

VOLUNTARY RESOLUTION AGREEMENT

Between the

U.S. Department of Health and Human Services
Office for Civil Rights

and the

Arizona Health Care Cost Containment System
and the
Arizona Department of Economic Security

OCR Transaction Numbers: 10-117078 & 10-117875

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Attachment

1 - Timeline of Major Agreement Deliverables

I. Introduction

This Voluntary Resolution Agreement (the “Agreement”) is entered into by the United States Department of Health and Human Services (“HHS”), Office for Civil Rights (“OCR”), and the Arizona Health Care Cost Containment System (“AHCCCS”) and the Arizona Department of Economic Security (“DES”), (collectively referred to as the “Parties”). AHCCCS is the single state agency in Arizona responsible for the Medicaid program, 42 U.S.C. § 1396 *et seq.*, and the Children’s Health Insurance Program (“CHIP”), 42 U.S.C. § 1396 *et seq.*, called the KidsCare Program. DES is the single state agency responsible for the administration of the Temporary Assistance for Needy Families (“TANF”) program, called the Cash Assistance Program, 42 U.S.C. § 601 *et seq.* Pursuant to 42 U.S.C. § 1396a(a)(5) and an intergovernmental agreement with AHCCCS, DES shares responsibility with AHCCCS for determining eligibility for the Medicaid program. AHCCCS and DES utilize a streamlined application for determining eligibility for Assistance Programs as defined in this Agreement.

This Agreement resolves OCR Transaction Numbers 10-117875 and 10-117078, investigations OCR initiated on February 4, 2011, in response to a complaint filed by Valle del Sol (the “Complainant”), through its legal representatives: the American Civil Liberties Union of Arizona, the National Immigration Law Center, and the William E. Morris Institute for Justice. Complainant alleged that AHCCCS and DES discriminate against individuals based on national origin in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*, and its implementing regulation, 45 C.F.R. Part 80, (collectively referred to as “Title VI”) in the operation of certain programs. The context for the Complainant's allegation was the amendment of Arizona State law by HB2008, codified in relevant part at A.R.S. § 1-501(E), which states:

E. Failure to report discovered violations of federal immigration law by an employee of an agency of this state [Arizona] or a political subdivision of this state that administers any federal public benefit is a class 2 misdemeanor. If that employee's supervisor knew of the failure to report and failed to direct the employee to make the report, the supervisor is guilty of a class 2 misdemeanor.

Prior to the initiation of OCR’s investigations and as part of AHCCCS’s and DES’s implementation of A.R.S. § 1-501(E), AHCCCS and DES had already voluntarily begun gathering input from the advocate community. Specifically, AHCCCS and DES reassessed their policies, procedures, training, and benefit applications for the sole purpose of administering Assistance Programs in a nondiscriminatory manner consistent with Title VI and other federal requirements:

As part of the State’s implementation of these policies, both agencies maintained records of the reports to U.S. Immigration and Customs Enforcement (ICE). Initially, when the law went into effect there were a number of reports from State staff to ICE. AHCCCS and DES maintain that these reports dropped to three reports per month by February 2010, three months after the law went into effect and implementation of the policies. Since that time, DES and AHCCCS have continued to revise and refine their

applications, policies, and training to administer their programs in a manner that the agencies considered would be consistent with Title VI and other federal requirements for the Assistance Programs administered by the agencies.

A. Parties to the Agreement

1. United States Department of Health and Human Services, Office for Civil Rights.
2. (A) Arizona Health Care Cost Containment System and,
(B) Arizona Department of Economic Security.

B. Jurisdiction

OCR initiated its investigations of AHCCCS and DES pursuant to its jurisdictional authority under Title VI. Title VI prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance (“FFA”). AHCCCS and DES receive FFA from HHS and are subject to Title VI.

C. Purpose of the Agreement

To resolve these matters expeditiously and to avoid the burden or expense of investigation or litigation, the Parties agree to the terms of this Agreement. AHCCCS and DES affirm their assurance of compliance with Title VI. The promises, obligations, and other terms and conditions set forth in this Agreement constitute the exchange of valuable consideration between AHCCCS and DES, and OCR.

