

U.S. DEPARTMENT OF AGRICULTURE
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SUBJECT: Civil Rights Impact Analysis	DATE: October 17, 2016
	OPI: Office of Assistant Secretary for Civil Rights

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1. PURPOSE

This Departmental Regulation (DR) establishes the Civil Rights Impact Analysis (CRIA) policy and procedures for the U.S. Department of Agriculture's (USDA or the Department) employment, federally conducted and federally assisted programs and activities.

The regulation also provides guidance to the agencies, Departmental Management (DM), National Appeals Division (NAD), Office of the Inspector General (OIG), and staff offices of the Department on how to prepare and meet all CRIA obligations as set forth in this regulation.

2. SPECIAL INSTRUCTIONS/CANCELLATION

This regulation replaces DR 4300-004, *Civil Rights Impact Analysis*, dated May 30, 2003.

Agencies must update their processes and procedures in accordance with this DR within 120 calendar days of the effective date.

3. SCOPE

This regulation applies to all USDA agencies, DM, staff offices, NAD and OIG.

4. POLICY

It is USDA's policy to treat customers and employees fairly and equitably, with dignity and respect, regardless of race, color, national origin, disability, sex, gender identity (which includes gender expression), political beliefs, age, marital, family/parental status, religion, sexual orientation, reprisal, or because all or a part of an individual's income is derived from any public assistance program.

Essentially, agencies, DM, staff offices, NAD and OIG are required to analyze the civil rights impact(s) of policies, actions, or decisions that will affect the USDA workforce or its federally conducted or federally assisted programs and activities.

5. DEFINITIONS

Within the context of this regulation, the following definitions apply:

- a. Agency. For purposes of this directive, agency is defined as a major program organizational unit of the Department with delegated authorities to deliver programs, activities, benefits, or services. The term "agency" does not include DM, OIG, NAD or staff offices.
- b. Agency Head. The Administrator, Chief or Director or an office or agency who is the official named or designated to have primary responsibility for the management of the Agency as delegated under [7 CFR 2](#), *Delegations of Authority by the Secretary of Agriculture and General Officers of the Department*.

- c. **Agency Head Assessment.** The annual assessment of Agency Heads and applicable Staff Office Directors by the Office of the Assistant Secretary for Civil Rights (OASCR), utilizing the *Civil Rights Performance Plan and Accomplishment Report* (the Plan), to evaluate and rate each Agency and applicable Staff Office for effectiveness and compliance with the Department's civil rights policies and regulations. The Plan requires agencies and applicable staff offices to annually assess their civil rights activities and accomplishments and submit a report to OASCR to ensure civil rights accountability throughout USDA. The civil rights accomplishment rating issued by OASCR serves as a representative rating of the Agency Heads and applicable Staff Office Directors.
- d. **Assistant Secretary for Civil Rights (ASCR).** The civil rights official for USDA with authority pursuant to [7 CFR 2.25](#) for the performance and oversight of civil rights functions within USDA, including the authority and discretion to delegate civil rights functions to Agency Heads and Offices.
- e. **Assisted Programs and Activities.** Program services, benefits or resources delivered through a recipient of USDA funding to assist an ultimate beneficiary.
- f. **Civil Rights Director.** An individual appointed by the Agency Head, who is responsible for the implementation of an equal employment program and for federally assisted and federally conducted programs, to promote equal employment opportunity, and to identify and eliminate discriminatory practices and policies. Civil Rights Directors report directly to their Agency Heads and for the purposes of this regulation, the Civil Rights Director will also serve as an EEO Director as set forth at [29 C.F.R. 1614.102\(b\)\(4\)](#).
- g. **Civil Rights Impact.** The consequences of policies, actions, and decisions which impact the civil rights and opportunities of protected groups or classes of persons who are USDA employees or program beneficiaries.
- h. **Civil Rights Impact Analysis (CRIA).** An analytical process used to determine the scope, intensity, direction, duration, and significance of the effects of an Agency's proposed employment and program policies, actions, and decisions. A CRIA identifies the effects of: (1) proposed employment actions; (2) eligibility criteria for USDA benefits; (3) methods of implementation, (4) underrepresentation or lack of diversity within its programs; or (5) any other Agency-imposed requirements that may adversely and disproportionately impact employees or program beneficiaries based on their membership in a protected group. Proper follow-up actions based on CRIA findings can lessen, eliminate or substantially alleviate these adverse impacts on protected groups.
- i. **Civil Rights Implication.** Information or data that suggest, or from which one may infer, that a policy, action, or decision will affect groups or classes of persons, or any given individual, positively or negatively.

