

**U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION**

**OVERSIGHT OF FEDERAL
AGENCY REPORTING**

**Management Directive 715 and
Related Topics**

FINAL REPORT

September 26, 2008

EXECUTIVE SUMMARY

The Equal Employment Opportunity Commission (EEOC) establishes requirements and standards for Federal agencies with regard to providing equality of employment opportunity and monitors Federal agencies' compliance with Equal Employment Opportunity (EEO) laws and procedures. The EEOC's Office of Federal Operations (OFO) reviews and assesses the effectiveness of agencies' programs to promote EEO, including agencies' efforts to identify and eliminate barriers to equality of employment opportunity.

This evaluation assesses several of the EEOC's activities related to the oversight of Federal agency EEO reporting, focusing on the reporting described in the EEOC's Management Directive 715 (MD-715). MD-715 describes Federal agency standards for developing model EEO programs. Within the EEOC, OFO's Federal Sector Programs (FSP) has primary responsibility for monitoring and evaluating Federal agencies' affirmative employment programs, including reporting related to MD-715.

Our primary objective was to assess how well the EEOC's OFO assists Federal agencies in meeting selected critical standards for EEO programs. We sought to gain a strong understanding of the issues, produce accurate analysis, and provide useful recommendations to improve OFO's oversight of EEO programs. To achieve our primary objective, we reviewed key OFO oversight efforts. The evaluation focused upon understanding what information Federal agencies are required to send to the EEOC as part of MD-715 and determining the quality of OFO's oversight.

Our evaluation found that the EEOC's OFO, while providing useful feedback on agency reporting and customer service in some areas, faces several major challenges in its oversight efforts. OFO recently began providing three-year trend analysis to Federal agencies, thereby improving its oversight capabilities through the provision of more detailed feedback on agency progress in reaching EEO goals. In addition, Federal EEO managers generally approve of OFO's customer service efforts.

However, high turnover and unfilled positions in FSP, the division conducting most of the oversight, must be addressed promptly to ensure efficient and effective oversight of Federal EEO programs. In addition, to help Federal agencies improve their EEO programs, OFO needs to provide timely feedback on MD-715 and accelerate its efforts to improve the collection and analysis of Federal agencies' self-assessment data (Part G of MD-715).

Major conclusions and recommendations are highlighted in the tables below. The full results of this evaluation are presented throughout the report.

MAJOR CONCLUSIONS			
Managing Oversight Resources and Activities	Formal Feedback to Federal Agencies	Customer Service and Technical Assistance	Internal Audit, Complaint System, and Alternative Dispute Resolution

2.1.3A Instability in leadership and management positions poses hurdles to effectively managing oversight activities.	2.2.3A Untimely MD-715 feedback decreases effectiveness of oversight.	2.3.3A Most Federal agency EEO managers are satisfied with EEOC customer service; some are dissatisfied.	2.4.4A Without mandatory submission of Part G information (Federal agency self-assessment), MD-715 oversight is compromised.
2.1.3B As a result of staffing shortages and the hiring of inexperienced staff, oversight capacity is significantly reduced.	2.2.3B The threeyear trend analysis letters contain much useful information.	2.3.3B OFO needs to continue to improve its efforts to educate/train in barrier analysis and other forms of analysis related to MD-715.	
2.1.3C Overcoming the barriers to making MD-715 submission Web-based could result in improved oversight capability for OFO.	2.2.3C Feedback on Form 462 submissions is adequate.		

RECOMMENDATIONS	
Topic	Recommendations for Director, Office of Federal Operations
Managing Oversight Resources and Activities	<ol style="list-style-type: none"> 1. Develop a written plan, including a schedule, to ensure timely training for staff with major oversight assignments. 2. Assess the FSP organizational structure based on the currently authorized positions in order to create more stability in leadership and management positions. 3. Develop a plan with milestones for making MD-715 a Webbased submission process.
Formal Feedback to Federal Agencies	<ol style="list-style-type: none"> 4. Ensure that all agencies receive OFO feedback on MD-715 in time to fully prepare for FY 2008 submissions. Ensuring timely feedback begins with OFO determining a precise date for providing draft and final responses and generating project plans to manage the feedback effort.
Customer Service and Technical Assistance	<ol style="list-style-type: none"> 5. Obtain customer feedback on MD-715 and other oversight issues using a real-time blog or similar mechanism.
Internal Audit, Alternative Dispute	<ol style="list-style-type: none"> 6. Require agencies to submit Part G, the internal EEO

