4230-002.	3	60
12	Employees interviewed did not know how to process a Civil Rights complaint and/or did not know where to look to find the information.	2	40
13	Employees interviewed did not know the name of the EEO Counselor covering their State.	2	40
14	Employees interviewed did not know how to file an EEO complaint, and/or did not know where to look to find the information.	1	20
15	All employees had not received annual civil rights and EEO training and/or not within the time limits as required.	1	20
Evaluation of Program Delivery			
16	FLP: Application processing form letters were not mailed timely and/or consistently and/or contained inaccurate regulatory due dates.	5	100
17	FLP: DLS data, such as date application received, eligibility determination, approval date, etc., did not agree with the information in the file.	2	40

FY 2010 USDA/FSA Civil Rights and EEO SMR’, Findings Grouped by Similar Area/Program/Subject (Continued)

Finding		No. of States	Percent of Findings
Evaluation of Program Delivery (Continued)			
18	FLP: Servicing: Delinquent accounts have not been serviced timely and/or not updated on the DLS tracking system.	2	40
19	FP: Adverse decision letters were not sent to producers and/or letters did not follow the requirements. Deficiencies include no addresses for submitting requests for reconsideration or appeal, incorrect timeframes, no indication that it was an adverse decision, and/or no appeal rights given.	4	80
20	FP: Denial of benefits was not recorded in COC minutes.	1	20
Evaluation of EEO Program Delivery			
21	SEP: A limited number of or no Special Emphasis activities, and/or about which information was distributed and/or documented.	4	80
Public Notification and Outreach			
22	Election/Program Contacts: The State Office was not preparing and distributing to Service Centers and/or Service Centers were not maintaining a list of organizations representing minorities, women, and persons with disabilities for purposes of election outreach and/or program outreach.	1	20
23	Programs: There was no STC disaster documentation which reflects guidance given to COC’s about outreach; and/or COC documentation of disaster outreach efforts (including who conducted the outreach and if the contact was minority or under-served/under-represented); and/or no documentation of disaster outreach in the primary program file and/or other disaster outreach efforts by advisors.	5	100
24	Programs: SED had not distributed press releases twice a year minimum about the FLP socially disadvantaged funding.	2	40
25	Recruitment: A file copy was not maintained in the State Office and/or Service Centers listing organizations representing minorities, women, and persons with disabilities for the purposes of documenting recruitment, and/or who was contacted.	4	80
26	Recruitment: Service Center records did not indicate that a memo was sent to SED certifying that “every effort was made in the recruitment process to locate and solicit applications from minorities, women, persons with disabilities” for each vacancy.	3	60
27	Limited English Proficiency: STC minutes and/or COC minutes did not reflect that the bilingual staffing requirement was addressed.	4	80
28	Statements/Posters: The nondiscrimination statement was not being used or was being used incorrectly in newsletters and/or vacancy announcements and/or on letterheads and/or the statement is incorrect in print and/or on the State Intranet web site.	4	80
29	Statements/Posters: Posters and/or policy statements were not current or not properly posted (i.e. Secretary’s and Administrator’s CR Policy Statements, EEO Policy Statement, Reprisal and Retaliation Policy Statement, etc.).	3	60

FY 2010 USDA/FSA Civil Rights and EEO SMR', Findings Grouped by Similar Area/Program/Subject (Continued)