- j. Concurrence. OASCR approval of the proposed action, policy or decision that will affect the USDA workforce or its federally conducted or assisted programs or activities based on the requirements of current civil rights laws.
- k. Conducted Programs and Activities. Program services, benefits or resources delivered directly to the public by USDA.
- l. Contingent Concurrence. OASCR concurrence dependent upon specific actions required to be taken by the agency, staff office, DM, NAD or OIG or the submission of additional information requested to complete the assessment as to whether a proposed action, policy or decision will affect the USDA workforce or its federally conducted or its assisted programs and activities.
- m. Departmental Management. USDA's central administrative management organization that provides support to policy officials of the Department and overall direction and coordination for the administrative programs and services of USDA under the direction and supervision of USDA's Assistant Secretary for Administration (ASA) with authority pursuant to [7 CFR 2.24](#).
- n. Disparate Treatment. The less favorable treatment of a person or persons by reason of one or more prohibited bases when compared with/contrasted to another group(s) or class(es) of persons that is similarly situated.
- o. Disparate Impact (Adverse Impact). Neutral employment or program policies, practices, actions, or decisions which are applied evenhandedly (are of "general applicability"), but have the effect of excluding or otherwise adversely affecting groups or classes of persons by reason of one or more prohibited bases.
- p. Disproportionate Impact. A theory of liability which prohibits an employer or program from using a facially neutral employment practice that has a greater adverse impact on members of a protected class. A facially neutral employment practice or program that does not appear to be discriminatory on its face; rather it is discriminatory in its application or effect.
- q. Eligibility Criteria. Summary criteria for participant selection based on requirements mandated by Congress or internal Agency recommendations and regulations.
- r. Employee. An individual employed in any position within USDA. Contractors, interns, and volunteers may be included under this definition; however, specific criteria must be met in order for them to be classified an "employee" for EEO purposes.
- s. Expedited Clearance. The process set forth in Section 15 of this regulation.
- t. Group or Class. Multiples of similarly situated persons who may be distinguished by their common race, color, national origin, age, disability, and where applicable, sex, gender identity (includes gender expression), marital status, familial status, parental

status, religion, sexual orientation, genetics, political beliefs, or receipt of income from any public assistance program.

- u. **Methods of Implementation.** The full range of practices, management prerogatives, application criteria, participation requirements, processes, and procedures used by management to administer federally assisted or federally conducted programs and activities within USDA.
- v. **Non-concurrence.** OASCR decision to not concur with a proposed action, policy or decision that will affect the USDA workforce or its federally conducted or assisted programs or activities based on the requirements as set forth in this regulation and current civil rights laws.
- w. **Policies, Actions, or Decisions.** All those prerogatives exercised by USDA as set forth in Section 7 below.
- x. **Prohibited Bases.** Discrimination that is prohibited in employment and program activities based on race, color, national origin, age, disability, sex, gender identity (including gender expression), genetic information, political beliefs, sexual orientation, marital status, familial status, parental status, veteran status, religion, reprisal and/or resulting from all or a part of an individual's income being derived from any public assistance program.
- y. **Protected Groups.** Any person, group, or class of persons protected under Federal regulations and/or any Executive Orders from discrimination based on a prohibited basis.
- z. **Recipient.** A person or group of persons with an entitlement to receive or enjoy the benefits, services, resources, or information from USDA, or to participate in activities and programs conducted or funded in whole or part by USDA.
- aa. **Reorganization.** The planned elimination, addition, redistribution of functions or duties, or movement of employees in an organization or the movement of a function within a competitive area. For the purposes of this regulation, reorganizations also include office closures, relocations, abolishment, consolidations, reductions-in-force, Transfer of Functions, realignments, and reassignments.
- bb. **Staff Office.** An administrative office with a specialized support function as defined by [7 CFR 2.4](#). All staff offices, with the exception of NAD and OIG, report directly to the Secretary of Agriculture. NAD and OIG are in the Secretary's reporting chain, but have independent authority and reporting responsibilities.
- cc. **Significant Regulatory Action.** Proposed, interim, or final rules that are likely to result in a rule that may: (1) have an annual effect on the economy of \$100 million or more; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) materially alter the budgetary impact of entitlements, grants,

user fees, or loan programs; or (4) raise novel legal or policy issues arising out of legal mandates.

- dd. Transfer of Function. Occurs when a function will cease in one competitive area and move to another competitive area that does not perform that function at the time of the transfer or the movement of a competitive area in which the function is performed to a different local commuting area.

6. OBJECTIVES

The objectives of this regulation are to:

- a. Establish procedures for the review and analysis of policies, regulations, reorganizations, advisory committee establishments and renewals, or decisions whose implementation may have potential adverse impacts based on civil rights laws, regulations and/or USDA's policy on nondiscrimination;
- b. Ensure that the issuance of policies, regulations, reorganizations, advisory committee establishments and renewals or decisions may not adversely and/or disproportionately impact employees and/or program beneficiaries and recipients because of their membership in a protected group;
- c. Utilize CRIAs as a management tool to assess the proposed action to determine the potential impacts on employees and/or program participants;
- d. Reinforce the requirement to collect demographic data in accordance with current federal civil rights laws and regulations and USDA DRs and policies;
- e. Require outreach strategies, as outlined in CRIA outreach plans, to be implemented and monitored to ensure that protected groups are informed of the benefits, requirements, etc., of specific policies and/or regulations;
- f. Establish mitigation strategies to lesson any adverse impact; and
- g. Provide oversight and monitoring of the proposed action in order to measure the extent of any adverse impact(s) and the effectiveness of the mitigation strategy in lessening the impact and results of the outreach strategy.

