



# No FEAR Act Annual Report

Notification and Federal Employee Antidiscrimination  
and Retaliation Act of 2002

Department of Homeland Security  
Office for Civil Rights and Civil Liberties  
Fiscal Year 2014



Homeland  
Security

**MESSAGE FROM THE  
OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES,  
U.S. DEPARTMENT OF HOMELAND SECURITY**



I am pleased to present the U.S. Department of Homeland Security's (Department) *Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002* (No FEAR Act) Annual Report for Fiscal Year (FY) 2014.

The No FEAR Act, Public Law 107-174, requires that federal agencies be publicly accountable for violations of anti-discrimination and whistleblower protection laws. Federal agencies must post both quarterly and annual statistical data relating to federal sector Equal Employment Opportunity (EEO) complaints on its public website, reimburse the Judgment Fund for any payments made, and notify employees and applicants for employment about their rights under the federal anti-discrimination and whistleblower laws.

This report summarizes the most significant accomplishments within the Department's EEO program, principally focusing on the area of EEO complaint processing. It evidences the Department's strong commitment to abide by merit systems principles, provide protection from prohibited personnel practices, and promote accountability on the part of its leadership.

Pursuant to Congressional requirements, this report is being provided to the following Members of Congress:

**The Honorable Orrin Hatch**

President pro tempore, U.S. Senate

**The Honorable Ron Johnson**

Chairman, U.S. Senate Committee on Homeland Security and Governmental Affairs

**The Honorable Thomas R. Carper**

Ranking Member, U.S. Senate Committee on Homeland Security and Governmental Affairs

**The Honorable Charles Grassley**

Chairman, U.S. Senate Committee on the Judiciary

**The Honorable Patrick J. Leahy**

Ranking Member, U.S. Senate Committee on the Judiciary

**The Honorable John Boehner**

Speaker of the House, U.S. House of Representatives

**The Honorable Michael McCaul**

Chairman, U.S. House of Representatives Committee on Homeland Security

**The Honorable Bennie G. Thompson**

Ranking Member, U.S. House of Representatives Committee on Homeland Security

**The Honorable Bob Goodlatte**

Chairman, U.S. House of Representatives Committee on the Judiciary

**The Honorable John Conyers, Jr.**

Ranking Member, U.S. House of Representatives Committee on the Judiciary

**The Honorable Jason Chaffetz**

Chairman, U.S. House of Representatives Committee on Oversight and Government Reform

**The Honorable Elijah E. Cummings**

Ranking Member, U.S. House of Representatives Committee on Oversight and Government Reform

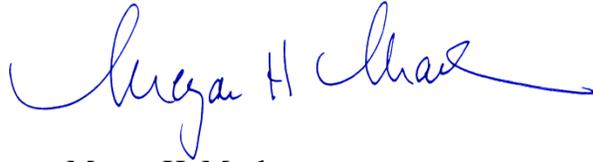
Pursuant to the No FEAR Act, the report is also being provided to the Chair of the U.S. Equal Employment Opportunity Commission (EEOC), the Attorney General of the U.S. Department of Justice (USDOJ), and the Director of the U.S. Office of Personnel Management (OPM).

The Department's Office for Civil Rights and Civil Liberties (CRCL) supports the Department's mission to secure the Nation while preserving individual liberty, fairness, and equality under the law. CRCL's mission includes leading the Department's EEO programs and promoting workforce diversity. In part, the Department succeeds in its mission to protect the homeland by ensuring that all of its workplace decisions are equitable, fairly implemented, and are for the benefit of all of its employees.

The Department's EEO program reflects a strong and collaborative partnership between CRCL and the Department's Components, shown through the various improvements in the Department's EEO program during FY 2014. FY 2014 accomplishments contained in this report include:

- Completion of 658 timely investigations – a one percent increase over the 651 timely investigations completed in FY 2013.
- Completion of 85 percent of EEO counselings within the time frame specified by regulation – a four percent increase over timely completed counselings in FY 2013.
- Issuance of 161 timely (53 percent) Merit Final Agency Decisions (FADs).

The FY 2014 achievements have paved the way for continued measureable and valuable improvements in the Department's EEO program, to be continued into FY 2015, and beyond. I look forward to providing additional information on the successes of this program in future reports.

A handwritten signature in blue ink that reads "Megan H. Mack". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Megan H. Mack  
Officer for Civil Rights and Civil Liberties

## EXECUTIVE SUMMARY

The *Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002* (No FEAR Act), Public Law 107-174, is intended to reduce the incidence of workplace discrimination within the Federal Government by making agencies and departments more accountable for violations of antidiscrimination and whistleblower protection laws. Section 203 of the No FEAR Act specifically requires that, not later than 180 days after the end of each fiscal year, each federal agency submit to certain Congressional committees and members an annual report with the following information: federal anti-discrimination and whistleblower protection laws, complaint activity (including Federal District Court cases), and resulting disciplinary actions; Judgment Fund reimbursements; adjustments to agency budgets to meet reimbursement requirements; and an analysis of trends, causation, and practical knowledge gained through experience. This No FEAR Act Annual Report covers FY 2014 (October 1, 2013 to September 30, 2014).

At the U.S. Department of Homeland Security (Department), senior Department leaders demonstrate a strong commitment to promote equal employment opportunity, abide by merit systems principles, provide protection from prohibited personnel practices, and promote accountability. The Department's Office for Civil Rights and Civil Liberties (CRCL) provides policy and technical advice to senior Department leadership on civil rights and civil liberties issues, and directs the Department's Equal Employment Opportunity (EEO) and Diversity Management programs.

During FY 2014, CRCL continued to partner with the Department's Undersecretary for Management, the Department's Office of the Chief Human Capital Officer (OCHCO), the Department Component EEO offices, and other internal and external stakeholders to promote equality, fairness, workforce diversity, and efficiency. The CRCL Deputy Officer, who serves as the Department's Director for EEO and Diversity, is a member of the Secretary's Employee Engagement Executive Steering Committee, which is co-chaired by the Deputy Secretary, and its mission is to identify strategies that will lead to improvements in employee morale throughout the Department. Throughout FY 2014, CRCL also maintained close working relationships with all Components. The CRCL Deputy Officer chairs the EEO Directors Council, in which all Component EEO and Civil Rights Directors participate. Effective communication and collaboration have continued to strengthen partnerships with the Components throughout FY 2014.

During FY 2014, the EEO Directors Council began the development of a Strategic Plan for the Department's EEO and Diversity Community. In considering the development of a Department-wide strategic plan, CRCL recognized the need for a departmental vision of EEO and Diversity and identified programs that would mutually benefit the Department's EEO and Diversity Community. CRCL shepherded the development of the Strategic Plan. The draft Plan identifies as high-level goals the six elements of a model EEO program as delineated in EEOC Management Directive 715. Subsumed within each goal, the EEO Council identified objectives and strategies to advance the respective goals. Included are CRCL's efforts to establish a Department-wide Alternative Dispute Resolution (ADR) Program, the enhancement of professional competencies within the EEO occupational series, establishment of a Department-

wide EEO communication strategy, and other programs that are aimed at strengthening the Department's EEO and Diversity Community. CRCL expects to finalize the Strategic Plan in the second quarter of FY 2015.

In FY 2014, CRCL continued its efforts to create a new Department-wide ADR program. Specifically, a white paper that provides the framework of a Department-wide ADR program was finalized and circulated to the Department's Components. In FY 2015, CRCL expects to receive approval for the Program from the Deputy Secretary, identify potential mediators, finalize a Management Directive and Instructions for the program, and train the cadre of collateral duty mediators.

CRCL continued its partnership with the Workforce Planning Committee of OCHCO in identifying competency gaps within the EEO occupational series (0260) and developing strategies to remediate those gaps. Specifically, CRCL led the effort in conducting a root cause analysis for the competency gap involving critical thinking skills. The root cause analysis identified a number of potential causes for skill gaps, such as lack of training and opportunities to use newly acquired skills. In addition, CRCL, in partnership with the EEO Directors Council, developed an action plan to address the competency gap. In FY 2015, we expect to begin implementing the action plan, which has now become part of the overall Strategic Plan.

The Department's uniform complaints management approach has allowed for opportunities to share best practices and has led to improvements in complaints processing. In the area of EEO pre-complaint processing, four Components -- the Federal Law Enforcement Training Centers (FLETC), U.S. Customs and Border Protection (CBP), U.S. Secret Service (USSS), and the U.S. Coast Guard (USCG) -- achieved timely counseling for 100 percent of their cases. The overall number of counseling requests decreased between FY 2013 and FY 2014, and the percentage of timely counseling at the Department increased in FY 2014. During FY 2014, 1,761 of the 2,067 requests (85 percent) for EEO counseling were timely completed, compared to 1,737 of 2,134 requests (81 percent) in FY 2013.

In FY 2014, in the area of EEO formal complaint processing, there was an eight percent increase (940) in the total number of investigations the Department completed, when compared to FY 2013 (871). There was a slight increase in the number of timely investigations completed between FY 2013 (651) and FY 2014 (658). There was, however, a 19 day increase in the average number of processing days for investigations between FY 2013 (227) and FY 2014 (246).

With regard to complaints adjudication, the Department issued 301 merit final agency decisions (FADs) during FY 2014, a 34 percent decrease over the number issued in FY 2013 (455). However, CRCL issued 53 percent (161 of 301) of merit FADs within the regulatory requirements of 45 or 60 days as set forth by the U.S. Equal Employment Opportunity Commission (EEOC). This represented a 12 percent increase from the 41 percent timely merit FADs issued in FY 2013, and exceeded the Department's Performance Measure requirement of 40 percent timely merit FADs. Going forward, CRCL will continue to prioritize the timely issuance of merit FADs.

In FY 2014, the Department processed 30 findings of discrimination, which represents an increase from the 24 findings processed in FY 2013. As compared to previous fiscal years, the FY 2014 findings reflected only small shifts in the bases of discrimination and issues alleged (race and color were the most frequently asserted bases, followed by reprisal and sex; the most frequently asserted issues were non-sexual harassment, non-selection/non-promotion, and termination).

During FY 2014, the Department had 237 civil actions pending in Federal District Courts involving the various laws covered in the No FEAR Act. During FY 2014, Federal Court judges disposed of 79 cases, 52 of which were decided in favor of the agency and 26 of which were settled by the parties. The remaining case was disposed of by using arbitration/mediation.