The Parties entered into this Agreement prior to the issuance of findings by OCR. This Agreement shall not be deemed or construed to be an admission or evidence of any violation of law or regulation or of any liability or wrongdoing on the part of AHCCCS or DES.

II. Definitions

For the purpose of this Agreement, the terms listed below shall have the following meanings:

- A. Applicant(s)** means the person or persons for whom benefits are being sought under the Assistance Programs defined herein.
- B. Assistance Program(s)** means the Medicaid program AHCCCS administers, including the Medical Assistance Program for which AHCCCS has delegated to DES its authority to determine eligibility; KidsCare, Arizona’s CHIP; and Cash Assistance, the TANF program that DES administers.
- C. Days** as used in this Agreement shall mean calendar days.
- D. Non-Applying Primary Contact/Authorized Representative** means the adult household member or other person who is not applying for Assistance Programs himself

or herself but who is submitting an application and/or supporting documentation to AHCCCS and/or DES on behalf of one or more Applicants for Assistance Programs, who may include minor children or other household members.

- E. Staff** means any employee or contractor responsible for processing applications or making eligibility determinations for Assistance Programs on behalf of AHCCCS or DES.

III. General Provisions

- A. Suspension of Administrative Actions.** Subject to the continued performance by AHCCCS and DES of the requirements contained in this Agreement, OCR shall suspend administrative actions on OCR Transaction Numbers 10-117875 and 10-117078. Upon termination of the Agreement as described in Section III.C., OCR shall discontinue all investigative action on OCR Transaction Numbers 10-117875 and 10-117078, and shall dismiss any and all administrative actions, if any, on OCR Transaction Numbers 10-117875 and 10-117078.
- B. AHCCCS's and DES's Continuing Obligations.** Nothing in this Agreement is intended to relieve AHCCCS and DES of their continuing obligations to comply with the provisions of Title VI, or any other applicable nondiscrimination statutes and their implementing regulations, for as long as they continue to receive FFA. Nothing within this Agreement conflicts with, or restricts AHCCCS's and DES's obligations to comply with 8 U.S.C. §§ 1373 and 1644 or A.R.S. § 1-501(F).
- C. Effective Date and Term of the Agreement.** The term of this Agreement (the "Term") shall commence on June 30, 2015 (the "Effective Date") and shall terminate no more than eighteen (18) months after the Effective Date as long as AHCCCS and DES are in substantial compliance with the obligations of this Agreement. This Agreement may terminate for either AHCCCS or DES individually if AHCCCS or DES individually meets substantial compliance with the obligations of this Agreement at the eighteen (18) month term of the Agreement or at any time after the eighteenth month term. The Agreement shall terminate as to AHCCCS and DES before the end of the Term if AHCCCS and DES meet their respective obligations under the Agreement. This Agreement may terminate earlier for either AHCCCS or DES individually if all joint obligations under the Agreement are fulfilled by the state agency and the state agency has met the obligations under this Agreement as to those Assistance Programs for which it is solely responsible.

Attachment 1 lists the calendar dates associated with the initial timelines for submitting and resubmitting major Agreement deliverables requiring OCR review consistent with this Agreement.

D. Timelines

At any time that either AHCCCS or DES is unable to comply with the initial timelines in Attachment 1 or any other time frame required by the Agreement, either Party may contact OCR and request an extension, which shall not be unreasonably withheld. If OCR does not comply with an initial timeline in Attachment 1, or any other time frame required by or agreed to under this Agreement, OCR shall complete its review as soon as possible, without unreasonable delay.

- E. Written Communications.** All written communications which may be or are required to be given hereunder shall be sent by electronic mail or registered or certified United States mail, postage prepaid, addressed to the OCR Agreement Contact or the AHCCCS or DES Agreement Coordinator.