7. ACTIONS REQUIRING CRIAs

- a. The following actions require the preparation of a CRIA and must be submitted to OASCR for determination of CRIA sufficiency and final clearance:
 - (1) Significant regulatory actions and notices to be published in the *Federal Register* and the *Code of Federal Regulations*;

- (2) Charters and charter renewals for advisory committees, councils, or boards managed on behalf of the Department or Secretary;
 - (3) Departmental regulations, manuals, and notices that require Departmental approval;
 - (4) Proposed reorganizations requiring Departmental approval as prescribed in [DR 1010-001](#), *Organization* (see definition of reorganization for additional employment actions); and
 - (5) At the discretion of the ASCR, other policy, program, action, or activity, or the implementation which may have potentially adverse civil rights impacts.
- b. The following actions that do not meet the criteria in Section 7(a) above, require a CRIA to be conducted and implemented, but does not have to be submitted to OASCR for determination of CRIA sufficiency:
- (1) New and revised agency-specific instructions, procedures, manuals, and other guidance published in agency directives systems;
 - (2) Advisory boards and committees that are established at the discretion of the agency and are not mandated by statute, rule, or USDA regulation;
 - (3) Budget proposals;
 - (4) Grants and contracts;
 - (5) Organizational changes not requiring Departmental notification as prescribed in DR 1010-001; and
 - (6) National, regional, and local special projects affecting program beneficiaries.

8. ROLES AND RESPONSIBILITIES

a. OASCR

OASCR provides the overall leadership, coordination, direction, evaluation and clearance of USDA's programs, activities and impact statements for civil rights concerns, including:

- (1) Consulting, advising, and providing technical assistance to agencies, DM, NAD, OIG, and staff offices;
- (2) Identifying civil rights implications and impacts of proposed policies, significant regulations, programs, advisory committees, and employment actions;

- (3) Approving proposed policies, significant regulations, programs, advisory committees, and employment actions by the designated time from the Office of Budget and Program Analysis (OBPA), the Office of Human Resources (OHRM), or the White House Liaison Office.
- (4) Analyzing and evaluating program participation data and equal employment opportunity data, and make its analyses available to Agencies, DM, NAD, OIG, and Staff Offices;
- (5) Providing an assessment of an agency, DM, and applicable staff offices' compliance with CRIAs and this regulation through the Agency Head assessment process;
- (6) Provide a Concurrence, Non-concurrence or Contingent Concurrence on the proposed action submitted by the agency, NAD, OIG, and staff office CRIA submissions based on the provisions of this regulation;
- (7) May issue a Non-concurrence if agencies have not met requirements of the Contingent Concurrence within 60 days of the requested deadline in the CRIA or the package has been received incomplete and an analysis cannot be completed in time for deadlines requested by OBPA, OHRM, or White House Liaison to be met;
- (8) If there is a non-concurrence, may view that as a factor when determining Final Agency Decision (FAD) pursuant to the Department's Equal Employment Opportunity DR; and
- (9) Hold agencies, DM, NAD, OIG, and staff offices accountable for actions required as a result of a Contingent Concurrence or a Non-Concurrence.

b. Agencies

All agencies must develop a CRIA when proposing policies, actions, or decisions that affect their workforce or their federally conducted or federally assisted programs and activities. Each Agency Head will take the following actions when developing CRIAs and implementing civil rights strategies related to regulations, reorganizations, and advisory committees:

- (1) Analyze the civil rights impact(s) of policies, actions, or decisions that affect their workforce or its federally conducted or federally assisted programs and activities;
- (2) Identify the effects of proposed employment actions, eligibility criteria for USDA benefits, methods of implementation, underrepresentation or lack of diversity within its programs that may adversely and disproportionately impact its employees or program beneficiaries based on their membership in a protected group;
- (3) Involve subject matter experts from the appropriate disciplines (e.g., economists, statisticians, budget analysts, civil rights analysts, program management analysts,

human resources analysts, etc.);