In FY 2014, the Department's reimbursement to the Judgment Fund totaled \$1,041,950, while the amount reimbursed to the Judgment Fund for attorney's fees in the same time period totaled \$42,050. During FY 2014, one employee was disciplined for discrimination, retaliation, harassment, or other infractions of provisions of law covered by the No FEAR Act.



**THE DEPARTMENT’S  
OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES  
FY 2014 NO FEAR ACT ANNUAL REPORT**

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## I. LEGISLATIVE REQUIREMENT

This document responds to the reporting requirements set forth in Section 203 of the No FEAR Act (Pub. L. No. 107-174), which states:

(a) Annual Report. — Subject to subsection (b), not later than 180 days after the end of each fiscal year, each Federal agency shall submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, each committee of Congress with jurisdiction relating to the agency, the Equal Employment Opportunity Commission, and the Attorney General an annual report which shall include, with respect to the fiscal year —

- (1) the number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged;
- (2) the status or disposition of cases described in paragraph (1);
- (3) the amount of money required to be reimbursed by such agency under section 201 in connection with each of such cases, separately identifying the aggregate amount of such reimbursements attributable to the payment of attorneys' fees, if any;
- (4) the number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law referred to in paragraph (1);
- (5) the final year-end data posted under section 301(c)(1)(B) for such fiscal year (without regard to section 301(c)(2));
- (6) a detailed description of —
  - (A) the policy implemented by that agency relating to appropriate disciplinary actions against a Federal employee who —
    - (i) discriminated against any individual in violation of any of the laws cited under section 201(a)(1) or (2); or
    - (ii) committed another prohibited personnel practice that was revealed in the investigation of a complaint alleging a violation of any of the laws cited under section 201(a)(1) or (2); and
  - (B) with respect to each of such laws, the number of employees who are disciplined in accordance with such policy and the specific nature of the disciplinary action taken;
- (7) an analysis of the information described under paragraphs (1) through (6) (in conjunction with data provided to the Equal Employment Opportunity

Commission in compliance with Part 1614 of Title 29 of the Code of Federal Regulations) including —

- (A) an examination of trends;
- (B) causal analysis;
- (C) practical knowledge gained through experience;
- (D) any actions planned or taken to improve complaint or civil rights programs of the agency; and

(8) any adjustment (to the extent the adjustment can be ascertained in the budget of the agency) to comply with the requirements under section 201.

Further guidance on each agency's reporting obligations is provided in 5 C.F.R. § 724.302, which also requires the submission of the annual report to the Director of OPM, for the implementation of a best practices study and the issuance of advisory guidelines.

## **II. BACKGROUND**

The Department's mission is to ensure a homeland that is safe, secure, and resilient against terrorism and other hazards where American interests, aspirations, and way of life can thrive. In order to maximize its effectiveness, the Department seeks to have an exemplary EEO program. The Department was established through the *Homeland Security Act of 2002*, Pub. L. No. 107–296, and Section 103(d)(5) of the Act provides for the presidential appointment of an Officer for Civil Rights and Civil Liberties (Officer). On October 26, 2012, the Secretary for the Department issued Delegation Number 19003, which delegated to CRCL the authority to render final decisions on behalf of the Secretary in EEO complaints, pursuant to 29 C.F.R. § 1614.110, or pursuant to the Departmental EEO Complaint Procedures, when that regulation is not applicable. Delegation Number 19003 superseded Delegation Numbers 3095 and 19002.

CRCL resides within the Office of the Secretary, and provides technical and policy advice to Department leadership on civil rights and civil liberties issues. The Officer, by statute, reports directly to the Secretary and assists senior leadership in shaping policy in ways that protect the personal liberties of all persons protected by our laws. In accordance with 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, CRCL's mission is to support the Department as it secures the Nation while preserving individual liberty, fairness, and equality under the law. CRCL performs four key functions to integrate civil rights and civil liberties into all of the Department's missions and activities:

1. Advising Department leadership, personnel, and partners about civil rights and civil liberties issues, ensuring respect for civil rights and civil liberties in policy decisions and implementation of those decisions.
2. Communicating with individuals and communities whose civil rights and civil liberties may be affected by Department activities, informing them about policies and avenues of redress, and promoting appropriate attention within the Department to their experiences and concerns.
3. Investigating and resolving civil rights and civil liberties complaints filed by the public regarding Department policies or activities, or actions taken by Department personnel.

4. Leading the Department's EEO programs and promoting workforce diversity and merit system principles.

CRCL provides departmental guidance and standards for establishing and maintaining effective programs for diversity management and EEO, as required under both Title VII of the *Civil Rights Act of 1964* (Title VII), as amended, 42 U.S.C. § 2000(e) *et seq.*, and Section 501 of the *Rehabilitation Act of 1973* (Rehabilitation Act), as amended, 29 U.S.C. § 791 *et seq.* CRCL also works to advance the protections set forth under the *Age Discrimination in Employment Act of 1967* (ADEA), as amended, 29 U.S.C. § 621 *et seq.*, the *Equal Pay Act of 1963* (EPA), 29 U.S.C. § 206 (d)(1) *et seq.*, and the *Genetic Information Nondiscrimination Act of 2008* (GINA), Pub. L. No. 110-233. To meet these objectives, the Deputy Officer for CRCL and her staff develop policies and plans, deliver training, conduct oversight, adjudicate EEO complaints, and submit annual reports to stakeholders including Congress, the White House Initiatives Offices, the U.S. Department of Justice (DOJ), EEOC, and OPM.

### **III. RESULTS AND DATA**

#### **A. EEO Cases in Federal District Court**

During FY 2014, the Department had 237 civil actions in Federal District Court, pending or resolved under the laws covered in the No FEAR Act. The majority of those Federal District Court filings arose under Title VII (151), followed by filings under the ADEA (43), the Rehabilitation Act (29), the *Whistleblower Protection Act of 1989* (12), the EPA (1), and GINA (1).

During FY 2014, Federal District Court judges disposed of 79 cases: 52 were decided in favor of the Department, 26 were resolved by settlement, and 1 was resolved by arbitration/mediation. For further information regarding FY 2014 employment discrimination and whistleblower cases filed in Federal District Court against the Department, see Appendix 1.

#### **B. Reimbursements to Judgment Fund**

During FY 2014, as reported by the Department's Components, the Department reimbursed the Judgment Fund in the total amount of \$1,041,950. More than half of the reimbursement to the Judgment Fund derived from cases filed under Title VII, in the amount of \$585,283. The remaining reimbursements include cases arising under the Rehabilitation Act in the amount of \$448,834, and under the ADEA in the amount of \$7,833. With respect to attorney's fees, Title VII cases totaled \$42,050; there were no attorney's fees reported for Rehabilitation Act or ADEA cases.

### C. Disciplinary Actions

At the Department, the decision about whether to impose disciplinary action on an employee is determined on a case-by-case basis by the relevant Component, depending on the specific facts or circumstances at issue. During FY 2014, one employee was disciplined for discrimination, retaliation, harassment, or an infraction of any provision of law covered by the No FEAR Act, based on a case, which had been filed in Federal District Court.

### D. EEO Complaint Data

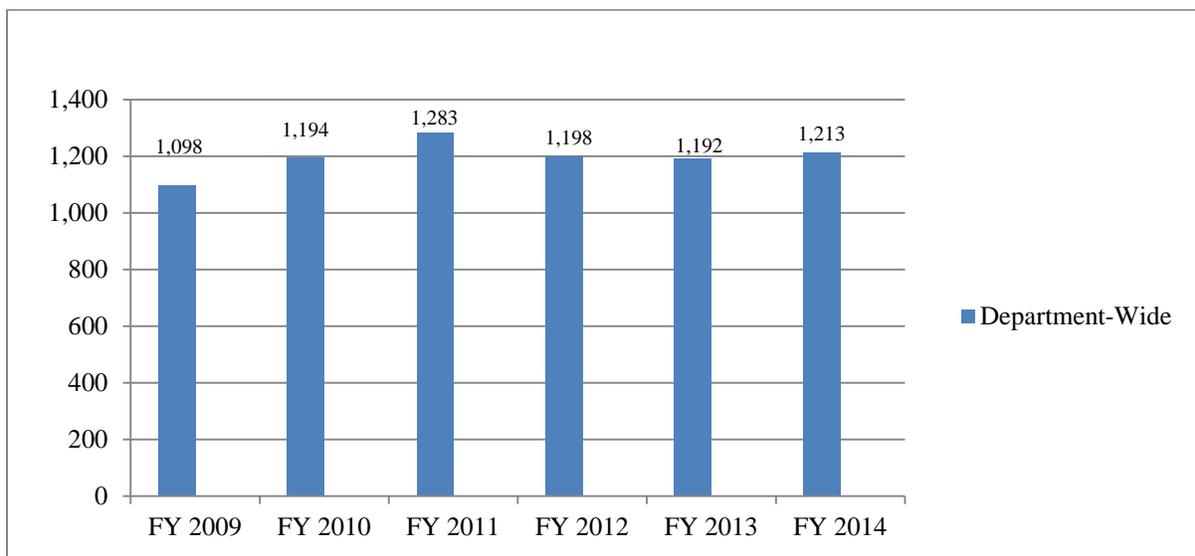
See Appendix 2 for the Department’s No FEAR Act data for FY 2014, which is also posted online (<http://www.dhs.gov/homeland-security-no-fear-act-reporting>).

## IV. ANALYSIS OF TRENDS AND CAUSALITY

### A. EEO Complaint Activity

Between FY 2009 and FY 2014, the Department experienced a ten percent increase in filings of new statutory and non-statutory EEO complaints. In FY 2014, the filing of 1,213 new statutory and non-statutory EEO complaints was slightly higher than the filing in FY 2013 (1,192).