If intended for AHCCCS, to:
Matthew Devlin, Assistant Director/General Counsel
Office of Administrative Legal Services
Arizona Health Care and Cost Containment System
801 E Jefferson St
Phoenix, AZ 85034-2217
Matthew.Devlin@azahcccs.gov

If intended for DES, to:
Michael Wisehart, Assistant Director
Division of Benefits and Medical Eligibility 1789 W. Jefferson Street
Site Code 939A
Phoenix, AZ 85007
MWisehart@azdes.gov

If intended for OCR, to:
Alicia Cornish, Supervisory Equal Opportunity Specialist
Office for Civil Rights, HHS, Region IX
90 7th Street, Suite 4-100
San Francisco, CA 94103
Alicia.Cornish@hhs.gov

- F. Effect on Other Compliance Matters.** The terms of this Agreement do not apply to any other federal agency or any other issues, investigations, reviews, or complaints of discrimination that are unrelated to the subject matter of this Agreement and that may be pending before OCR. Should, at any time during the Term of this Agreement, OCR receive an individual complaint consisting of the same or similar allegations of discrimination or relating to the same matter of this Agreement, OCR may refer the complaint to AHCCCS and/or DES for appropriate investigation. Following investigation into the matter, AHCCCS and/or DES will advise OCR of its investigative results and make recommendation as to whether the complaint should be subsumed under the terms of this Agreement. Such investigation shall be completed within 60 days from

the date of receipt by AHCCCS or DES, unless an exigent situation requires more expedient investigation and resolution of the complaint.

G. Prohibition against Retaliation and Intimidation. AHCCCS and DES shall not retaliate, intimidate, threaten, coerce, or discriminate against any person who has filed a complaint or assisted or participated in OCR's investigation of OCR Transaction Numbers 10-117875 and 10-117078 or resolution.

H. OCR's Review of AHCCCS's and DES's Compliance with the Agreement. OCR may review AHCCCS's and DES's compliance with this Agreement at any time during the Term of the Agreement. As part of such review, OCR may require copies of reports relevant to the review, access to Staff currently employed, copies of documents, and/or inspection of AHCCCS's and DES's facilities; If OCR requests access to information or documentation, which AHCCCS or DES seeks to withhold on the basis of the attorney-client privilege or the attorney work product privilege, AHCCCS and DES may withhold the information but shall provide OCR with a description of such information or documentation that complies with Rule 26(b)(5)(A) of the Federal Rules of Civil Procedure, and OCR will consider whether it wants to pursue access to this information if it is material to compliance with this Agreement. AHCCCS and DES agree to retain the records as required in Section IX of this Agreement to facilitate OCR's assessment of AHCCCS's and DES's compliance with this Agreement. OCR will maintain the confidentiality of all documents, files, and records received from AHCCCS and DES and will not disclose their contents except where necessary for enforcement purposes or where otherwise required by law. If disclosure is necessary under this paragraph, OCR shall redact all personally identifiable client information as required by federal law.

I. Non-Waiver Provision. Failure by OCR to enforce any provision of this Agreement with respect to any deadline or any other provision shall not be construed as a waiver of OCR's right to enforce other deadlines or provisions of this Agreement.

J. Modification of Agreement. This Agreement may be modified by mutual agreement of all of the Parties in writing.

K. Effect of AHCCCS and DES Program Changes. AHCCCS and DES each reserve the right to change or modify their Assistance Programs, so long as AHCCCS and DES ensure compliance with Title VI and other applicable federal statutes and the provisions of this Agreement.

L. Publication or Release of Agreement. The Parties place no restrictions on the publication of this Agreement or its terms. In addition, the Parties acknowledge that a Party may be required to release this Agreement and all related materials to any person upon request as required by law.

M. Severability. In the event that a court of competent jurisdiction determines that any provision of this Agreement is unenforceable, such provision shall be severed from the Agreement and all other provisions shall remain valid and enforceable; provided, however, that if the severance of any such provision materially alters the rights or

obligations of the Parties, they shall, through reasonable, good faith negotiations, agree upon such other amendments hereto as may be necessary to restore the Parties as closely as possible to the relative rights and obligations initially intended to them hereunder.

N. Third Party Rights. This Agreement may be enforced only by the Parties to this Agreement and their respective legal representatives. This Agreement shall be unenforceable by third parties and shall not be construed to create third party beneficiary rights.

O. Technical Assistance. OCR will provide AHCCCS and DES with appropriate technical assistance regarding compliance with this Agreement, as requested and as reasonably necessary.

IV. Administrative Provisions

A. Recognition

Pursuant to this Agreement, Title VI, and their own policies, AHCCCS and DES are committed to ensuring all persons an equal opportunity to participate fully in Assistance Programs and activities regardless of race, color, or national origin.