1.0 INTRODUCTION

The Office of Inspector General (OIG) conducted an evaluation of the EEOC's oversight of MD-715 reporting and related issues. We assessed the effectiveness of the EEOC in assisting Federal agencies in reporting on and improving their EEO programs, cited in the requirements of MD-715. This section of the report provides background on the EEOC's role in the Federal EEO environment, introduces the issues and terms addressed in the report, and describes the scope and methodology.

1.1 BACKGROUND

EEOC Role in the Federal Agency Equal Employment Opportunity Framework

The framework governing EEO in the Federal workplace consists of various statutes, regulations, directives, executive orders, and other policies. This framework, which governs civil rights and personnel management, places primary responsibility on Federal agencies to provide workplaces that are free from discrimination and that have a culture of fairness, equity, and inclusiveness.

EEOC plays a key role in the leadership and oversight of Federal agencies. The EEOC is responsible for enforcing the employment discrimination prohibitions under Title VII of the Civil Rights Act of 1964, as amended; the Rehabilitation Act of 1973; the Equal Pay Act of 1973; and the Age Discrimination in Employment Act of 1967, as amended. The EEOC establishes requirements and standards for programs with regard to providing equality of employment opportunity; monitors Federal agencies' compliance with EEO laws and procedures; and reviews and assesses the effectiveness of agencies' programs to promote EEO, including agencies' efforts to identify and eliminate barriers to equality of employment opportunity.

Carrying out the requirements of the EEO framework within Federal agencies is generally shared by human capital and EEO/civil rights offices. EEO offices take the lead in managing the programs the EEOC oversees. The EEOC has several key responsibilities, including oversight of the following:

- Executive Order No. 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation
- EEOC Management Directive 715 (MD-715)

EEOC Management Directive 715

The EEOC's MD-715 was issued on October 1, 2003. It requires agencies to take appropriate steps to ensure that all employment decisions are free from discrimination. These steps include key reporting requirements for Federal agencies. MD-715 also establishes standards for agencies in developing model EEO programs. The standards are used to measure and report on the status of agencies' efforts to become model employers.

The standards are based on six elements:

1. Demonstrated commitment to EEO by agency leadership
2. Integration of EEO into the agency's strategic mission
3. Management and program accountability
4. Proactive prevention of unlawful discrimination
5. Efficiency
6. Responsiveness and legal compliance

In its efforts to ensure that the standards are met, the EEOC is responsible for the following (as described in MD-715):

- Reviewing and evaluating the operation of all agency equal opportunity programs
- Reviewing and approving agency EEO plans and reports and communicating the results of evaluations to each agency, and directing agencies, as appropriate, to develop additional program objectives
- Providing technical assistance and training to agencies
- Submitting an annual report on the Federal workforce based upon agency reports submitted during the fiscal year, data from the Central Personnel Data File, onsite program reviews, and other audits to the President, Congress, and appropriate congressional committees

EEOC Organization for Oversight of Federal Agency EEO Reporting

OFO has a wide-ranging mission, which includes the following:

- Providing leadership and guidance to Federal agencies on the Federal government's EEO program
- Developing and implementing Commission-approved affirmative employment policies
- Assuring Federal agency compliance with Commission regulations involving discrimination complaints

Within OFO, the FSP component has primary responsibility for monitoring and evaluating Federal agencies' affirmative employment programs. Most MD-715 reporting, feedback, and technical assistance are performed by FSP. Within FSP, the Affirmative Employment Division has primary MD-715 responsibility. FSP is responsible for sending MD-715 feedback to 199 Federal entities. The Complaints Adjudication Division plays a smaller role with regard to MD-715 and is primarily responsible for the collection and analysis of EEO complaint and other EEO program data collected on Form 462. Other FSP responsibilities include the following:

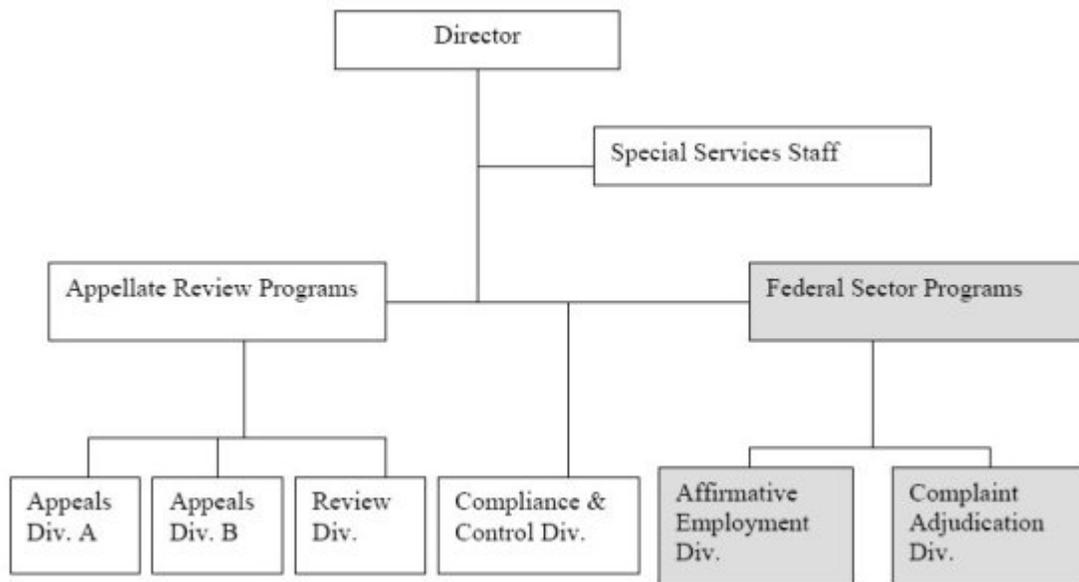
- Conducting evaluations of agency EEO programs and providing technical assistance and program training on all aspects of Federal agencies' affirmative employment programs
- Reviewing agencies' annual accomplishment reports and updates for compliance with Commission regulations and directives
- Tracking Federal agencies' employment patterns and producing an annual report for the President and Congress identifying the progress made by agencies

- Collection and analysis of data submitted by agencies on Form 462 concerning their pre-complaint counseling, alternative dispute resolution (ADR), and the status, processing, and disposition of EEO complaints
- Providing technical assistance and guidance to Federal agencies, Federal employees and stakeholder groups, the Commission’s administrative judges, and the general public concerning pre-appellate EEO complaint processin

OFO also produces an *Annual Report on the Federal Workforce* that includes information on Federal EEO complaints and ADR activities. These data are collected from each agency in the *Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints* (EEOC Form 462). Federal agency administrators input data into the form provided on the EEOC Form 462 Web site, which is accessible to authorized Federal agency administrators but not to the general public.

The OFO organizational chart in Exhibit 1 highlights those areas where the bulk of oversight involving Federal agency EEO reporting occurs.

Exhibit 1: Office of Federal Operations Organizational Chart



1.2 OBJECTIVES, SCOPE, AND METHODOLOGY

Objective

The objective of the evaluation was to assess how well the EEOC’s OFO assists Federal agencies in meeting selected critical standards for EEO programs. We sought to gain a strong understanding of the issues, produce accurate analysis, and provide useful recommendations to improve OFO’s oversight of EEO programs.

Scope

The scope of the evaluation included the following:

- Understanding what information Federal agencies are required to send to the EEOC as part of MD-715
- How OFO views its oversight role regarding this information
- How the EEOC prepares and instructs agencies with regard to the submissions and improvements related to the submissions
- The quality of OFO’s oversight

Included in the scope is a review of the following Federal agency EEO reporting requirements, noted in MD-715: use of a complaint tracking system, use of an ADR (e.g., mediation) system, and performance of regular internal audits.

Methodology

The evaluation methodology included interviews of EEOC officials and the EEO Directors (or their designees) in 16 Federal entities with widely differing characteristics. For example, as Exhibit 2 below shows, the entities included large and small independent agencies as well as subcomponents of larger organizations.

