



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Office of
Inspector General

August 24, 2015

The Honorable Ron Johnson
Chairman
U.S. Senate Committee on Homeland Security
and Governmental Affairs
328 Hart Senate Office Building
Washington, DC 20510

Dear Senator Johnson:

This is in response to your letter of June 23, 2015 requesting that the U.S. Equal Employment Opportunity Commission (EEOC) Office of Inspector General (OIG) analyze non-career officials' involvement, if any, in the EEOC's Freedom of Information Act (FOIA) response process for the period of January 1, 2007 to the present. Specifically, you asked the OIG to analyze whether non-career officials' involvement resulted in any undue delay of a response to any FOIA request or the withholding of any document or portion of any document that would have otherwise been released but for the non-career official's involvement in the process. Additionally, you requested that we seek a written certification from the agency's chief FOIA officer that 1) no non-career officials were involved in the agency's response to any FOIA request or 2) if such involvement occurred, the involvement of non-career officials has never resulted in undue delay of a response to a FOIA request or the provision of less information than would have been provided but for the involvement of the non-career officials.

In response to your request, we interviewed the career employee with primary responsibility for FOIA matters at EEOC, the Assistant Legal Counsel for FOIA Programs. Additionally, we contacted other career officials in Headquarters and District Office personnel involved in the FOIA process. In no case were we advised that there had been any involvement of non-career officials in the FOIA process at the EEOC for the period January 1, 2007 to the present. We also have included Attachment -A, certification from the agency's Chief FOIA Officer that there have been no non-career officials involved in the agency's response to any FOIA request at the EEOC.

Background

Executive Order 13392 requires the head of each Federal Government agency to designate a senior official at the Assistant Secretary or equivalent level to serve as its Chief FOIA

Officer. At EEOC, this role is filled by the Legal Counsel, a career employee. The Chief FOIA Officer has responsibility for ensuring EEOC's compliance with the statute but is not involved in the daily processing of requests.

FOIA operations on a daily basis are overseen and conducted by career employees at EEOC's two (2) FOIA Requester Service Centers located at Headquarters and the Los Angeles District Office. EEOC currently tracks and processes FOIA requests in its FOIA Tracking System.

The Assistant Legal Counsel for FOIA programs manages the Headquarters' FOIA Service Center and oversees a staff of five (5) FOIA information specialists. Additionally, the Assistant Legal Counsel for FOIA programs has responsibility for processing all FOIA requests received by Headquarters' offices. The Assistant Legal Counsel is responsible for overall FOIA policy at EEOC, for coordinating requests that involve both FOIA service centers and for coordinating with other Federal agencies concerning FOIA matters. This also includes serving as the agency's FOIA Public Liaison Officer. The Assistant Legal Counsel for FOIA reports to the Chief FOIA officer, the agency's Legal Counsel.

Each FOIA Service Center is responsible for making the initial determination on FOIA requests, seeking records from the relevant EEOC office. Initial determinations are the agency's first substantive response to a FOIA request, i.e. a release of documents, a determination that the Agency could not locate the requested records, or that the records are wholly or partial exempt from disclosure. Appeals from initial determinations are decided by the Assistant Legal Counsel for FOIA. Appeals that are denied by the Assistant Legal Counsel for FOIA can be appealed to the Assistant Legal Counsel for Advice and External Litigation for final resolution.

Conclusion

Based on our interviews and analysis, we found that non-career officials have not been involved in the Freedom of Information Act (FOIA) process at the EEOC from January 1, 2007 to the present. If any additional information is needed, or if you have questions, feel free to contact me at 202-663-4301 or Mr. Willie Eggleston, Senior Auditor at 202-663-4372.

Sincerely



Milton A. Mayo, Jr.
Inspector General

C: The Honorable Thomas R. Carper, Ranking Member

**Chief FOIA Officer
of the
U.S. Equal Employment Opportunity Commission
Certification**

This Certification is submitted pursuant to the June 23, 2015 request of the Senate Committee on Homeland and Governmental Affairs that the Inspector General of the U. S. Equal Employment Opportunity Commission (EEOC) analyze the involvement of non-career officials in the EEOC FOIA response process. The Committee also requests that the Chief FOIA Officer for the EEOC provide written certification of no non-career official involvement in FOIA. .

I certify that to the best of my knowledge, based on the information reasonably available to me at the time of this certification that 1) no non-career officials were involved in the EEOC's response to any FOIA request or 2) if such involvement occurred, the involvement of non-career officials has never resulted in the undue delay of a response to a FOIA request or the provision of less information than would have been provided but for the involvement of the non-career officials.

Dated: _____

8/12/15

Peggy R. Mastroianni

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Chief FOIA Officer