B. Agreement Coordinators

The Agreement Coordinators are listed in Section III E. These individuals are responsible for coordinating each agency's respective efforts to comply with this Agreement and shall notify OCR in writing of the designations. AHCCCS and DES shall notify OCR in writing of any subsequent changes in the designations of the Agreement Coordinators within 15 days of such change.

Each Agreement Coordinator or designee shall have responsibility for overseeing and directing his or her agency's respective compliance with this Agreement, including but not limited to:

1. Reporting to OCR any major revision of Policies and Procedures listed in Section IV.D.-E., and overseeing the implementation of the Policies and Procedures consistent with this Agreement;
2. Reporting to OCR any major revision of the Staff training plans and training materials, pursuant to Section V., and overseeing the implementation of the training plans and the requirements to train Staff consistent with the Agreement;
3. Reporting to OCR any major revision of Assistance Program applications or related forms, pursuant to Section IV.G., and overseeing the use of Assistance Program applications or related forms, consistent with this Agreement;

4. Notifying individuals of the Title VI Grievance Procedure, pursuant to Sections IV.D.3. and VI.A.1., and processing grievances received, consistent with this Agreement;
5. Overseeing the implementation of the monitoring requirements as required by Section VII and submitting reports to OCR as required in Section VIII.; and
6. Overseeing and ensuring the proper maintenance of records as required by Section IX.

C. OCR Agreement Contact(s)

The OCR Agreement Contact is listed in Section III E. The OCR Agreement Contact has the authority to make decisions on behalf of OCR. OCR shall notify AHCCCS and DES in writing of any subsequent changes in the designation(s) of the OCR Agreement Contact within 15 days of such change.

OCR's Agreement Contact and the Agreement Coordinator for AHCCCS or DES will arrange meetings between OCR and agency Staff. AHCCCS and DES reserve the right to have legal counsel present for OCR's inquiries of agency Staff, unless an agency Staff person who is exercising his or her whistleblowing or informant rights independently contacts OCR.

D. Policies and Procedures

1. AHCCCS and DES commit to using policies and procedures ("Policies" and Procedures") described in Section IV.D.2.-3., that are compliant with Title VI and this Agreement.
2. Within 60 days of the Effective Date of this Agreement, AHCCCS and DES shall each develop and submit to OCR a written policy, and procedure that complies with Title VI, on how Staff identify individuals for reporting to Immigration and Customs Enforcement (ICE), as required by A.R.S. § 1-501(E), provided that such policy has not been submitted to OCR prior to the Effective Date of this Agreement.
3. Within 60 days of the Effective Date of this Agreement, AHCCCS shall develop and submit to OCR a written policy and procedure for receiving and promptly responding to complaints and concerns from Applicants of, or beneficiaries of, Assistance Programs or Non-Applying Primary Contacts/Authorized Representatives, alleging discrimination based on race, color, or national origin ("Title VI Grievance Procedure"). Such Title VI Grievance Procedure must be available in the languages required by Title VI, including Spanish.

E. Review of Policies and Procedures

OCR shall review the Policies and Procedures referenced in Section IV.D., of the Agreement for compliance with Title VI and this Agreement.

1. For Policies and Procedures AHCCCS or DES already provided to OCR prior to the Effective Date of this Agreement, OCR shall review and make written recommendations of any changes necessary to comply with the purpose of this Agreement within 30 days of the Effective Date of this Agreement. If no changes are necessary, OCR shall so respond in writing.
2. Upon OCR's receipt of a Policy and Procedure after the Effective Date of this Agreement, OCR shall review and make written recommendations of any changes necessary to comply with the purpose of this Agreement within 30 days of receipt of the Policy. If no changes are necessary, OCR shall so respond in writing.
3. AHCCCS and DES shall resubmit any revised Policy and Procedure for OCR comment within 60 days of receipt of OCR's recommendations, if any, for change.
4. OCR will review any revised Policies and Procedures within 30 days of receipt and respond in writing.