- (4) Comply with all components of a Contingent Concurrence in accordance with the terms and conditions of the contingent concurrence and the provisions of this regulation;
- (5) Consult with stakeholders, minority groups, disability organizations, educational institutions, and customers, as appropriate, to obtain input prior to decision-making;
- (6) Analyze program participation data by race, ethnicity, gender, and disability to identify any adverse impacts (See Section 9, CRIA Analysis Elements for further information);
- (7) Analyze impacts of proposed employment actions on protected groups by race, sex, national origin, disability, and age (40 and over). (See Section 9 (b) Reorganizations for further information);
- (8) Identify and analyze the civil rights implications and impacts of eligibility criteria, methods of implementation, and other requirements associated with policies, regulations, programs, reorganizations, advisory committees and activities on employees, recipients, and beneficiaries;
- (9) Develop mitigation and outreach strategies to eliminate, alleviate, or lessen such impacts (See Sections 10 and 11 for further information);
- (10) Refer problematic aspects that cannot be resolved at the agency level to OASCR for review and guidance with supporting documentation on any potential civil rights implications or impacts;
- (11) Hold supervisors and managers accountable through their performance review appraisal for:
 - (a) ensuring that their CRIAs are implemented and effectively eliminate or mitigate any adverse impact on protected groups; and
 - (b) carrying out all of the responsibilities as required in this regulation;
- (12) Submit a CRIA to OASCR, including a Civil Rights Certification signed by the Civil Rights Director on the proposed policy, program, employment action or activity, for review with a determination of CRIA sufficiency;
- (13) Obtain either a Concurrence or a Contingent Concurrence prior to implementing any proposed action; and
- (14) Failure to comply with the requirements of a Contingent Concurrence will: (1) negatively impact a supervisor's end of year civil rights performance element

performance; and (2) the supervisor will be required to conduct another CRIA that complies with the requirements of this regulation.

c. DM, Staff Offices, NAD, and OIG

DM, staff offices, NAD, and OIG must, in collaboration with OASCR, develop a CRIA when proposing policies, actions, or decisions that affect their workforce and take the following actions when developing CRIAs and implementing civil rights strategies related to regulations, reorganizations, and advisory committees:

- (1) Analyze the civil rights impact(s) of policies, actions, or decisions that affect their workforce or its federally conducted or federally assisted programs and activities;
- (2) Identify the effects of proposed employment actions, eligibility criteria for USDA benefits, methods of implementation, underrepresentation or lack of diversity within its programs that may adversely and disproportionately impact its employees or program beneficiaries based on their membership in a protected group;
- (3) Involve subject matter experts from the appropriate disciplines (e.g., economists, statisticians, budget analysts, human resources analysts, etc.);
- (4) Consult with stakeholders, minority groups, disability organizations, and customers, as appropriate, to obtain input prior to decision-making;
- (5) Analyze impacts of proposed employment actions on protected groups by race, sex, national origin, disability, and age (40 and over). (See Section 9 (b) Reorganizations for further information);
- (6) Identify and analyze the civil rights implications and impacts of proposed eligibility criteria, methods of implementation, and other requirements associated with policies, regulations, programs, reorganizations, advisory committees and activities on employees;
- (7) Develop mitigation and outreach strategies to eliminate, alleviate, or lessen such impacts (See Sections 10 and 11 for further information);
- (8) Refer problematic aspects that cannot be resolved at the Agency level to OASCR for review and guidance with supporting documentation on any potential civil rights implications or impacts;
- (9) Hold supervisors and managers accountable through their performance review appraisal for:
 - (a) Ensuring that their CRIAs are implemented and effectively eliminate or mitigate any adverse impact on protected groups; and
 - (b) Carrying out all of the responsibilities as required in this regulation; and

- (10) Finalize the CRIA with OASCR and obtain certification for the CRIA from the ASA or, if designated by the ASA, the Staff Office Administrator, or appropriate Agency Head for NAD and OIG on the proposed policy, employment action, or activity for review and a determination of CRIA sufficiency.

9. CRIA ANALYSIS ELEMENTS

This section outlines the minimum elements necessary for preparing a CRIA on the following:

a. Significant Rules, Non-Significant Rules, Notices, and Departmental Regulations

(1) Background

The Background narrative must:

- (a) Indicate whether the rule is proposed, interim or final;
- (b) Describe the objective and purpose of the rule;
- (c) Identify the beneficiaries and recipients;
- (d) Cite the authority(ies) for the rule which would include both programmatic and civil rights authorities;
- (e) List any changes proposed; and
- (f) Identify results, if any, from comments received from *Federal Register* notifications.

(2) Analysis

The analysis narrative must:

- (a) Identify the appropriate theory(ies) of discrimination that will be used to analyze the policy, significant regulation, program, or activity, i.e., disparate treatment, disparate impact;
- (b) Identify whether or not it contains any requirement related to eligibility, benefits, and/or services, that may have the purpose or effect of excluding, limiting, or otherwise disadvantaging any group or class of persons on one or more prohibited bases;
- (c) Describe the civil rights impacts to determine whether:

- 1 They are likely to be beneficial; such as increased participation, additional program benefits, less requirements for eligibility;
 - 2 They are likely to maintain the status quo; or
 - 3 They are likely to have an adverse impact;
- (d) Determine whether or not the civil rights impacts will adversely affect one or more groups or classes of persons, specifically:
 - 1 Whether or not the impacts will be disproportionate; and
 - 2 How the disproportionate impacts will be manifested;
- (e) Identify whether and the extent to which each group or class of persons may be potentially affected, positively or negatively;
- (f) Analyze the regulatory action's objective, implementation, relevant numerical data, and information to determine if there are significant differences in potential civil rights impacts among groups or classes of persons;
- (g) Analyze current race, ethnicity, gender (REG), and if applicable disability data collection of program participants from various sources (i.e., U.S. Census, Census of Agriculture, agency internal databases, etc.) to determine if implementation will result in underrepresentation or will disproportionately impact protected groups;
- (h) Determine whether action or implementation will have an adverse or disproportionate (impact ratios amongst impacted groups by REG impact(s) on protected groups);
- (i) Identify Tribal implications - any actions that may impose an adverse impact on Indian Tribal Governments that are not required by statute;
- (j) Identify positive impacts on protected groups;
- (k) Determine any barriers which exist that prevent the increase of minority, women, or persons with disabilities' participation.
- (l) Identify civil rights monitoring and evaluation processes; and
- (m) Address all OASCR recommendations from prior CRIA response, if applicable (for interim and final rules).

(3) Mitigation

Agencies, DM, NAD, OIG, and staff offices must develop and implement a mitigation strategy that will eliminate, alleviate, or lessen any adverse impact(s) as a result of a policy, action or decision.

(4) Outreach Strategy

Agencies, DM, NAD, OIG, and staff offices must develop and implement an outreach strategy to ensure customers, who are members of protected groups, receive timely notification of any changes to a program or procedure per the regulatory action(s). (See Section 11)

b. Reorganizations

(1) Background

The Background narrative must include:

- (a) Proposed activity;
- (b) Reason for the proposed activity (budgetary constraints, functional changes, etc.);
- (c) Effective date of proposed activity; and
- (d) Current and proposed organizational structure.

(2) Analysis

The following methods must be included when preparing an analysis of the proposed action(s):

- (a) Analyze how the implementation of the proposed action will or may impact employees (i.e., relocation, change in reporting structure, change in unit name, reassignment, loss of supervisory authority and change in any title, series, grade, duties).
- (b) Identify the:
 - 1 Total number of full-time equivalent (FTE) (including encumbered and vacant);
 - 2 Total number of FTEs impacted;
 - 3 Number of impacted encumbered FTEs; and

4 Number of impacted vacant positions.

- (c) Utilize the prescribed OASCR chart (see Appendix A) to capture the specific impacts on each employee by name and their current and proposed title (indicate if supervisory), series, grade, duty station, race, sex, national origin, disability, and age.
- (d) Summarize the number and percentage of impacted employees by race, sex, national origin, disability, and age (RSNODA) data.
- (e) Summarize the impacts on protected groups based on the RSNODA data.
- (f) Outline the criteria used to determine the action(s) (relocation, reassignment, loss of supervisory authority and change in any title, series, grade, duties) impacting each affected employee(s).
- (g) Identify any impacts to customer's access to services (positive or negative):
 - 1 Address whether any disruption in service for the customer will occur;
 - 2 Identify if additional commuting will be required to obtain services; and
 - 3 Address if one protected group is impacted more than another.

(3) Mitigation

Agencies, DM, NAD, OIG, and staff offices must develop and implement a mitigation strategy that will eliminate, alleviate, or lessen any adverse impact(s), i.e., loss of supervisory authority, relocation, change in title, series, grade, as a result of the employment action(s).

- (a) Mitigation must be tailored to the adverse or disproportionate impact(s). Type of mitigation should include:
 - 1 Training of employees with a change in title, series, grade and duties;
 - 2 Relocation expenses for employees required to move more than 50 miles;
 - 3 Detail opportunity for employees losing supervisory responsibilities;
 - 4 Timely communication (w/union, public, customers, employees);
 - 5 Involvement of employees in decision making process;
 - 6 Maintain reasonable accommodation(s) for persons with a disability;

- 7 Provide assistance with new job search, resume writing, interviewing techniques and administrative time;
- 8 Allow telework and flextime schedules;
- 9 Research shared office space with another USDA agency; and
- 10 Cross training of employees, so they do not have to relocate.

(4) Outreach Strategy

Agencies, DM, NAD, OIG, and staff offices must develop and implement an outreach strategy to ensure customers who are members of protected groups receive timely notification of any proposed employment action(s) i.e., office closure. (See Section 11)

c. Advisory Committees

(1) Background

The background narrative must include:

- (a) Name of authority that establishes Committee and Council;
- (b) Appointment term for each member;
- (c) Length of the Charter;
- (d) Summary of Committee's function(s); and
- (e) Expiration date.

(2) Analysis

The following methods must be included when preparing an analysis of the proposed action(s):

- (a) Describe the civil rights impacts to determine whether:
 - 1 They are likely to be beneficial; such as increased participation, additional program benefits, less requirements for eligibility;
 - 2 They are likely to maintain the status quo; or
 - 3 They are likely to have an adverse impact such as an advisory committee that has no minority members.