**Figure 1: Complaints Filed, FY 2009 – FY 2014**



## B. Bases of Discrimination in EEO Complaints

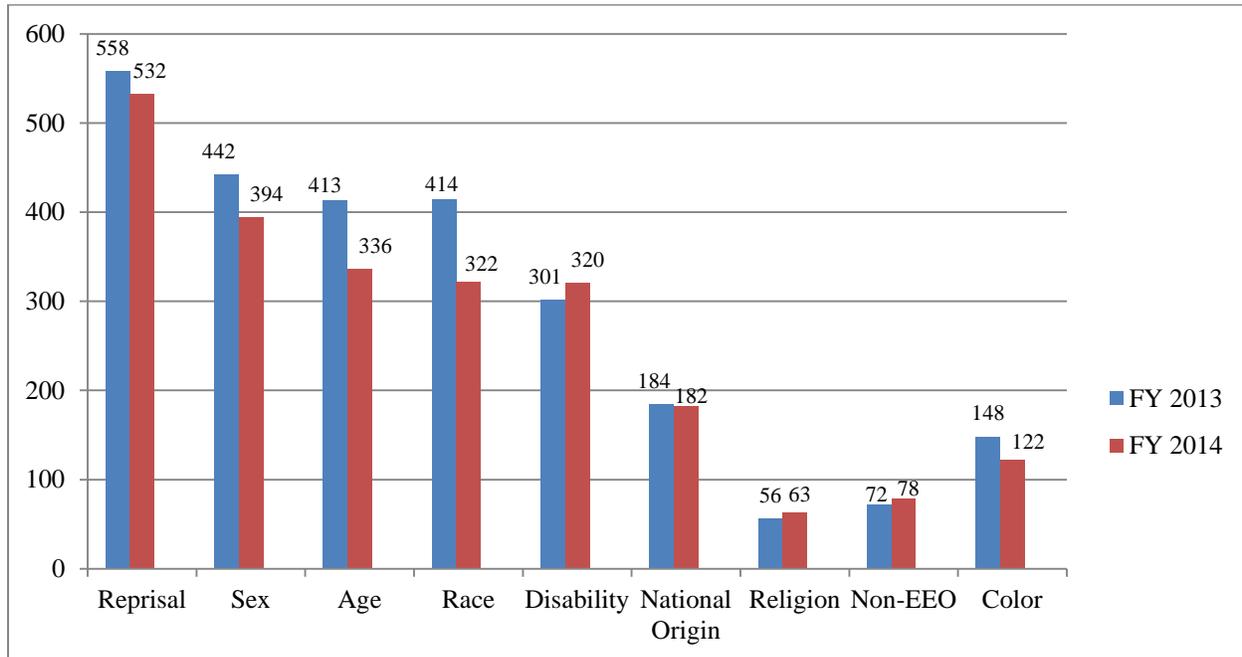
During FY 2014, the Department's most frequently alleged bases<sup>1</sup> of discrimination in formal EEO complaints were, in order of frequency: reprisal, age, and sex. The number of these bases differed over the last fiscal year, but the differences were minimal. See Figure 2. In comparison, the most frequently alleged bases in FY 2013 were identical to the FY 2014.

- *Reprisal:* The Department's FY 2014 reprisal claims (532) were fewer than the reprisal claims in FY 2013 (558), but higher than in prior years (528 in FY 2012; 523 in FY 2011; 493 in FY 2010; and 418 in FY 2009). The frequency of reprisal claims as the leading basis at the Department is consistent with the EEOC's most recently published government-wide data for reprisal claims, which show that reprisal is the most frequently alleged basis of discrimination across the Federal Government in FY 2012. At the Department, as elsewhere in the Federal Government, reprisal claims are nearly always joined with an underlying EEO complaint on the basis of race, national origin, sex, etc. See EEOC's *Annual Report on the Federal Workforce FY 2012* (<http://www.eeoc.gov/federal/reports/fsp2012/index.cfm>).
- *Sex:* During FY 2014, the Department received 394 complaints alleging discrimination on the basis of sex – an 11 percent decrease from FY 2013 (442). Since FY 2009, sex discrimination claims have numbered among the three most frequently filed bases of discrimination.
- *Age:* During FY 2014, age discrimination constituted the third most frequently raised basis of discrimination, with 336 complaints, which is a decrease of 77 cases from FY 2013 (413). For information on these, and other bases asserted, see Figure 2, which sets out data from FY 2013 and FY 2014.

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<sup>1</sup> There may be multiple bases within one complaint.

**Figure 2: Bases of Discrimination, FY 2013 and FY 2014**



\* FY 2013 race/color was reported together; however, in FY 2014 race and color are reported as standalone bases.

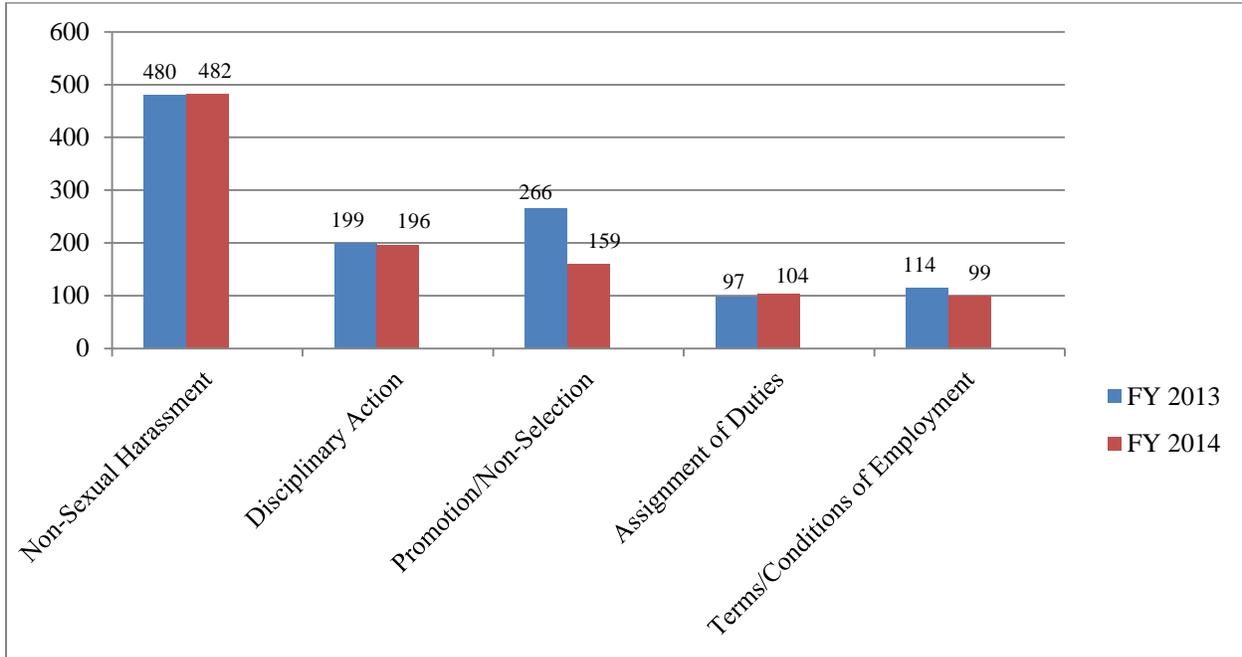
\*\* Non-EEO includes parental status and sexual orientation.

### C. Issues in EEO Complaints

The two most frequently raised issues in discrimination complaints during FY 2014 involved non-sexual harassment<sup>2</sup> (raised in 482 complaints) and disciplinary action (raised in 196 complaints). These two issues ranked among the three most frequent issues in discrimination claims at the Department in each of the past three fiscal years. The prevalence of these issues is consistent with government-wide trends (*i.e.*, these two issues ranked among the three most frequently raised issues in discrimination complaints across the Federal Government). In FY 2012, as reported in the EEOC's most-recent annual report, *Annual Report on the Federal Workplace FY 2012*, and as shown in Figure 3, promotion/non-selection was raised as an issue in 159 complaints, ranking third among the issues most frequently raised at the Department during FY 2014.

<sup>2</sup> The No FEAR Act requires reporting of complaints involving sexual harassment (*i.e.*, sex-based claims involving actionable unwelcome conduct of a sexual nature) and non-sexual harassment (*i.e.*, claims involving actionable unwelcome conduct not of a sexual nature, *e.g.*, race, sex, national origin, color, religion, age, disability, or reprisal).

**Figure 3: Issues in Complaints, FY 2013 and FY 2014**



## V. COMPLAINTS PROCESSING AND ADJUDICATION DATA

### A. EEO Counseling

During FY 2014, the Department experienced an increase in the number of timely completed counselings in comparison to FY 2013. In accordance with 29 C.F.R. § 1614.105(d), counseling must be completed within 30 calendar days, unless the aggrieved person agrees to extend the counseling period up to an additional 60 calendar days. In FY 2014, counseling was completed for 2,067 cases, and 85 percent (1,761) of these cases were timely completed. The overall number of cases counseled in a timely fashion increased by 4 percent to 1,761 in FY 2014, compared to 1,737 in FY 2013. See Table 1.

**Table 1: EEO Counseling at the Department, FY 2009 – FY 2014**

	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>
<b>Total Number</b>	2,479	1,848	2,096	2,031	2,134	2,067
<b>Timely Number</b>	1,684	1,495	1,692	1,718	1,737	1,761
<b>Percentage Timely</b>	68	81	81	85	81	85

During FY 2014, four of the Department’s Components provided timely counseling in 100 percent of their cases. In particular, for the fifth year in a row, CBP completed 100 percent (407) of its cases within the regulatory time period. Similarly, the FLETC timely completed 100 percent (five) of its cases for the third year in a row. For the second year in a row, USSS timely completed 100 percent (33) of its cases. Additionally, for the first time, USCG timely completed 100 percent (93) of its cases.

In FY 2014, the Federal Emergency Management Agency (FEMA) continued its progress in increasing the percentage of timely counseled cases. In FY 2014, there were a total of 152 cases counseled, a reduction of 49 percent, as compared to the 299 cases counseled the prior year. FEMA timely completed counseling in 118 of its 152 cases (78 percent) in FY 2014; an increase of one percent of timely completed counselings in 230 of its 299 cases (77 percent) compared to the prior year.

### **B. EEO Investigations**

In FY 2014, there was an overall increase in the total number of investigations (940) the Department completed compared with the number completed in FY 2013 (871). In accordance with 29 C.F.R. § 1614.108(e), an investigation must be completed within 180 calendar days, unless the timeline is extended. The percentage of timely completed investigations decreased by 5 percent from 75 percent in 2013 compared to 70 percent in FY 2014. Additionally, during FY 2014, the Department increased by 19 days its number of average processing days to 246, as compared with its average of 227 days in FY 2013. See Table 2.