F. Distribution and Implementation of Policies and Procedures

Within 60 days of OCR's final review of each Policy and Procedure, AHCCCS and DES shall distribute by mail, email, or other applicable means, their respective Policies and Procedures to their Staff and shall implement such Policies and Procedures. Any increase in the number of reports to Immigration and Customs Enforcement (ICE) or decrease in the number of applications following the implementation of Policies and Procedures as described in Section D.3., shall not constitute the sole basis for finding that AHCCCS or DES is not in substantial compliance with this Agreement.

G. Applications and Related Forms

1. To the extent not inconsistent with any other federal laws, AHCCCS and DES shall commit to using applications and related forms for Assistance Programs that comply with Title VI and that are consistent with the guidance contained in the Tri-Agency Policy Guidance Regarding Inquiries into Citizenship, Immigration Status and Social Security Numbers in State Applications for Medicaid, State Children's Health Insurance Program (SCHIP), Temporary Assistance for Needy Families (TANF), and Food Stamp Benefits (Tri-Agency Guidance) dated September 21, 2000, and available at <http://www.hhs.gov/ocr/civilrights/resources/specialtopics/origin/triagency.html>.

2. Within 15 days of the Effective Date of this Agreement, AHCCCS and DES shall each provide OCR with copies of all paper applications and related forms, and access to all online applications and related forms for Assistance Programs that AHCCCS and DES currently use or intend to use that have not been provided to OCR prior to the Effective Date of this Agreement. To the extent it is necessary for OCR to create a test application to review or evaluate the functionality of an online application as part of this Agreement, AHCCCS and DES agree that OCR shall not be subject to any civil or criminal sanctions for entering hypothetical information into the system. OCR will coordinate with AHCCCS and DES prior to OCR's test use of the online system.
3. Throughout the Term, AHCCCS and DES shall provide OCR copies of, access to, or otherwise make available, any newly created or revised paper or online Assistance Program applications and related forms to OCR for review that implicate Title VI issues and are material to this Agreement.
4. For Assistance Program applications and related forms AHCCCS or DES already provided to OCR prior to the Effective Date of this Agreement, OCR shall review and recommend in writing any changes necessary to comply with the purpose of this Agreement within 45 days of the Effective Date of this Agreement. If no changes are necessary, OCR shall so respond in writing.
5. Upon OCR's receipt of Assistance Program applications and related forms after the Effective Date of this Agreement, which have not been previously provided to OCR, OCR shall review and recommend in writing any changes necessary to comply with the purpose of this Agreement within 60 days. If no changes are necessary, OCR shall so respond in writing.
6. AHCCCS and DES shall resubmit for OCR review and comment any revised Assistance Program applications and related forms within 30 days of receiving OCR's recommended changes, if any.
7. OCR will review the revised Assistance Program applications and related forms and respond in writing within 30 days of receipt indicating any recommended changes necessary to comply with the purpose of this Agreement. If no changes are necessary, OCR shall so respond in writing.
8. Except as provided in subsection 9 below, AHCCCS and DES shall use such applications or related forms within 120 days for electronic documents, and 180 days for paper documents of OCR's final response.
9. The Parties agree that any application or form used by AHCCCS or DES that must be approved by the Centers for Medicare & Medicaid Services ("CMS") satisfies all of DES' and AHCCCS' obligations under this Agreement upon

AHCCCS' or DES' submittal to CMS of any changes proposed under this Section IV.G.

V. Training

A. Staff Training

AHCCCS and DES shall each develop a plan for mandatory Staff training. The training plans shall include copies of or access to training materials, descriptions of the methods that AHCCCS and DES will use to train Staff, and requirements that AHCCCS and DES each maintain a registry that records the names and positions of Staff trained and the date on which each was trained, consistent with this Agreement.

B. Training Plans

The training plans shall demonstrate how the training will be sufficient in content and duration to cover the following topics:

1. Title VI and the Tri-Agency Guidance, including the consideration of the special eligibility rules regarding the collection of citizenship status, immigration status, and Social Security numbers for emergency Medicaid services, found in the Tri-Agency Guidance;
2. AHCCCS's and DES's Policies and Procedures required by Section IV.D. of this Agreement;
3. Strategies for administering the Assistance Programs in compliance with Title VI and consistent with the Tri-Agency Guidance. Such strategies may include assisting Assistance Program Applicants and Non-Applicant Primary Contacts/Authorized Representatives with completing or answering the citizenship status, immigration status, and Social Security number inquiries on the Assistance Program applications and related forms.