- (b) Determine whether or not the civil rights impacts will adversely affect one or more groups or classes of persons, specifically:
 - 1 Whether or not the impacts will be disproportionate; and
 - 2 How the disproportionate impacts will be manifested.
 - (c) Identify the appropriate theory(ies) of discrimination that will be used to analyze the program, advisory committee, or activity, i.e., disparate treatment, disparate impact.
 - (d) Identify whether or not it contains any requirement related to eligibility, benefits, and/or services, that may have the purpose or effect of excluding, limiting, or otherwise disadvantaging any group or class of persons on one or more prohibited bases.
 - (e) Identify whether and the extent to which each group or class of persons may be potentially affected, positively or negatively.
 - (f) Identify current and proposed memberships by race, sex, national origin and disability.
 - (g) Identify projected vacancies based on current membership's end of appointment.
 - (h) Prepare a trend analysis of increase or decrease in diversity based on past two to three year membership data.
 - (i) Determine any barriers which exist that prevent the increase of membership diversity.
- (3) Outreach Strategy

Agencies, DM, NAD, OIG, and staff offices must develop and implement an outreach strategy to ensure applicants and nominees, who are members of protected groups, receive timely notification of any advisory committee vacancies. (See Section 11)

10. MITIGATION

If an adverse or disproportionate impact is projected the following methods for lessening the adverse or disproportionate impact will be identified and implemented:

- a. Mitigation must be tailored to the adverse or disproportionate impact(s) found in the analysis. Examples of mitigation include:

- (1) Staggering implementation dates;
 - (2) Delaying or establishing incremental cost increases to lesson financial burdens;
 - (3) Providing adequate time to meet the required timeframes and initial startup times;
 - (4) Incorporating language that will address small businesses and socially disadvantaged beginning and limited resource farmers and ranchers needs (i.e., set aside a percentage of program funding);
 - (5) Giving priority funding projects that provide a benefit to underserved communities, which include urban and Indian Tribal communities; and
 - (6) Addressing eligibility and criteria revisions that ultimately have a disproportionate impact.
- b. Providing guidance and technical assistance to customers to assist them with meeting the established requirements.
- c. Conducting a barrier analysis which includes:
- (1) Identifying any barriers preventing effective implementation and outreach;
 - (2) Developing a strategy for eliminating those barriers; and
 - (3) Identifying and selecting feasible strategies and actions for implementation that the Agency could utilize to offset adverse and disproportionate civil rights impacts (short term and/or long term).

11. OUTREACH STRATEGIES

The CRIAs will contain an outreach plan that includes the following:

- a. Communicating with the following protected groups:
- (1) Minorities;
 - (2) Women;
 - (3) Persons with disabilities – accessible electronic documents and alternative communication methods (ex., TDD, Braille, if applicable);
 - (4) Persons with limited English proficiency (LEP) – translation of vital documents and oral interpretation services;
 - (5) Veterans (if applicable);

- (6) Indian Tribal Governments (if applicable); and
 - (7) Lesbian, Gay, Bisexual, and Transgender (LGBT) community.
- b. Outlining methods the Agency will utilize to ensure the aforementioned protected groups are aware of the proposed actions by contacting affected organizations, institutions, and groups by the following means:
- (1) Face-to-face meetings;
 - (2) Emails;
 - (3) Postings, newspaper publications;
 - (4) Telephonic, television and radio announcements; and
 - (5) Website and other social media.
- c. Identify an outreach strategy that will eliminate, or alleviate, adverse and disproportionate civil rights impacts for the affected groups or classes of persons. The outreach strategy should include the following:
- (1) Specific methods(s) by which the agency will monitor its outreach efforts to protected groups and organizations (See Section 12);
 - (2) Lists of minority organizations, radio and television stations, community based organizations, advocacy groups, disability organizations, colleges and universities, Indian Tribal Governments, tribal officials, other Federal agencies, and other entities the Agency will contact to ensure protected groups are aware of the benefits of the program;
 - (3) Notices posted or advertised;
 - (4) Methods of outreach conducted to individuals, organizations, schools, or universities;
 - (5) Communication with individuals with disabilities, persons age 40 and above, and LEP customers, and what alternative methods were used to make the contacts, i.e., TTD, Braille; Spanish, etc.;
 - (6) The outcome of the contacts, and method(s) used to monitor and evaluate contact; and
 - (7) The Tribal Governments contacted and the date meetings were held to discuss the program or activity.

12. MONITORING AND EVALUATION

Each agency, DM, NAD, OIG and staff office, in collaboration with its civil rights office, will monitor and evaluate the results of strategies and/or actions it implements to address adverse and disproportionate civil rights impacts of its programs and employment activities as follows:

- a. Monitoring and evaluation responsibilities should be coordinated with or integrated into annual business plans, civil rights strategic plans, Affirmative Employment Program Plans, Civil Rights Implementation Plans, Outreach Plans, etc.;
- b. Supervisors and managers will be held accountable for implementing strategies and actions to eliminate, alleviate, or mitigate adverse and disproportionate civil rights impacts via annual performance plans;
- c. Monitor and evaluate the effectiveness of the outreach and mitigation strategies utilized; and
- d. Monitor complaints and compliance reviews resulting from the actions taken and institute any corrective actions necessary to resolve the issues raised.