Finding		No. of States	Percent of Findings
Public Notification and Outreach (Continued)			
30	Elections: COC minutes submitted to the State Office did not document the recommendation of an advisor for STC approval and/or did not reflect the approval of COC advisors; and/or Service Centers had an all-white male COC with no advisors.	4	80
31	Elections: COC minutes submitted to the State Office did not document the review of LAA boundaries and the determination made.	3	60
32	Elections: STC minutes did not reflect review and determination about changes to LAA boundaries submitted by COC.	2	40
33	Elections: There was no documentation that Service Centers placed posters and fact sheets about elections in public facilities, churches, and/or businesses servicing socially disadvantaged producers.	2	40
34	Elections: COC minutes did not document contact with leaders of socially disadvantaged groups to discuss the need for advisors.	1	20
35	Elections: There was no documentation of timely issuance of notice of election and LAA boundaries by the Service Center and/or not posted at all required locations.	1	20
36	Outreach Plan: Service Centers did not have a paper copy of the State Outreach Plan on file.	1	20
Accessibility			
37	Parking: The accessible parking space was not at least 96 inches wide plus an access aisle 60 inches wide.	3	60
38	Parking: One van parking space had not been designated for every 6 (or fraction of 6) accessible parking spaces.	3	60
39	Parking: The accessible parking space(s) was not closest to the nearest accessible entrance and/or is not on an accessible route into the building.	2	40
40	Parking: The van parking space was not at least 132 inches wide with a 60 inch aisle or 96 inches wide with a 96 inch access aisle.	1	20
41	Ramps: The top and bottom of the ramp did not have at least 60 inches of level landing, or 48 inches wide for u-turns, and/or the slope was greater than 8 percent, and/or had no edge protection, and/or there was no ramp at the change in level greater than 1/2 inch.	1	20
42	Doors: Hardware could not be operated with 1 hand without pinching, grasping, or twisting of the wrist. It was not lever-operated, push-type mechanism, or had u-shaped handle(s).	2	40
43	Doors: The threshold was greater than 1/2 inch height.	1	20
44	Doors: Door required 5 pounds or more force to open and/or doors with closers close in less than 3 seconds minimum.	1	20
45	Accessible Route: There was not an accessible route that links the accessible entrance to all accessible elements and spaces and/or the accessible route was not continuously 36 inches wide except for 32 inches at points such as doorways.	1	20

FY 2010 USDA/FSA Civil Rights and EEO SMR', Findings Grouped by Similar Area/Program/Subject (Continued)

Finding		No. of States	Percent of Findings
Accessibility (Continued)			
46	Restrooms: Exposed pipes under the lavatories were not insulated or otherwise protected.	4	80
47	Restrooms: The urinal rim height was more than the 17 inch maximum.	3	60
48	Restrooms: The grab bars in the toilet facilities were mounted higher than the required 33-36 inches height, less than the required 42 inches and/or 36 inches in length, and/or did not meet the distance from the back wall, and/or there were not 2 grab bars in the toilet facility.	3	60
49	Restrooms: Dispensers exceeded the mounted distance requirements for overhead reach and/or side reach.	3	60
50	Restrooms: The mirror in the toilet facility had a bottom edge higher than the required maximum of 40 inches.	2	40
51	Restrooms: The toilet seat in the accessible toilet facility was higher than the required 17-19 inches height and/or the center line of the toilet was not positioned 16-18 inches from the side wall or partition.	1	20
52	Restrooms: The accessible toilet facility floor clearance was less than the required 60 inches wide by 56 inches deep for wall-hung water closets and 59 inches deep for floor mounted water closets.	1	20
53	Fountains: There were not 2 drinking fountains (1 high and 1 low) or a combined high/low drinking fountain.	2	40
54	Fire Alarm: The fire alarm did not have permanently installed audible and visible (flashing) alarms or there was no fire alarm system.	1	20
55	Signs: No International Symbol of Accessibility sign (upright) was visible from the driver's seat of the vehicle parked in the space and/or the sign was not at a minimum of 60 inches above the finished floor or ground surface.	3	60
56	Signs: There was no International Symbol of Accessibility sign on the accessible entrances to the building, office, and/or restrooms and/or the sign did not meet the required height range of 48-60 inches.	3	60
57	Signs: There was no International Symbol of Accessibility sign (upright) for passenger loading zones and/or van accessible parking.	1	20
58	AD-2056 had not been completed on each Service Center every 5th year and/or was not properly signed, and/or was incomplete when submitted to FSA/OCR/PCIB.	2	40
Data Collection			
59	Employment: NFC and/or election race, sex, ethnicity, national origin (RSENO) data did not agree with State Office data and/or there were discrepancies in the numbers. (15-AO)	4	80