C. Review of Training Plans and Training Materials

1. Within 90 days of OCR's final review of the Policies and Procedures, AHCCCS and DES shall each provide OCR with their respective training plans and training materials that have not already been provided to OCR prior to the Effective Date of this Agreement.
2. For training plans and/or training materials that AHCCCS or DES already provided to OCR prior to the Effective Date of this Agreement, OCR shall review and recommend in writing any changes necessary to comply with the purpose of this Agreement within 30 days of OCR's final review of the Policies and Procedures. If no changes are necessary, OCR shall so notify AHCCCS and DES in writing.

3. Upon OCR's receipt of training plans and/or training materials after the Effective Date of this Agreement, OCR shall review and recommend in writing any changes necessary to comply with the purpose of this Agreement within 30 days. If no changes are necessary, OCR shall notify AHCCCS and DES in writing.
4. AHCCCS and DES shall resubmit to OCR any revised copies of the training plans and/or training materials within 60 days of receipt of OCR's recommendations, if any.
5. Within 30 days of receipt, OCR will review and recommend in writing any changes to any revised training plans and training materials necessary to comply with the purpose of this Agreement and if changes are not necessary, OCR shall so notify AHCCCS and DES in writing.

D. Implementation of Training Plans

Within 30 days, and annually thereafter, of OCR's final review of both training plans and training materials, AHCCCS and DES shall implement their training plans and train Staff by using the training materials. AHCCCS and DES shall train new Staff, in an initial orientation training, within at least 90 days of initial hire, and annually thereafter.

VI. Outreach and Public Notification

A. Specific Outreach Activities

1. Within 60 days of OCR's final review of each Title VI Grievance Procedure:
 - a. AHCCCS shall prominently post a link or links to the Title VI Grievance Procedure and its Notice of Nondiscrimination on the following websites:
 - i. Landing pages for Applicants and beneficiaries of Assistance Programs (www.azahcccs.gov/Applicants/default.aspx and www.azahcccs.gov/members/default.aspx); and
 - ii. Home page of the online application for Assistance Programs (<https://www.healthearizonaplus.gov/default/default.aspx>); and
 - b. DES shall prominently post a link or links to the Title VI Grievance Procedure and its Notice of Nondiscrimination on the following website: <https://www.azdes.gov/appforms.aspx?type=14&category=368>;
 - c. AHCCCS and DES shall include, in handbooks and brochures made available to Applicants, new enrollees, and beneficiaries of Assistance

Programs, summaries of the Title VI Grievance Procedures and their respective Notices of Nondiscrimination.

- d. The Notice of Nondiscrimination referred to in this Section A.1.a. - c., means a notice that states: “Households with different immigration statuses may apply for benefits on behalf of US Citizen children and other eligible family members.”
2. The specific outreach activities for AHCCCS and DES include:
 - a. AHCCCS posting the substance of this Agreement and its requirements on the agenda of the State Medicaid Advisory Committee within 90 days of the Effective Date of this Agreement;
 - b. AHCCCS and DES will publicize the provision of Assistance Program services in a nondiscriminatory manner and advise eligible Applicants and Non-Applying Primary Contacts/Authorized Representatives of their right to apply for Assistance Programs, within 60 days of the Effective Date of this Agreement by adding the statement in Section 1.d., above to the websites and documents described in 1.a.- c.
 - c. AHCCCS offering training and information on Title VI compliance and the Tri-Agency Guidance to third parties that subscribe with AHCCCS for use of the online application system, within 60 days of the Effective Date this Agreement.

VII. Monitoring

A. Oversight Programs

To ensure that Applicants and other persons are not discriminated against on the basis of national origin, AHCCCS and DES shall each develop and implement an oversight program to monitor Staff practices to ensure ongoing conformity with established Policies and Procedures, the Tri-Agency Guidance, compliance with the nondiscrimination requirements of Title VI, and this Agreement.