13. CONCLUSION

The CRIAs will contain a Conclusion section that will include the following:

- a. A summary statement indicating whether the proposed action, its objective, and/or implementation will have an adverse or disproportionate impact on protected groups; and
- b. A certification signed by the current Civil Rights Director or ASA (for DM and Staff Offices only) (See Appendix B for example CRIA Certification).

14. RETENTION OF CRIA RECORDS

Agencies, DM, NAD, OIG and staff offices will retain all CRIA documents for a minimum of three years and make them available to OASCR, OGC, OIG, and other USDA agencies, DM and staff offices upon request, and third parties as prescribed by law.

15. EXPEDITED CLEARANCE FOR REGULATORY ACTIONS ONLY

- a. Agencies are required to complete CRIAs in accordance with Section 9. However, OASCR may agree to expedite the clearance of certain rules, notices, or other regulatory actions PRIOR TO SUBMISSION OF A CRIA if an Agency Head submits a final, draft

or advance copy of the rule, notice, or other regulatory action, along with a written request. Such a request must include:

- (1) The purpose of the rule, notice, or proposed action;
 - (2) Information on who will benefit from issuance of the rule, notice, or proposed action and the manner in which they will benefit;
 - (3) The reason or rationale justifying the request for expedited clearance;
 - (4) The consequences of denial of a request to expedite the rule, notice, or proposed action; and
 - (5) A proposed deadline for completing the CRIA.
- b. If the request for expedited clearance is approved, OASCR will either confirm the deadline submitted for completing the CRIA or negotiate a new one. It is likely that a request for expedited clearance will be approved if:
- (1) Expedited clearance will facilitate publication of a rule or notice that must be immediately implemented to protect the health and safety of the public or to prevent or mitigate catastrophic across-the-board economic harm to domestic producers; or
 - (2) The rule or notice **MUST** be promulgated within 30 days or less by order of the President of the United States or the Secretary; and
 - (3) The request for expedited clearance is timely received.
- c. A request for expedited clearance **MAY NOT** be approved if the rule, notice, or other regulatory action is:
- (1) Identified in an agency's planned rulemaking work plan that is required by OBPA;
 - (2) Scheduled to be published more than 30 days after the date of the request for expedited clearance; or
 - (3) Promulgated at the discretion of the Agency Head.
- d. In situations where OASCR agrees to expedite the clearance of a rule, notice, or other regulatory action, the agency must submit the CRIA in accordance with an agreed upon deadline. The agency will be held accountable for:
- (1) Meeting the CRIA deadline agreed upon; and
 - (2) Implementing recommendations from OASCR designed to eliminate, alleviate, or mitigate potential adverse and disproportionate civil rights impacts.

16. WAIVERS (FOR REGULATIONS ONLY)

- a. An agency may request a waiver from the CRIA approval process if the subject matters, is being implemented in accordance with the requirements of a statute or treaty, and has no foreseeable adverse civil rights impacts. To request a waiver, an Agency Head must submit the final, draft, or advance copy of the rule, notice, or other regulatory action, along with the written request that includes the following information:
 - (1) Purpose of the rule, notice, or other regulatory action;
 - (2) Information on who will benefit from issuance of the rule, notice, or other regulatory action and the manner in which they will benefit; and
 - (3) Justification for the waiver request.
- b. A waiver will be granted on a case-by-case basis, for:
 - (1) FINAL rules previously reviewed and concurred on by OASCR as proposed or interim rules, if no substantive modifications or additions were made in the provisions;
 - (2) Rules, notices, or other regulatory actions that deal with strictly scientific or administrative matters that CLEARLY have no civil rights implications; or
 - (3) Rules, notices, or other regulatory actions that are outside the jurisdictional control of the program Agency issuing the rule, notice, or other regulatory action.

17. CRIA TECHNICAL ASSISTANCE REQUESTS

- a. Each agency, DM, NAD, OIG, and staff office will submit a written request for technical assistance to the OASCR's Office of Compliance, Policy, Training and Cultural Transformation's Policy Division 45 working days PRIOR TO INITIATING THE USDA CLEARANCE PROCESS for the following documents:
 - (1) Reorganizations;
 - (2) Advisory Committees; and
 - (3) Significant regulatory actions.
- b. The document and the CRIA, as well as, any other supporting documentation, i.e., the final, draft or advance copy of the significant rule, notice(s), reorganization proposals, advisory committee renewals or establishments or other regulatory action, should:
 - (1) Identify civil rights issues, implications, and impacts, for the proposed action;

- (2) Identify the determination made as to whether the proposed action will have an adverse or disproportionate impact on protected populations and reasons for the conclusion;
- (3) Identify Tribal implications or any actions that impose substantial direct compliance costs on Indian Tribal Governments, and that is not required by statute (if applicable);
- (4) Identify all mitigation that will be conducted to lessen any adverse impact on women, minorities, age 40 and over (where applicable) and/or persons with disabilities;
- (5) Identify the race, sex, national origin, age (where applicable) and disability data of impacted population as required in Section 9 of this regulation;
- (6) Establish effective outreach strategy for ensuring that women, minorities, persons age 40 and over (where applicable) and/or persons with disabilities are aware of the proposed action in accordance with Section 11; and
- (7) Ensure all Limited English Proficiency (LEP) activities will be conducted for the proposed action in accordance with USDA's [DR 4330-005](#), *Prohibition Against National Origin Discrimination Affecting Persons with Limited English Proficiency in Programs and Activities Conducted by USDA* and/or USDA's [7 CFR 15](#), *Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons with Limited English Proficiency*.