Exhibit 2: Federal Entities Where We Conducted Interviews

Entity Name	Number of Employees	Type: Independent or Subcomponent
1. Department of the Army	226,568	Subcomponent
2. Federal Labor Relations Authority	184	Independent
3. Federal Law Enforcement Training Center	1,032	Subcomponent
4. U.S. Customs and Border Protection	40,645	Subcomponent
5. National Archives and Records Administration	2,979	Independent
6. Smithsonian Institution	5,042	Independent
7. U.S. Access Board	40	Independent
8. U.S. Agency for International Development	2,238	Independent
9. U.S. Centers for Disease Control	8,060	Subcomponent
10. U.S. Commission on Civil Rights	65	Independent
11. U.S. EEOC	2,465	Independent
12. U.S. Food and Drug Administration	11,476	Subcomponent
13. U.S. Forest Service	43,414	Subcomponent
14. U.S. Patent and Trademark Organization	6,755	Subcomponent
15. U.S. Postal Service	704,109	Independent
16. Department of Veterans Affairs	236,258	Independent

The OIG also reviewed pertinent documents, including the following:

- Descriptions and analysis of the Federal EEO process

- EEOC documents concerning oversight issues
- MD-715 and Form 462 guidance and communications
- Reports written by the U.S. Government Accountability Office (GAO) and the EEOC regarding EEO oversight

The OIG compiled and analyzed interview results; assessed documentation, management, and organizational information; and reviewed communication between OFO and Federal agencies.

This evaluation was conducted in accordance with generally accepted government auditing standards as published in the Comptroller General's Government Auditing Standards, July 2007 revision. The fieldwork for this evaluation took place from April 2008 through July 2008.

2.0 FINDINGS AND CONCLUSIONS

2.1 Managing Oversight Resources and Activities

2.1.1 Manager and Staff Positions

Staffing is unstable for many of the key manager and supervisor positions in FSP. Lacking authorization to fill these positions, the OFO Director regularly rotates and/or fills on a temporary basis several manager/supervisor positions in FSP. Most importantly, there has been no permanent FSP Director since 2002. This executive leader sets the tone for FSP. In addition, both the Affirmative Employment Division and the Complaints Adjudication Division have Acting Directors. While this practice provides individuals with a broad knowledge base, it institutionalizes instability in the management of these areas. This practice does not provide managers, supervisors, or staff with continuity, and therefore detracts from staff effectiveness and efficiency. For example, with each change in a Division Director position, the Director and staff go through an adjustment and learning period, which takes away from more productive use of their time.

As with manager positions, staff positions have been unstable. The number and experience levels of FSP staff involved have decreased in recent years. For example, to fill EEO Specialist and other positions, OFO hired EEOC staff formerly employed in non-OFO capacities. These staff members often lacked the training and experience necessary to perform as productively as needed. For example, inexperienced staff replaced those with program evaluation experience. This resulted in OFO conducting fewer evaluations. In addition, the quality of evaluations is likely to suffer until the new staff are trained and gain experience.

The OFO Director and other OFO staff stated a strong need for formal and other training activities in order to improve OFO's ability to perform EEO oversight functions, such as EEO program evaluations. Some staff members have received training (e.g., barrier analysis training and a brief introduction to program evaluation). However, OFO has not developed a written plan or schedule for the training.

2.1.2 Federal Agency Submissions

The EEOC requires EEO reporting entities to submit complaint tracking information annually, via a Web-based system. This is known as Form 462 reporting. The Web-based system for submission is adequate, according to most of the Federal EEO Directors we interviewed.

For the annual MD-715 submission, the EEOC does not use a Web-based system. Some agencies submit electronic files; others submit paper files. OFO then compiles the information using the Microsoft Access database software program. The Acting Director, FSP, stated that an all-electronic submission process would enhance OFO analytic capabilities. In addition, a Web-based system would improve analysis of MD-715 data, according to the Acting Director, Affirmative Employment Division. Some preliminary steps have been taken to make the MD-715 process Web-based. However, according to the Acting Director, FSP, several major obstacles remain, including difficulty in obtaining data from the Office of Personnel Management (OPM).

2.1.3 Conclusions

- 2.1.3A Instability in leadership and management positions poses hurdles to effectively managing oversight activities.
- 2.1.3B As a result of staffing shortages and the hiring of inexperienced staff, oversight capacity is significantly reduced.
- 2.1.3C Overcoming the barriers to making MD-715 submission Web-based would result in improved oversight capability for OFO.