**Table 2: EEO Investigations at the Department, FY 2009 – FY 2014**

	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
<b>Total Number</b>	861	939	888	1046	871	940
<b>Timely Number</b>	561	566	531	596	651	658
<b>Percentage Timely</b>	65	60	60	57	75	70
<b>Average Days</b>	217	213	243	230	227	246

During FY 2014, four of the Department’s Components timely completed EEO investigations in 99 percent or more of their cases. In particular, for the second year in a row, the FLETC timely completed 100 percent of their investigations (one). Additionally, USCIS timely completed 100 percent of its cases (82); and also USSS timely completed 100 percent of its cases (13).

The success of CBP is also notable in the area of timely completed investigations, in that CBP timely completed 166 of 167 investigations (99 percent) during FY 2014.

The Transportation Security Administration (TSA) showed a 27 percent increase in the overall number of investigations completed in FY 2014 (346) compared to FY 2013 (273). Despite this dramatic increase in investigations completed, TSA’s timeliness rate decreased only three percent over the prior year. Specifically, TSA timely completed 89 percent of its investigations in FY 2014 (307 of 346) compared to 86 percent in FY 2013 (234 of 273).

In FY 2014, Components showed continued progress in reducing the average number of processing days for EEO investigations. For the first time, TSA had the lowest average processing time for investigations (170 days) of all the Department’s Components. Additionally, several Components made significant improvement in their average processing times for investigations from FY 2013 to FY 2014:

- Headquarters EEO Office (HQ EEO): 100-day decrease from 272 to 172 days
- FLETC: 58-day decrease from 237 days to 179 days
- USSS: 32-day decrease from 207 days to 175 days.

### C. Procedural Dismissals

An agency may dismiss an EEO complaint for several reasons, including: failure to state a claim; untimely initial contact with an EEO counselor; filing the identical claim in Federal District Court; and failure to provide necessary information to the agency. *See* 29 C.F.R. § 1614.107(a). The Department’s Components submit requests to CRCL for full dismissal of complaints that meet appropriate regulatory criteria. In FY 2014, CRCL issued 125 dismissals, slightly fewer than the 131 dismissals that it issued in FY 2013. The 136 average processing days to dismiss a complaint in FY 2014 represents a 31 percent increase from the number of processing days in FY 2013 (104). See Table 3.

**Table 3: Procedural Dismissals, FY 2009 – FY 2014**

	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
<b>Total Number</b>	204	546	163	164	131	125
<b>Average Number of Processing Days</b>	241	332	153	129	104	136

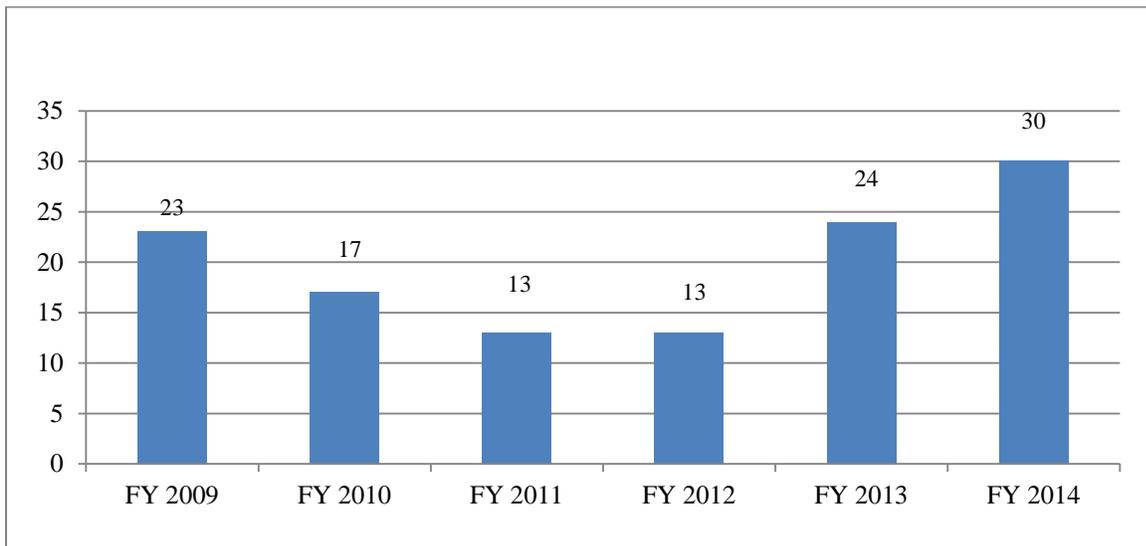
### D. Findings of Discrimination

Section 203(a)(7) of the No FEAR Act requires federal agencies to examine trends and causes behind the data in their reports over the past five years. The following tally of the Department’s findings of discrimination from FY 2009 to FY 2014 illustrates the Department’s EEO complaint trends and causes, based on the overall number of findings at the Department, the protected bases upon which the findings were made, and the types of claims or issues involved in the findings during this period.

Overall, from FY 2009 to FY 2014, the Department processed 120 findings of discrimination through the issuance of merit FADs or Final Orders following an EEOC Administrative Judge’s (AJ) decision. In FY 2014, the Department processed 30 cases in which findings of discrimination were made. These cases included 17 merit FADs (without an EEOC AJ’s decision); five decisions from an EEOC AJ finding of discrimination that the Department fully implemented; and eight EEOC AJ decisions finding discrimination that the Department did not fully implement, but instead appealed to EEOC’s Office of Federal Operations (OFO). The 30

findings in FY 2014 marks an increase in the number of findings in comparison to the 24 findings in FY 2013, which included 15 merit FADs (without an EEOC AJ’s decision); four decisions from an EEOC AJ finding of discrimination that the Department fully implemented; and five EEOC AJ decisions finding discrimination that the Department did not fully implement, but instead appealed to OFO. The number of findings in 2014 represents a 20 percent increase from the prior year; however, the number of findings includes a small portion of the Department’s complaints overall. The 30 findings represent merely five percent of the 566 merit-based FADs and Final Orders the Department issued in FY 2014. No significant patterns or trends have been noted, and no specific reasons have been found to account for the increase. Furthermore, the number of findings is too small to make any across-the-board comparisons. See Figure 4.

**Figure 4: Complaints with Findings, FY 2009 – FY 2014**



### 1. Protected Bases

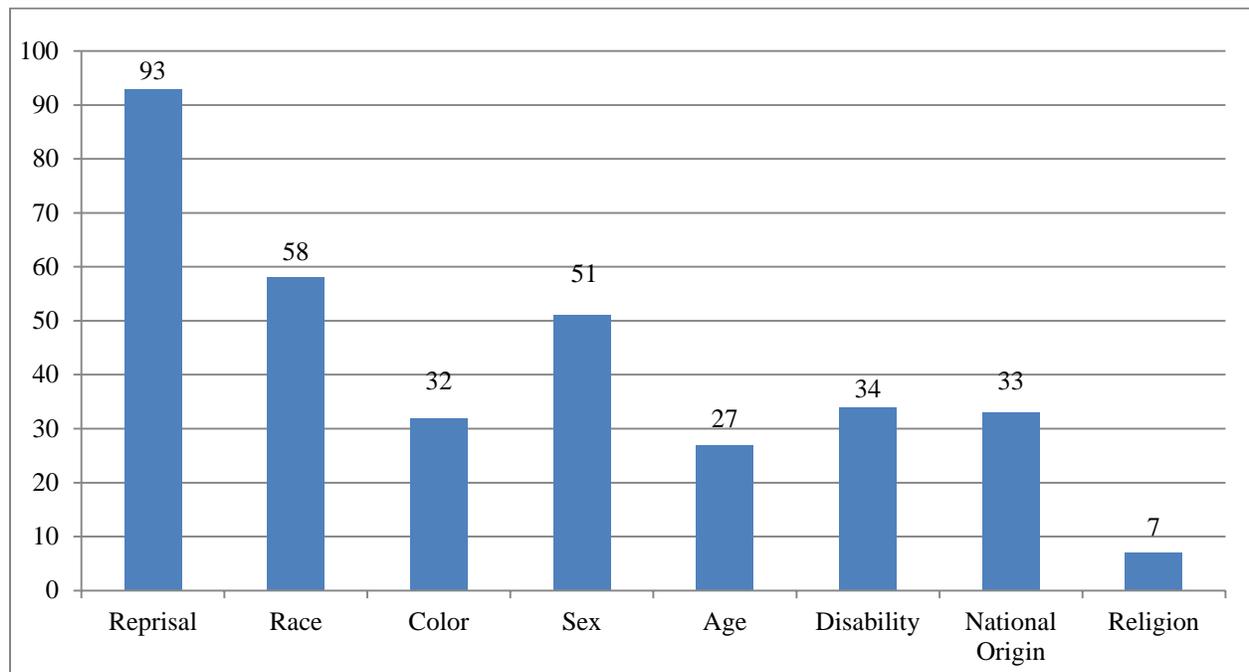
In FY 2014, the majority of findings of discrimination were based on the protected bases of race (17), color (11), reprisal (25), and sex (19). It is important to note that the total number of bases within findings of discrimination may exceed the total number of findings issued because one decision may find discrimination on more than one basis. Of the 30 complaints that resulted in findings of discrimination, there were 17 findings based on race; 11 findings based on color; and 25 findings based on reprisal, which is in close range from the number of findings of race (22)<sup>3</sup>;

<sup>3</sup> In FY 2012 and 2013, the bases of race and color were combined. In FY 2013, the number of findings issued for race/color was 32; and was revised to show 22 for race and 11 for color. In FY 2012, the number of findings issued for race/color was 7; and was revised to show 3 for race and 4 for color.

color (10); and reprisal (30) in FY 2013. In addition, these FY 2014 complaints also contained findings based on sex (19), national origin (11), disability (7), and age (5). The findings based on sex and age represent a numerical increase from FY 2013 of six and two, respectively. There was a decrease in the number of findings based on national origin – 11 in FY 2014 compared to 14 in FY 2013; and disability – seven in FY 2014, as compared to nine in FY 2013. In addition, for the third year in a row, there were no findings based on religion. The increase in findings on many of the bases does not appear to signify any particular trend because, as discussed above, there was a significant increase in the overall number of decisions finding discrimination; therefore, it follows that the number of bases on which those findings were made would increase similarly.