AHCCCS and DES shall:

1. Routinely review reports required by A.R.S. § 1-501(E) to ensure the identification of individuals for reporting is not based on discriminatory factors or because of a person’s national origin status, including a person’s physical characteristics, cultural background, ancestry, country of origin, or linguistic characteristics, such as a person’s limited English proficiency;

2. Routinely review Title VI grievances filed by individuals alleging discrimination in AHCCCS's or DES's administration of Assistance Programs to verify that all allegations of Title VI discrimination are thoroughly investigated and resolved to ensure the provision of nondiscriminatory services;
3. Assess Staff knowledge about AHCCCS's and DES's Policies and Procedures relating to Staff responsibilities to administer Assistance Programs in compliance with Title VI and consistent with the Tri-Agency Guidance;
4. Review methods used to disseminate AHCCCS's and DES's Title VI Grievance Procedures and Notices of Nondiscrimination, as required by Section VI.A of this Agreement, to ensure the effectiveness of the methods; and
5. Take reasonable remedial measures to correct any Title VI noncompliance or to address any deficiencies in AHCCCS's and DES's capacity to mitigate the risks of Title VI noncompliance.

VIII. Reporting

A. Data Collection and Reporting

1. AHCCCS and DES shall maintain a record-keeping system of readily available data regarding the number of Applicants seeking benefits under each Assistance Program.
2. Within 90 days of the Effective Date of this Agreement, and for every 90-day period thereafter, AHCCCS and DES shall submit to OCR a report on monthly enrollment data broken down by national origin for each Assistance Program to the extent that AHCCCS or DES collect such data. See Section IX.

B. Content and Form of Reports

AHCCCS and DES, in consultation with OCR, shall determine the content and the form for each report submitted pursuant to this Section.

C. Progress Reports

In addition to the submission of any plan, document, report, or other information specified in this Agreement, AHCCCS and DES shall provide OCR progress reports to document compliance with this Agreement. AHCCCS and DES shall provide OCR the first progress reports 6 calendar months from the Effective Date of this Agreement and every 6 calendar months thereafter for the Term of this Agreement.

Each progress report shall include, at a minimum:

1. A narrative description of the actions taken by AHCCCS and DES to comply with this Agreement;
2. The record of trainings for Staff, as set out in Section V.; and
3. The number of Title VI grievances, if any, that have been filed and processed during the relevant reporting period, and a summary of the dispositions for grievances resolved, if any, during the reporting period.

IX. Maintenance of Records

AHCCCS and DES shall maintain and retain records documenting the information required by the Agreement and compliance with the Agreement. AHCCCS and DES shall make such records available, upon request, to OCR throughout the term of the Agreement. If OCR requests access to information or documentation which AHCCCS or DES seeks to withhold on the basis of the attorney-client privilege or the attorney work product privilege, AHCCCS and DES may withhold the information but shall provide OCR with a description of such information or documentation that complies with Rule 26(a)(5)(A) of the Federal Rules of Civil Procedure, and OCR will consider whether it wants to pursue access to this information if it is material to compliance with this Agreement.

OCR understands that AHCCCS and DES are not obligated under this Agreement to maintain or collect records other than those currently maintained and collected by AHCCCS and DES. AHCCCS and DES Applicant information is only collected by DES for the Medical and Cash Assistance Programs. In addition, information concerning race/ethnicity are voluntarily self-reported by Applicants, thus do not present a complete picture of the race/ethnicity of all Applicants served. Furthermore, the information is only collected on Supplemental Nutrition Assistance cases. The information will not include cases that are only Medical or Cash Assistance without a Nutrition Assistance component.

X. Signatures

The individual who signs this Agreement on behalf of AHCCCS represents that he or she is authorized to execute and legally bind AHCCCS to this Agreement. The individual who signs this Agreement on behalf of DES represents that he or she is authorized to execute and legally bind DES to this Agreement. The individual signing on behalf of OCR represents that he or she is authorized to execute and legally bind OCR to this Agreement.

Mark Darmer
Deputy Director of Programs
Arizona Department of Economic Security

Date

Matthew Devlin, Assistant Director/General Counsel
Office of Administrative Legal Services
Arizona Health Care and Cost Containment System

Date

Michael Leoz
Regional Manager
Office for Civil Rights, Region IX
U.S. Department of Health and Human Services

Date