2.2 Formal Feedback to Federal Agencies

2.2.1 Feedback on MD-715

OFO provides two types of formal feedback on MD-715 submissions: a one-year letter and a three-year trend letter. For 80 percent of the 199 agencies/entities required to submit MD-715 reports, OFO provides feedback on one year of data. In an effort to provide Federal agencies/entities with more detailed and useful analysis of their EEO programs, OFO sends 20 percent of reporting entities a three-year MD-715 trend letter. This letter, sent for the first time after the FY 2006 MD-715 reports were submitted, provides analyses of the past three years' MD-715 reports. For each of these letters, OFO first sends a draft response letter. OFO then takes into account agency comments before issuing a final feedback letter.

For FY 2006 submissions, OFO failed to provide feedback in a timely manner to the agencies/entities receiving one-year feedback. The deadline for MD-715 submissions for 2007 data was January 31, 2008. However, as of August 22, 2008, none of the FY 2006 one-year letters had been issued in final. The Acting Director of FSP stated that all the final letters would be issued in August 2008. The Acting Director of FSP also stated that OFO's goal is to issue all the 2007 one-year feedback letters before the required submission date for 2008 data—February 1, 2009.

Three Federal agency EEO Directors stated that the timing of the feedback on the one-year letters prevented improved MD-715 submissions. Five other Directors stated that more timely feedback was important. Aside from timeliness issues, some Directors stated that the one-year feedback was quite useful, some thought it fairly useful, and some felt it was marginally useful. A major reason the one-year feedback was not very useful for some is that no trend analysis is possible with only one year of data. In addition, several Directors felt that feedback letters did not adequately take into account the unique characteristics of their organizations, such as numbers of employees. One EEO Director said that the feedback was inadequately tailored because his agency had had zero complaints during the fiscal year.

OFO managers acknowledged that feedback timeliness needs improvement for three-year feedback letters. Draft letters were issued in September 2007. However, 90 percent of the final letters were issued in June 2008; the other 10 percent have not been issued as of August 14, 2008.

Those EEO Directors receiving the three-year letters stated that the letters are very useful, as they provide a fairer and more detailed examination of Federal agency EEO programs than do the single-year letters. The OIG agrees that the three-year letters add considerable value over the one-year letters because the three-year analysis includes the following:

- A review of progress over time, thereby allowing for trend analysis
- Information from EEOC Form 462 submissions (the one-year feedback letters do not contain Form 462 information)
- Other information the EEOC may have obtained (the one-year feedback letters do not contain other information)

2.2.2 Feedback on EEOC Form 462 (Complaint Tracking) Submissions

Many Federal EEO Directors stated that feedback was adequate. The Directors cited no major problems with the input mechanism (Web-based) for Form 462 submission.

2.2.3 Conclusions

2.2.3A Untimely MD-715 feedback decreases effectiveness of oversight.

2.2.3B The three-year trend letters based on MD-715 reports contain much useful information.

2.2.3C Feedback on Form 462 submissions is adequate.

2.3 Customer Service and Technical Assistance

2.3.1 Customer Service

During our interviews with Federal agency EEO Directors, more than half expressed satisfaction, in general, with the customer service provided by the EEOC. For example, several Directors said the response time and the responses received were usually of high quality. Another Director

stated that OFO provided timely and knowledgeable assistance and that “someone gets back [to us] within one day.” However, several EEO Directors said response times were slow. Several other EEO Directors stated that they lacked a knowledgeable individual at OFO whom they could contact reliably and directly.

In recent years, OFO has implemented several changes in customer service. OFO began a customer relationship management (CRM) program in FY 2004. The CRM program seeks to: improve customer service and relationships between the EEOC and agencies, help agencies achieve a model EEO program in the context of MD-715, address specific agency needs, and change the way OFO staff interact to provide technical assistance to agencies. For FY 2008, each of the 11 large agencies has one or more OFO staff assigned. Two OFO staff cover the group of small agencies. In addition, OFO holds quarterly EEO Director meetings and sends e-mail updates to EEO Directors.