The total number of findings by basis from FY 2009 to FY 2014 is shown in Figure 5.

**Figure 5: Findings by Basis, FY 2009 – FY 2014**



## 2. Issues

The FY 2014 findings of discrimination involved issues consistent with previous fiscal years, and do not suggest any particular pattern or trend. In FY 2014, the Department’s findings predominantly involved harassment (non-sexual) (18), non-selection/non-promotion (4), and termination (4). Other issues in FY 2014 findings included: assignment of duties (2), evaluation/appraisal (2), reasonable accommodation (2), terms/conditions of employment (2), appointment/hire (1), and disciplinary action (1). For the second year in a row, there were no findings in the areas of duty hours, pay/overtime, or training. These increases and decreases in numbers are too small to indicate a particular trend. Additionally, in FY 2014, there was an

increase in the number of findings relating to non-selection/non-promotion: four in FY 2014, as compared to one in FY 2013. The number of non-sexual harassment findings (18) in FY 2014 is consistent with the number in FY 2013. As explained above, with protected bases, the total number of issues within findings of discrimination may exceed the total number of findings issued because one decision may find discrimination with regard to multiple issues. See Table 4.

The increase in findings on many of the issues do not appear to signify any particular trend because, as discussed above, there was a significant increase in the number of decisions issued finding discrimination; therefore, it follows that the number of issues on which those findings were made would increase similarly.

**Table 4: Findings by Issue, FY 2009 – FY 2014**

	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>Total</i>
<b>Appointment/hire</b>	0	1	1	0	2	1	5
<b>Assignment of duties</b>	0	0	0	3	3	2	8
<b>Disciplinary action</b>	4	4	1	3	5	1	18
<b>Duty hours</b>	0	0	2	1	0	0	3
<b>Evaluation/appraisal</b>	0	0	0	2	1	2	5
<b>Harassment (non-sexual)</b>	10	3	3	3	18	18	55
<b>Non-selection/non-promotion</b>	5	6	0	5	1	4	21
<b>Pay/overtime</b>	0	0	0	1	0	0	1
<b>Reasonable accommodation</b>	1	2	5	1	2	2	13
<b>Termination</b>	4	2	1	2	2	4	15
<b>Terms/conditions of employment</b>	2	1	2	0	7	2	14
<b>Training</b>	0	0	0	1	0	0	1

## **VI. PRACTICAL KNOWLEDGE GAINED THROUGH EXPERIENCE, AND ACTIONS PLANNED OR TAKEN TO IMPROVE THE COMPLAINTS OR CIVIL RIGHTS PROGRAM**

### **A. Improvements in the Department's CRCL EEO Program**

During FY 2014, the Department produced significant program enhancements, as well as new initiatives. CRCL continued to work collaboratively with the Department's EEO Directors and Component EEO offices to prioritize timely movement and issuance of work products, including merit FADs. Efforts also continued toward improving the departmental EEO data and document management system, in order to facilitate the timely flow of cases through the process.

## 1. Focusing on Timely Issuance of Merit FADs

Throughout FY 2014, CRCL continued its emphasis on adjudicating merit FADs and issuing them within regulatory timeframes. Merit FADs are issued after a complainant files a formal complaint alleging discrimination, the agency conducts an investigation, and the complainant requests the agency to issue a decision as to whether the discrimination occurred. The EEOC Regulations, at 29 C.F.R. Part 1614, require merit FADs to be issued within 60 days of election, or failure to elect a FAD or hearing. In FY 2014, CRCL experienced staffing shortages during the latter half of the year; however, due to strategic work assignments, overall fewer incoming requests for a FAD, and continued emphasis on timeliness, CRCL produced a timely merit FAD issuance rate of 53 percent (161 of 301). The following chart shows CRCL's five year trend in merit FAD issuances. See Table 5.

**Table 5: Timeliness for Merit FADs FY 2009 – FY 2014**

	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>
<b>Backlog at Year End</b>	420	247	0	0	0	0
<b>Total FADs Issued</b>	303	527	457	337	455	301
<b>Number Timely Issued</b>	16	17	119	163	185	161
<b>Percentage Timely</b>	5	3	26	48	41	53
<b>Average Processing Days</b>	567	807	237	143	164	117

The overall percentage of timely merit FAD issuances increased between FY 2013 (41 percent) and FY 2014 (53 percent), while overall numbers dropped both in terms of total FADs issued and total FADs timely issued when comparing those two years. Interestingly, during FY 2014, CRCL received only 377 requests for merit FADs (301 issued), compared with 512 incoming requests during FY 2013 (455 issued). Although CRCL has no control over the number of cases it will receive (this is determined by the volume of complaint filings across the Department in any fiscal year, and Complainants' decisions to elect agency merit FADs) CRCL monitors formal complaint activity and anticipates the likely influx of merit FAD requests. The overall lower number of incoming FAD requests during FY 2014 allowed the opportunity for CRCL staff members to participate in other initiatives, as explained below.

## 2. Advancing Joint Opportunity Initiatives and Development of a Department-wide Strategic Plan

During FY 2012, CRCL created the Joint Opportunities Initiative as an effort to explore opportunities to leverage resources among the Department's EEO and diversity community, with the expected result of improving efficiencies and the quality of work. Two committees were formed: the Diversity and Equal Employment Opportunity Professional Development Committee (DEOPDC) and the Department's Alternative Dispute Resolution (ADR) Committee. Both committees are headed by a Senior Executive within the Department's EEO and diversity community and composed of employees across this community. As discussed in the Executive Summary, these efforts led to the first ever Departmental EEO and Diversity Strategic Plan. The Plan provides a strategic vision for the Department's EEO and diversity community, and it

outlines specific actions that will help improve the delivery of EEO and diversity services to our workforce.

In FY 2014, the Department's ADR Committee, which is responsible for the development and implementation of a Department-wide ADR program, achieved a major milestone: completion of the white paper outlining the ADR program. The white paper provides the framework for the Department-wide ADR program, which was finalized and circulated to the Department's Components in FY 2014. In FY 2015, CRCL expects to receive approval for the Program from the Deputy Secretary, identify potential mediators, finalize a Management Directive and Instructions for the program, and train a cadre of collateral duty mediators.

During FY 2014, the DEOPDC completed Phase Two of its multifaceted plan to improve professionalism within the Department's EEO community. Specifically, the DEOPDC, in collaboration with OPM, conducted a "root cause" analysis to identify the causes for the Critical Thinking skill gap. In addition to conducting this analysis, the DEOPDC developed an action plan to address the skill gap. The action plan identified numerous strategies aimed at improving the overall competency of Critical Thinking in the 0260 occupational series. It is a multi-year, comprehensive plan, and the implementation will begin in FY 2015.

### **3. Collaborating and Leading the Department's Components**

CRCL led a number of collaborative initiatives in FY 2014, and continued to strengthen partnerships between CRCL and other Departmental Components. First, several CRCL employees became part of a newly formed training cadre and conducted EEO anti-harassment and diversity training for managers, supervisors and non-supervisory employees within the Department's Headquarters. This training was often provided at the invitation of the Department's Headquarters Component heads and was instrumental in increasing awareness of EEO laws, individuals' rights, and managers' responsibilities to maintain a workplace free from discriminatory actions and conduct. Second, CRCL refined and issued guidance to EEO offices at all the Department's Components regarding best practices for conducting effective EEO investigations. Finally, CRCL remained active in FY 2014 in leading the Component Complaint Managers in quarterly meetings, during which Department-wide guidance was shared, training on icomplaints (the enterprise EEO database and document management system) was offered, and best practices were identified—for example, the EEO investigation guidance.

### **4. Leaning Forward with Technology**

CRCL hosted comprehensive icomplaints (EEO database) user refresher training for EEO personnel across the Department. This created an opportunity for Component personnel to enhance their knowledge and effective use of this comprehensive tracking and reporting system, and to receive individualized coaching from the Department's database administrator and Senior Complaints Manager, resulting in more accurate data input. This training also enabled Component personnel to better utilize the system's advanced reporting features.

Throughout FY 2014, CRCL coordinated with EEOC's Office of Federal Operations in implementing and deploying the Commission's Electronic File Exchange (EFX), a web-based EEO case processing and document conveyance portal. CRCL responded to Components'

requests to enroll users in the EFX system and continued to provide valuable input and feedback to EEOC on shaping the design features of updates to the file exchange system.

CRCL remained active in FY 2014 in providing training and legal updates on developments regarding social media and its impact on EEO, which allowed the EEO community at the Department and across the federal sector to remain aware of situations where discrimination may occur based on protected class information discovered on the Internet, and to learn methods of creatively advancing and applying EEO mandates in the digital age.

## **5. Providing Developmental Opportunities**

In addition to complaint processing, CRCL also continued several proactive initiatives to expand opportunities for training and development. During FY 2014, CRCL coordinated with the HQ EEO Office in sending staff members to serve in the role of Acting Formal Complaints Manager. CRCL also continued to provide detail opportunities for Component EEO professionals to work at CRCL. CRCL created opportunities for 60-to-90-day details for Component staff to work with the EEO complaint adjudication experts, and to learn to prepare a variety of final actions including merit FADs, Procedural Dismissals, Breach Determinations, and Final Orders. During FY 2014, CRCL hosted detailees from USCG and TSA.

### **B. The Department's Component EEO and Civil Rights Offices**

The Department's Components continued to move forward with process efficiency initiatives during a year of many staffing and resource challenges. As the centralization of EEO information and documents into the Department's icomplaints enterprise database system matured, Component offices have leveraged the benefits of consistency and the reliability of having a robust enterprise data system.

#### **1. Federal Emergency Management Agency**

##### ***Infrastructure***

In FY 2014, FEMA's Office of Equal Rights (OER) increased its authorized staffing by two temporary positions to further support the EEO program.