- END -

APPENDIX B

SAMPLE - CRIA Certification

Certification:

Office and Division or Location: XXXXXX

Proposed Action: XXXX

I certify I have reviewed and analyzed the appropriate documentation and determined that:

No major civil rights impact is likely to result if the proposed action is implemented.

A major civil rights impact, as described below, is likely to result if the proposed action is implemented.

Administrator

Date

APPENDIX C

AUTHORITIES AND REFERENCES

a. Statutory Authorities

- (1) [*Age Discrimination Act of 1975*](#), as amended
- (2) [*Age Discrimination in Employment Act of 1967*](#), as amended
- (3) [*Alternative Dispute Resolution Act of 1996*](#), as amended
- (4) [*Americans with Disabilities Amendments Act of 2008*](#), as amended
- (5) *Government Organization and Employees: Departmental Regulations*, [5 U.S.C. 301](#), January 3, 2012
- (6) [*Equal Pay Act of 1963*](#), as amended
- (7) *Food Stamp Improvements Act of 1994*, [P.L. 103-225](#), March 25, 1994
- (8) [*Genetic Information Nondiscrimination Act of 2008*](#)
- (9) [*Notification and Federal Employee Antidiscrimination and Retaliation \(No FEAR\) Act of 2002*](#)
- (10) [*Rehabilitation Act of 1973*](#), as amended
- (11) [Section 503](#) of the *Vietnam Era Veterans Readjustment Assistance Act of 1974*
- (12) [Section 307](#) of the *Civil Service Reform Act of 1978*, as amended
- (13) [Title VI](#) of the *Civil Rights Act of 1964*, 42 U.S.C. 2000d, as amended
- (14) [Title VII](#) of the *Civil Rights Act of 1964*, as amended
- (15) [Title IX](#) of the *Education Amendments of 1972*

b. Regulatory and Executive Orders

- (1) *Affirmative Employment Programs*, [5 CFR 720](#)
- (2) *Guidance to Federal Financial Assistance Recipients regarding the Title VII Prohibition Against National Origin Discrimination Affecting Persons with Limited English Proficiency*, [7 CFR 15](#), November 28, 2014.
- (3) Department of Justice, *Guidelines for Coordination of Enforcement of*

Nondiscrimination in Federally Assisted Programs, [28 CFR 42.401](#) et seq.

- (4) *Equal Credit Opportunity Act of 1977 (Regulation B)*, [12 CFR 202](#)
 - (5) [Equal Employment Opportunity Commission \(EEOC\) Management Directive-110](#), *Federal Sector Complaints Processing Manual*, August 5, 2015
 - (6) [EEOC Management Directive-715](#), *EEO Reporting Requirements for Federal Agencies*, October 1, 2003
 - (7) *Equal Opportunity to Religious Organizations*, [7 CFR 16](#)
 - (8) [Executive Order 13087](#), *Further Amendment to Executive Order 11478, Equal Employment Opportunity in the Federal Government*, May 28, 1998
 - (9) [Executive Order 13145](#), *To Prohibit Discrimination in Federal Employment Based on Genetic Information*, February 8, 2000
 - (10) [Executive Order 13152](#), *Further Amendment to Executive Order 11478, Equal Employment Opportunity in the Federal Government*, May 2000
 - (11) [Executive Order 13166](#), *Improving Access to Services for Persons with Limited English Proficiency (LEP)*, August 11, 2000
 - (12) [Executive Order 13672](#), *Further Amendment to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity* July 21, 2014
 - (13) *Federal Sector Equal Employment Opportunity*, [29 CFR 1614](#)
- c. Departmental Regulations and Guidance
- (1) [DM 4300-001](#), *EEO Complaint Processing Procedures*, July 20, 2001
 - (2) [DR 1512-001](#), *Regulatory Decision-making Requirements*, March 14, 1997
 - (3) [DR 4300-005](#), *Agency Civil Rights Programs*, January 14, 1998
 - (4) [DR 4330-003](#), *Nondiscrimination in USDA-Conducted Programs and Activities*, October 5, 2015
 - (5) [DR 4330-005](#), *Prohibition Against National Origin Discrimination Affecting Persons with Limited English Proficiency in Programs and Activities Conducted by USDA*, June 4, 2013
 - (6) Annual Civil Rights Policy Statement issued by the Secretary of Agriculture
 - (7) Any other published regulations, policies, staff instructions, or directives related to non-discrimination