2.3.2 Technical Assistance

OFO provides a variety of forms of technical assistance to Federal agencies, including the following:

- Organizing and/or providing instructors for EEO-related courses in the Washington, D.C., area and elsewhere
- Addressing individual EEO questions via phone calls, e-mails, or other means
- Organizing the annual EXCEL conference (a national Federal sector conference)
- On-site visits to Federal agency locations on an as-needed basis

Most Federal EEO Directors stated that EEOC staff provide helpful technical assistance. For example, several Directors stated that EEOC training courses are helpful. Several Directors also stated that the annual EXCEL conference organized by the EEOC is helpful. However, four Directors expressed a desire for improved technical assistance/training in several areas of MD-715. For example, two Federal EEO Directors, in response to a general question about how the EEOC could improve, stated that barrier analysis is an area in which the EEOC needs to provide improved training.¹ One Director stated that barrier analysis is complex; therefore, the EEOC needs to focus on ensuring that Federal agencies understand the issues involved in conducting barrier analysis. In 2008, OFO provided barrier analysis training to its own staff and, in August 2008, provided for an advanced statistical barrier analysis workshop at EXCEL.

2.3.3 Conclusions

2.3.3A Most Federal agency EEO managers we interviewed are satisfied with EEOC customer service; some are dissatisfied.

2.3.3B OFO needs to continue to improve its efforts to educate/train in barrier analysis and other forms of analysis related to MD-715.

2.4 INTERNAL AUDIT, ALTERNATIVE DISPUTE RESOLUTION, AND COMPLAINT SYSTEM

2.4.1 Federal Agency Part G (Internal Audit)

MD-715 requires agencies to complete an internal audit annually. According to the Acting Director, FSP, this requirement includes all MD-715 data as well as Form 462 data. Staff from the Complaints Adjudication Division check the Form 462 data. For other data, the EEOC uses OPM-provided data as a cross-check.

Many of the critical data for an EEO program are found in Part G of MD-715. Part G is a self-assessment checklist for Federal agency EEO programs. Part G contains a comprehensive listing of the kinds of documents and systems needed for a model EEO program. However, submission of Part G is voluntary (all agencies are required to complete the checklist and retain a copy for the EEOC to review upon request). Submission is voluntary in large part because several agencies asked in 2003 that Part G submission be made voluntary in order to encourage greater candidness on the part of those filling out the Part G self-assessment.

The information contained in Part G is very helpful to OFO in its oversight. For example, information relating to the question, “Is there sufficient funding to provide all managers and supervisors with training and periodic updates on their EEO responsibilities?” is useful in assessing a Federal agency’s progress toward a model EEO program. An Affirmative Employment Division manager agreed that the Part G information is useful in assessing Federal agency progress toward a model workplace.

OFO is considering whether to make Part G a mandatory component of annual MD-715 submissions. Currently, about one-third of agencies voluntarily include Part G with their MD-715 submissions. Given that a significant number of agencies already provide this information and that the information is very useful to OFO’s oversight, mandatory submission has more advantages than disadvantages.

2.4.2 Alternative Dispute Resolution

Most of OFO’s oversight of ADR consists of addressing questions from Federal agency staff and in analyzing quantitative ADR data submitted annually with Form 462 data. For example, the EEOC issued ADR Report: *ADR in the Federal Sector EEO Process for FY 2006*, which contained analysis such as “ADR efforts resulted in 5,808 counselings receiving settlements, including \$980,798 in monetary benefits.”

Federal Agency EEO Directors stated that the EEOC’s oversight of ADR was generally adequate. However, many EEO Directors offered ways to improve oversight of EEO ADR programs, including the following:

- Ensure consistency of vendor-offered mediation courses
- Provide more and/or stronger guidance for ADR programs
- Use the number of complaints that could (under that agency’s rules) go to mediation as the basis for mediation percentages, not the total number of complaints

2.4.3 Complaint Tracking System

EEOC Regulation 29 C.F.R. §1614.602(a) requires agencies to report to the EEOC information concerning pre-complaint counseling and the status, processing, and disposition of complaints under this part at such times and in such a manner as the Commission prescribes. ADR information is also required. The EEOC requires agencies to submit this information via EEOC Form 462.

Federal agencies post this information in a Web-based format to an EEOC-managed Web site. Federal agency EEO Directors generally expressed satisfaction with the process for posting information.