##### ***Complaint Processing***

In FY 2014, 152 pre-complaints were initiated compared to 299 in FY 2013, which represents a 49 percent reduction. The percentage of pre-complaints counseled within a timely manner increased by nearly one percent from 77 percent (230) in FY 2013, to 78 percent (118) in FY 2014.

The 78 formal complaints filed in FY 2014 represented a significant decrease from the 134 filed in FY 2013. In FY 2014, FEMA's OER completed 104 investigations, which is an increase of 22 from the 82 processed during FY 2013. Of particular note, the timely completion rate for investigations increased from 4.9 percent in FY 2013, to 14 percent in FY 2014. The target rate for 2017 is 75 percent; the interim target rate is 30 percent by the end of 2016. The average timeframe for completing investigations increased, however, from an average of 375 days in FY 2013, to 419 average processing days in FY 2014. The increase in average processing days is due in large part to a backlog in investigations that has accrued over the past several years, which can increase processing days because the volume and complexity of cases resulted in delays or longer investigation times. Furthermore, in FY 2014, FEMA's OER experienced turnover among the staff that process formal complaints, and had issues immediately backfilling those positions. As FEMA's OER continues to complete the investigations of aged cases in its inventory and streamlines its internal processes, an overall improvement in processing timeframes is anticipated in the upcoming fiscal year.

### ***Diversity Management***

FEMA continued its diversity recruitment, hiring, and retention efforts in FY 2014, in accordance with its EEO and Diversity Policy statement, and supported by the Administrator, Deputy Administrator, and the EEO Director. To reinforce its commitment in establishing current and relevant strategies to address challenges in achieving diversity, in 2014 FEMA revised its existing Diversity and Inclusion (D&I) Plan to align with the Agency's Strategic Plan. The D&I Plan provides the key outcomes and tactics necessary to demonstrate inclusion as a business enabler and includes elements that are measurable, allowing senior leaders to evaluate progress and success regularly. The following three principal goals are based on, and support, the core tenet of the plan. The three principal goals are (1) build a work environment that promotes diversity and inclusion (2) build, develop, retain and engage a diverse workforce, and (3) build a sustained leadership commitment to a diverse and inclusive FEMA through education, accountability, and total workforce engagement.

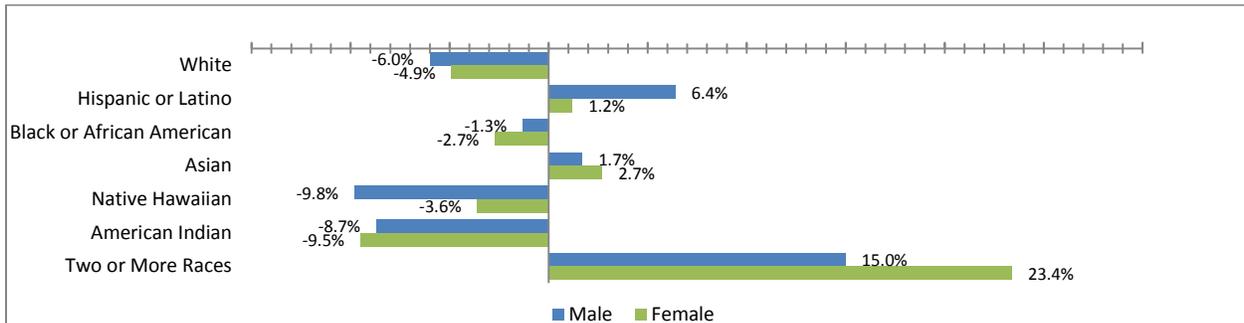
In order to build, develop, retain and engage a diverse workforce, the Agency believes it is necessary to ensure hiring and retention rates reflect the composition of the availability pools of exceptional talent in all fields nationally. It is also necessary to develop and implement a recruitment strategy to reach diverse populations at colleges and universities, minority-focused professional organizations, and other organizations representing women, veterans, and people with disabilities. FEMA believes a more diverse workforce can be achieved by educating hiring officials on selection methods. Regular opportunities for training for hiring officials and human resources liaisons has been established to ensure visibility and awareness of hiring strategies and efficiencies.

This can be measured by ensuring that selecting official training is developed to educate on diversity, inclusion and special hiring authorities, reasonable accommodations, and other related programs. Additional measurable methods include proactively identifying and eliminating barriers in recruitment and selection practices, such as interviews that tend to limit opportunities for groups or individuals for reasons unrelated to merit.

FY 2014 overall workforce profile data shows that FEMA exceeds the Civilian Labor Force (CLF) in several race, ethnicity and gender categories. For example, Pacific Islander males and females are 0.38 percent of the workforce and the CLF for this group is 0.07 percent. African American males are 7.8 percent of the workforce and the CLF is 5.5 percent. African American females are 13.0 percent of the workforce and the CLF is 6.5 percent. Males in the Two or More or races category are 0.30 percent and the CLF for this group is 0.26 percent. Females in the Two or More Races category are 0.40 percent of the workforce and the CLF for this group is 0.28 percent.

Although FEMA’s total workforce decreased -4.1 percent during FY 2014, increases in representation by race, ethnicity and gender were observed. For example, representation in Hispanic or Latino, Asian and Two or More Races increased for both male and females subpopulations. The highest increase was in Two or More Races females (23.4 percent).

**Table 6: Total Workforce by Race, Ethnicity and Gender, FY 2013 v. FY 2014**



**Table 7: Total Workforce by Race, Ethnicity and Gender, FY 2013 v. FY 2014**

EMPLOYMENT TENURE	TOTAL WORKFORCE			RACE/ETHNICITY															
				Hispanic or Latino		Non-Hispanic or Latino													
	All	Male	Female	Male	Female	White		Black or African American		Asian		Native Hawaiian or Other Pacific Islander		American Indian or Alaska Native		Two or More Races			
TOTAL																			
FY 2013	15069	8116	6953	359	418	6281	4270	1134	1927	172	151	61	56	69	84	40	47		
	100%	53.86%	46.14%	2.38%	2.77%	41.68%	28.34%	7.53%	12.79%	1.14%	1.00%	0.40%	0.37%	0.46%	0.56%	0.27%	0.31%		
FY 2014	14445	7744	6701	382	423	5904	4059	1119	1876	175	155	55	54	63	76	46	58		
	100%	53.61%	46.39%	2.64%	2.93%	40.87%	28.10%	7.75%	12.99%	1.21%	1.07%	0.38%	0.37%	0.44%	0.53%	0.32%	0.40%		

As part of the strategy to recruit and retain a diverse workforce, it is essential that managers also use Schedule A hiring authority for people with disabilities and Veteran Hiring Authorities.

The percentage of individuals with disabilities in FEMA’s permanent workforce increased from 8.98 percent in FY 2013, to 9.45 percent in FY 2014. FEMA is working to achieve a goal of having 2.55 percent of the permanent workforce comprised of persons with targeted disabilities within the next five years. FEMA’s permanent workforce is currently comprised of 0.64 percent of individuals with targeted disabilities, which represents a decrease from the 0.73

percent they comprised in FY 2013.

To support FEMA's diversity initiatives, OER and Office of the Chief Component Human Capital Officer (OCCHCO) designated targeted training opportunities for hiring managers and human resources professionals, to ensure a better understanding of the benefits and advantages to hiring veterans and persons with disabilities and targeted disabilities. FEMA provided training in the recruitment and hiring of individuals with disabilities; processing and providing timely reasonable accommodations; and hiring flexibilities for veterans, and other non-competitive hiring processes to approximately 1,502 supervisors and managers.

In FY 2014, FEMA implemented a new front-end hiring system that collects demographic data of the applicant pool. Through this system, the agency can better analyze the effectiveness of its targeted recruitment efforts. The system is called Career Connector.

### ***Services and Proactive Engagement***

During FY 2014, FEMA reaffirmed its commitment to educating its workforce regarding laws, regulations and procedures regarding individuals with disabilities. Specifically, FEMA conducted mandatory training sessions to managers, supervisors, and employees on processing reasonable accommodation requests. In FY 2014, training was primarily delivered by Equal Rights Advisors, and through the FEMA's independent study courses. Additional training topics included civil rights, EEO, supervisory responsibility for EEO, and diversity. The training efforts resulted in heightened sensitivity and understanding of EEO rights and responsibilities, the benefits of diversity, and the importance of providing effective and timely reasonable accommodation solutions. FEMA experienced an increase in reasonable accommodation requests over the last few fiscal years, particularly as a result of increased disaster activity due to Hurricane Sandy. The vast majority of reasonable accommodation requests were for sign language services and travel-related accommodations. FEMA has a contract for sign language interpretation for its headquarters offices, which support a number of hearing-impaired employees within the National Capital Region.

During FY 2014, FEMA's OER reinforced its commitment to ensure accessible disaster operations facilities through the use of an innovative accessibility checklist developed by the Disability Employment Program Manager in FY 2013. The easy-to-use checklist is consistent with the Americans with Disabilities and Architectural Barriers Act (ADA/ABA) guidelines and has enhanced the Agency's ability to proactively address and resolve accessibility issues at disaster facilities.

In FY 2015, FEMA plans to continue its focus on several recruitment initiatives used in FY 2014, to include enhanced use of the Veterans Operation Warfighter Program<sup>4</sup> and continued partnerships and outreach with the Department of Defense, the Department of Veterans Affairs, Vocational Rehabilitation offices, and other military and veteran programs. Also, FEMA plans to continue to provide mandatory training to communicate the importance of achieving its hiring

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<sup>4</sup> Operation Warfighter is a Federal internship program that places rehabilitating and recovering Service members in supportive work settings.

objectives through the use of applicable laws and resources, such as the Uniform Services Employment and Reemployment Rights Act (USERRA), Veteran and Disability Awareness, and the Schedule A appointment authority, which is a non-competitive hiring authority for, among others, individuals with disabilities.

## **2. The Federal Law Enforcement Training Centers**

### ***Infrastructure***

The FLETC EEO Division provides services to 1,127 FLETC employees and is composed of a Division Chief, Complaints Manager, five EEO Specialists, one Staff Assistant, and one Visual Information Specialist. Each EEO Specialist serves as a Special Emphasis Program Manager for at least one program. Two EEO Specialists coordinate the Disability Program, with one also serving as Disability Program Manager.

### ***Complaint Processing***

During FY 2014, the FLETC completed two formal EEO complaint investigations within the regulatory timeframe of 180 days or 270 days with an approved extension. The FLETC EEO Division also processed two conflict of interest cases for another Departmental component. During FY 2014, FLETC drafted six dismissals for another Departmental component on cases that were not certified as a class action, and then were returned to be processed as individual formal complaints. The FLETC EEO Division continued to manage the entire EEO investigative process. There has been consistent improvement over the last four years in the percentage of investigations that have been completed within the EEOC's regulatory timeframes. The FLETC remains committed to its goal of ensuring that all EEO investigations are completed in a timely manner. In an effort to meet this goal, the FLETC EEO Division will continue to work closely with EEO contract investigators, Responding Management Officials, the Human Capital Division (HCD), and the Office of Chief of Counsel.

### ***Diversity Management***

In furtherance of President Obama's August 2011 Executive Order 13583, *Establishing a Coordinated Government-wide Initiative to Promote Diversity and Inclusion in the Federal Workforce*, the FLETC's EEO Division and HCD continued to collaborate to develop, review and implement objectives in support of the FLETC D&I Strategic Plan for FY 2012-2015. The plan provides the framework for recruiting a diverse workforce, creating an inclusive workplace, and ensuring management accountability. It also serves as a dynamic road map to guide efforts in making the FLETC a leader in creating and sustaining a high-performing workforce and the premier employer for anyone committed to serving and protecting the Nation.

During FY 2014, the FLETC's D&I Council continued to make progress in support of the FLETC D&I Strategic Plan. The FLETC D&I Council reviewed and analyzed enterprise-wide recruitment challenges and diversity goals; monitored succession plan indicators; reviewed workforce demographics and benchmarks; and developed effective and efficient budget plans for recommendations to the FLETC Executive Team. The D&I Council represented the organizational interests of all the FLETC entities and stakeholders. The monitoring of FLETC initiatives or trends impacting the workforce continued to be a shared responsibility of the Council in keeping abreast of organizational changes that warrant implementation of new

initiatives and recommendation of action plans to addresses those changes. Resolution strategies were developed in conjunction with operational documents such as the FLETC Strategic Plan; the FLETC Human Capital Strategic Plan; the FLETC D&I Operational Plan; measures and objectives of the EEO programs; and the Department's D&I and Human Capital Strategic Plans.

Additionally, as part of the D&I Council's FY 2014 planning activities, four objectives were targeted relative to the three goals set forth in the FLETC's 2012-2015 D&I Strategic Plan. The D&I Council met quarterly in FY 2014 to monitor progress on these targeted objectives. The objectives include: making modifications to the FLETC Merit Staffing Plan Directive to encourage diverse interview panels; providing training to managers on reasonable accommodation procedures; providing all the FLETC employees with the opportunity to participate in D&I training via the FLETC's Learning Management System (LMS); expanding a new employee career development program through rotational detail assignments, and the FLETC Office of Organizational Health (OOH) participating in "State of the Directorate" briefings and site visits with stakeholders to facilitate communications concerning current and emerging issues and trends.

The FLETC also continued to monitor the workplace and employee engagement trends through the efforts of the OOH, which is comprised of the EEO Division, the Critical Incident Stress Management Program, the Employee Wellness Program, and the FLETC Ombudsman. The Chief of OOH greatly supported and championed the FLETC's D&I Council. "State of the Workforce" briefings were conducted to the FLETC managers, on a quarterly basis by OOH, to ensure organizational awareness of workforce trends. In addition to these trend analyses, the OOH also provided Ombudsman services and information to employees and managers on stress management topics, and administered a variety of employee on duty fitness and wellness programs.

During FY 2014, the FLETC employees were offered D&I training entitled, *Diversity on the Job: The Importance of Diversity and the Changing World* via the FLETC's Learning Management System (LMS); a total of 288 managers, supervisors, and employees completed the training. An OPM D&I training webcast entitled *Microbehaviors: Understanding, Harnessing, and Leveraging the Power of the Unconscious Mind* was made available to the FLETC D&I Council members. The FLETC's D&I Council SharePoint site was created in FY 2014, to allow all the FLETC employees access to D&I information. The D&I SharePoint site provides a one-stop location for communicating D&I annual operational planning activities, recruitment events, D&I Council Meeting Minutes, and a listing of D&I Council Members. A section of the D&I SharePoint site was created to post the FLETC's demographic data, to include participation rates for each demographic group at the FLETC.

The FLETC's D&I Strategic Operational Plan lists actions, responsible offices, and performance outcomes for all three D&I goals. Recruitment outreach efforts included sustained partnerships with local post-secondary academic institutions in the southeast Georgia area including the College of Coastal Georgia (CCGA) and Altamaha Technical Institute. Targeted recruitment with minority serving institutions (MSI) for the FLETC volunteer internships was also announced in FY 2014. Through the Department of Labor Workforce Recruitment Program (WRP), five students were projected to be hired through the Pathways Program for the FLETC's

Summer Student Employment Program; however, four students declined the employment offers due to the FLETC's rural location and other employment offers. The WRP was one tool used to meet Disability Employment Program objectives. The FLETC also continued to exceed the Department's new hire target for disabled veterans.

### ***Services and Proactive Engagement***

The FLETC's No FEAR Act Training was provided on-line through the FLETC's LMS. The FLETC required all employees to complete No FEAR Act training on biennial basis, and all new employees to complete No FEAR Act training within 30 calendar days of entering on duty. In FY 2014, the LMS was not available for approximately six months; however, only 31 employees had to be reminded to complete the No FEAR Act Training. During FY 2014, the FLETC EEO Division processed 32 reasonable accommodation requests made by or through employees, managers, and students. These requests included job restructuring, modified work schedules, and assistive electronic devices, among other accommodations. More than 90 percent of the requests for reasonable accommodation were processed within the 20 business day timeframe, as set forth in the Department's reasonable accommodation procedures. In addition to individual requests for reasonable accommodation, sign language services were provided on 59 occasions. Mandatory training on *Employment of People with Disabilities: A Roadmap to Success* was also provided through the LMS to 54 managers and supervisors. Additionally, on July 9, 2014, staff attorneys from EEOC's Savannah Local Office in Savannah, Georgia, provided training during a workshop at the FLETC in Glynco, Georgia, and the training was broadcast by video teleconferencing to all of the FLETC sites. The workshop entitled *Reasonable Accommodations: Change the World by Changing Your Workplace*, was attended by 67 managers, supervisors, and employees. The workshop offered training on discrimination, recognizing and responding to requests for reasonable accommodation, and accommodative solutions.

The FLETC New Supervisor Training Program/L90X is a week-long program that is mandatory for all new supervisors within their first year of supervision. Training modules on both the EEO Process and reasonable accommodation procedures are included. During FY 2014, ten new supervisors and managers completed this course and were provided opportunities for formal mentors. This supervisory training program and its mentoring component (with 18 mentors identified) were designed to address the unique challenges of those in supervisory leadership roles. In addition, three supervisors attended the Law Enforcement Supervisory Leadership Training Program, which is also a requirement for new the FLETC supervisors.

The FLETC EEO Division is committed to identifying cases that can be resolved early and at the lowest possible level. During FY 2014, after approximately 90 EEO contacts, only two formal EEO complaints were filed. One of those formal complaints was subsequently settled. The FLETC EEO Division is currently reviewing and developing new training materials that will further enhance EEO services and goals.

## **3. Headquarters EEO Office**

### ***Infrastructure***

HQ EEO, housed within CRCL, supports the 7,250 employees that serve in the Office of the Secretary. The HQ EEO staff is comprised of an EEO Director, a Formal Complaints Manager,

an Informal Complaints Manager, a Disability Program Manager, a Staff Assistant, and a Complaints Manager that provides services specifically to the National Protection and Program Directorate's Federal Protective Service (FPS). HQ EEO's goals are to support the Department's Headquarters in the following areas: compliance with EEO laws, regulations, and mandates; guidance to Headquarters management officials and employees on EEO and diversity; prevention and addressing unlawful employment discrimination; and ensuring that all Headquarters employees have a working environment that will support them in the fulfillment of the mission to protect the homeland.

HQ EEO experienced many infrastructural fluctuations during FY 2014. With regard to staffing, a full-time Investigator, who was hired in late fourth quarter of FY 2013, laid the foundation for timely EEO investigations throughout FY 2014. HQ EEO also re-competed and awarded a contract for contract investigative services. In March 2014, a permanent Formal Complaints Manager joined HQ EEO, bringing permanence and consistency in complaint processing, leadership, and program management. In June 2014, HQ EEO hired a Disability Program Manager to lead the reasonable accommodation program at Headquarters—a function that had been absorbed in the interim by another HQ EEO staff member. Lastly, HQ EEO continued collaborative efforts in having several CRCL staff members serve as collateral-duty EEO Counselors, thereby providing expanded coverage and career development opportunities.

HQ EEO made strides in enhancing the digital infrastructure in the office, thereby facilitating processing efficiencies and case accountability. Continuing the FY 2013 intent to go “all-digital,” HQ EEO launched document management strategies to collaboratively use network drives and create simple access to uniform documents and templates. In addition, HQ EEO expanded use of secure emails over regular mail for conveying EEO documents, including notably the Notice of Right to File and the Election Letter, thereby saving time and costs. Moreover, in awarding a new counseling and investigation contract, HQ EEO ensured that the contractor would no longer send hard copy documents, but only send 508<sup>5</sup> compliant digital versions of investigative files. Lastly, HQ EEO supplemented use of icomplaints by developing an internal, parallel case inventory tracking system to monitor internal timelines and case movements. These efforts have allowed HQ EEO to provide faster and more consistent service, greater accountability, and increased results for its employees, applicants, and stakeholders.