2.4.4 Conclusions

2.4.4A Without mandatory submission of Part G information (Federal agency self-assessment), MD-715 oversight is compromised.

3.0 RECOMMENDATIONS

Topic	Recommendations for Director, Office of Federal Operations
Managing Oversight Resources and Activities	<ol style="list-style-type: none"> 1. Develop a written plan, including a schedule, to ensure timely training for staff with major oversight assignments. 2. Assess the FSP organizational structure based on the currently authorized positions in order to create more stability in leadership and management positions. 3. Develop a plan with milestones for making MD-715 a Webbased submission process.
Formal Feedback to Federal Agencies	<ol style="list-style-type: none"> 4. Ensure that all agencies receive OFO feedback on MD-715 in time to fully prepare for FY 2008 submissions. Ensuring timely feedback begins with OFO determining a precise date for providing draft and final responses and generating project plans to manage the feedback effort.
Customer Service and Technical Assistance	<ol style="list-style-type: none"> 5. Obtain customer feedback on MD-715 and other oversight issues using a real-time blog or similar mechanism.
Internal Audit, Alternative Dispute Resolution, and Complaint System	<ol style="list-style-type: none"> 6. Require agencies to submit Part G, the internal EEO assessment, with their annual MD-715 submissions.

APPENDIX



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Office of Federal Operations
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TO: Aletha L. Brown
Inspector General
Carlton M. Hadden

FROM: Carlton M. Hadden
Director, Office of Federal Operations

SUBJECT: Comments to Draft Report OIG2008-03-AMR "Oversight of
Federal Agency Reporting – Management Directive 715 and
Related Topics"

Thank you for the opportunity to review and comment on the above-referenced draft report. Overall, we found the conclusions sound and the recommendations helpful. We appreciate that your staff succeeded in producing a detailed report without disruption to our daily work and appreciate the courtesies they afforded OFO staff.

As we mentioned during the exit conference, we request clarification of a few points. Foremost, although the report correctly emphasizes that there has been instability in key management and staff positions that has affected productivity, the report overlooks a key programmatic issue: there has been no permanent Federal Sector Programs (FSP) Director (SES) since 2002. In our view, this lack of permanent executive leadership must be addressed. Otherwise, this office will continue to be greatly challenged in the effort to improve customer service and provide timely and effective oversight of the federal sector.

In addition, in Section 2.4.1 "Federal Agency Part G Reporting (Internal Audit)" the report notes the internal audit required of agencies, including the use of Part G, the self-assessment checklist and its voluntary submission. The draft report in Conclusion 2.4.4A notes that without mandatory submission of Part G, oversight is compromised. However, more information providing the background of why submission of Part G is currently voluntary, should be included in the draft report.

As we discussed during the exit interview, this includes the fact that during the roll-out of the instructions for MD-715 in 2003, several agencies specifically asked that Part G be a voluntary submission. Their rationale was that this would encourage greater frankness in agencies completing Part G. We also noted that a significant number of agencies now voluntarily provide Part G and that this concern, initially identified by agencies, may have since subsided.

Conclusion 2.3.3B states: "OFO needs to improve efforts to educate/train in barrier analysis and other analysis related to MD-715." The final report should reflect that OFO has been improving its barrier analysis technical assistance each year since MD-715 became effective in 2003. As agencies have become more conversant with MD-715, OFO's barrier analysis, training has become more sophisticated. For example, this fiscal year we provided in-depth barrier analysis training to our own staff, which built upon our previous, more basic training. In addition, in recognition of agencies' expanded knowledge of MD-715, we collaborated with a labor economist from the Office of General Counsel to design and deliver at EXCEL an advanced statistical barrier analysis workshop.

Other requested clarifications/corrections include: (1) Section 1.1: EEOC does not have oversight responsibility of the No Fear Act; (2) FSP refers to Federal Sector Programs (the report uses Federal Sector Program); (3) Exhibit 2 should identify Veterans Affairs, not Veterans Administration; and (4) Section 2.2: the deadline for submission of MD-715 data is January 31st of each calendar year (although many agencies receive extensions).

Thank you for your consideration of these comments.

Footnotes

¹ Barrier analysis is the process of identifying impediments to free and open workplace competition.