### ***Complaint Processing***

In FY 2014, HQ EEO experienced a similar case volume to the prior fiscal year, but made significant improvements in processing cases within regulatory timeframes. In FY 2013 and FY 2014, HQ EEO counseled 62 cases and 56 cases, respectively. However, only 69 percent of counselings were timely completed in FY 2013, while 94 percent were timely in FY 2014—a 36 percent improvement in FY 2014. Similarly, HQ EEO improved timely processing of investigations in FY 2014. In FY 2013 and FY 2014, HQ EEO investigated 29 cases and 32 cases, respectively, but timely investigated 38 percent in FY 2013, as compared to 96 percent in FY 2014—a 153 percent increase in FY 2014. Further, the average number of days in investigations in FY 2014 was 185 days, which is the lowest number of days in HQ EEO's

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<sup>5</sup> Section 508 of the Rehabilitation Act provides accessibility requirements for information and communication technology in the federal sector.

history. These substantial increases in timeliness and efficiency were the result of a team-wide effort to develop and update internal complaint tracking processes to supplement icomplaints, a commitment to holding detailed weekly meetings and in-depth case discussions between the EEO Director and Complaints Managers to track cases and address unique issues, and efforts to carefully monitor progress by all members of the team to prioritize timeliness and customer service. In addition to timely processing, HQ EEO continued to offer ADR to every complainant in an effort to resolve cases at the earliest possible opportunity. Notably, the ADR participation rate by FPS employees or applicants rose from 2 percent in FY 2013 to 49 percent in FY 2014.

With regard to the complaint activity for FY 2014, the top bases were reprisal, race (Black), and age. The top issues were non-sexual harassment, promotion/nonselection, and time and attendance.

### ***Diversity Management***

HQ EEO continued to reinforce the importance of EEO and diversity at Headquarters. Towards this end, HQ EEO provided diversity and inclusion training to the entire Office of the Chief Information Officer (OCIO), as well as reasonable accommodation training to the OCIO. HQ EEO also hosted a number of special observances celebrating Native American Heritage Month; Women's History Month; Asian American Pacific Islander Heritage Month; and Hispanic Heritage Month.

Further, HQ EEO made great strides in maturing the reasonable accommodation program at Headquarters. With the hire of a new Disability Program Manager, HQ EEO shifted operations from an all paper system of record keeping to an all-digital system within one quarter. By the end of FY 2014, 100 percent of HQ EEO's reasonable accommodation requests were entered into and tracked on the Department's Accessibility Compliance Management System (ACMS), and a complementary in-house tracking system was also created, to satisfy internal reporting needs and to house sensitive information. The Disability Program Manager also enhanced the quality of the information and guidance provided to management officials and requesters, resulting in increased trust and increased requests for accommodations—there was a significant spike in fourth quarter accommodation requests. In FY 2014, HQ EEO received 50 requests for accommodations, and these requests were processed in an average of 65 days. In addition, there were 223 requests for interpreter/reader services that were also processed during FY 2014.

### ***Services and Proactive Engagement***

HQ EEO participated in a number of proactive engagements during FY 2014 intended to advance EEO mandates. First, with regard to training and technical assistance, HQ EEO provided training to Headquarters offices on diversity, inclusion, anti-harassment, and EEO concepts and principles. HQ EEO also continued to provide EEO briefings to all new employees at orientations, and provided refresher training to its collateral duty EEO Counselors throughout FY 2014.

HQ EEO also enhanced its online presence by refreshing content and increasing ease of access to information. HQ EEO simplified the URL ([www.dhs.gov/hqeeo](http://www.dhs.gov/hqeeo)), as well as rebranded the office email address to an easier-to-recognize address ([hqeeo@hq.dhs.gov](mailto:hqeeo@hq.dhs.gov)). HQ EEO also led the effort to provide transparent and direct access to No FEAR Act data by adding a *No FEAR Act*

link on the bottom of the Department's main web page. Moreover, HQ EEO initiated the creation of a *File an Equal Employment Opportunity (EEO) Complaint* to the Department's *How Do I?* web page, to allow ease of access to the complaint filing process and relevant contact information.

#### **4. Transportation Security Administration**

##### ***Infrastructure***

TSA's Civil Rights, Diversity & Inclusion (CRDI) Division provides EEO services to a workforce of more than 60,000 employees. CRDI is organized into three main branches: the EEO Branch, the Affirmative Employment Branch, and the Diversity & Inclusion Branch. During FY 2014, CRDI hired several new staff members. CRDI currently has 53 full-time employees.

##### ***Complaint Processing***

In the area of pre-complaint processing, EEO counselings increased by 19 percent in FY 2014 (886), as compared to FY 2013 (742). Furthermore, in FY 2014, TSA dramatically improved the percentage of EEO counselings timely completed to 90 percent (800 of 886) – the highest percentage within the previous five fiscal years – as compared to 81 percent (599 of 742) counselings timely completed in FY 2013. In FY 2014, CRDI achieved a mediation offer rate of 97 percent, and a participation rate of 56 percent during the pre-complaint process.

Formal complaints filings increased by 31 percent in FY 2014 (543), as compared to FY 2013 (414). During FY 2014, the average number of days for completing an investigation was 170 days. CRDI completed 89 percent (307 of 346) of investigations within the regulatory timeframe.

Team members in the EEO Branch received training in FY 2014, including recertification for EEO counselors and investigators. In addition, staff received training on mediation and writing skills.

##### ***Diversity Management***

The Diversity & Inclusion Branch of CRDI continued implementation of TSA's D&I Strategic Plan. TSA's plan aligns with the President's August 2011 Executive Order on *Establishing a Coordinated Government-Wide Initiative to Promote Diversity and Inclusion in the Federal Workforce*; OPM's *Guidance for Agency-Specific Diversity and Inclusion Strategic Plans*; and the Department's *Diversity and Inclusion Strategic Plan*, which was issued in February 2012. The Diversity & Inclusion Branch oversaw three diversity training sessions for TSA headquarters staff.

##### ***Services and Proactive Engagement***

In FY 2014, CRDI staff provided updated and targeted EEO training to approximately 2,000 TSA managers and supervisors. The training was provided at the Federal Air Marshal Service's field offices and HQ, as well as at several airport locations. The in-person training supplemented the On-line Learning Center's No FEAR Act training required to be completed for all TSA

employees every other year. TSA also requires all new employees to complete the No FEAR Act training within 90 calendar days of entering service.

## **5. U.S. Citizenship and Immigration Services**

### ***Infrastructure***

USCIS's Office of Equal Opportunity and Inclusion (OEOI) leads efforts to: maintain an efficient, fair, and impartial EEO complaint process; promote inclusion and diversity throughout the organization; identify and eliminate barriers to EEO through workforce analyses and studies; and provide an effective disability and religious accommodation program. OEOI services a USCIS federal workforce of 13,281 employees.

OEOI is organized into three divisions: the Complaints Resolution Division (CRD); the Disability Accommodation Program (DAP); and the Diversity and Inclusion Division (D&I). During FY 2014, OEOI hired a new ADR Program Manager, two internal investigators and a third Equal Employment Specialist in DAP. OEOI staff now consists of 23 full-time employees and two student interns. Additionally, USCIS employs approximately 100 collateral duty Special Emphasis Program Managers (SEPMs) and numerous reasonable accommodation coordinators, located at various USCIS offices nation-wide, to assist in achieving its EEO, outreach, and education objectives.

### ***Complaint Processing***

CRD made several improvements to successfully manage complaint activity in FY 2014. Formal complaint filings decreased dramatically in FY 2014 (83), as compared to FY 2013 (131). CRD timely processed 100 percent of its 82 EEO investigations in FY 2014. In FY 2014, CRD began transitioning its investigations program; 35 percent of investigations were conducted internally, and the goal for FY 2015 is to have 75 percent of investigations conducted internally. In the area of pre-complaints, the number of counselings that were completed also decreased significantly in FY 2014 (152), as compared to FY 2013 (216). CRD timely processed 97 percent of completed pre-complaint cases in FY 2014. CRD staff continued to cross-train across its programs to better meet the needs of its customers, which included having numerous staff members conduct investigations. This cross-functional approach has improved CRD's capacity to adapt to work flow issues, and to process pre-complaint and formal complaint workloads in an expeditious manner.

During FY 2014, complaints alleging discrimination on the bases of reprisal, disability (physical), and age continued to be the most prevalent types of complaints filed. USCIS continued to have the same three top issues since FY 2010: promotion; harassment (non-sexual); and terms and conditions of employment.

During FY 2014, OEOI also implemented a stand-alone ADR program to promote early resolution of discrimination complaints. In FY 2014, the settlement rate of cases at ADR increased to 24 percent, up from 21 percent the year before. In August 2014, a full-time, dedicated ADR Program Manager was hired to further develop the agency's program. In addition to co-presenting live Designated Management Official (DMO) training with Federal Mediation and Conciliation Services staff, OEOI also conducted ad hoc telephonic training to

small groups of DMOs who were involved in impending mediations. Overall, the ADR participation rate at USCIS continued to rise in FY 2014, to 57 percent, as compared to 52 percent in FY 2013.

### ***Diversity Management***

USCIS is committed to providing a workplace free from discrimination that offers every employee a fair and equal opportunity to succeed, which also encourages employee engagement, and promotes integrity and respect as core values. Throughout FY 2014, OEOI engaged in many program efforts and activities designed to reinforce this commitment. In FY 2014, more than 500 special emphasis program events and activities were sponsored at USCIS offices nationwide. This included OEOI sponsored observance programs at USCIS's Washington, DC, headquarters for National Hispanic Heritage Month; Native American/Alaska Native Heritage Month; the birthday of Martin Luther King, Jr.; African American History Month; Holocaust Remembrance Day; National Disability Employment Awareness Month; Asian American and Pacific Islander Heritage Month; and Women's Equality Day. In FY 2014, OEOI began to record and simulcast these events so that employees in all agency offices could observe or participate in them.

During FY 2014, USCIS also made significant overall improvements to its special emphasis programs to increase cultural awareness, improve employee engagement, and educate employees in the areas of equal opportunity and diversity. D&I launched a SEPM needs assessment to analyze ways to better support these collateral duty employees and enhance its intranet site to provide more detailed program information for employees.

### ***Services and Proactive Engagement***

OEOI coordinated numerous training sessions during FY 2014, despite tight travel and training funding restrictions. CRD developed and implemented an online anti-harassment training module, which became mandatory for all agency employees in FY 2014. Additionally, during FY 2014, 283 employees received instructor-led anti-harassment training provided by OEOI personnel. DAP continued to host quarterly supervisory disability accommodation training webinars for new supervisors with an instructor from the EEOC presenting. Furthermore, this training was expanded to make certain sessions available to non-supervisory personnel. In all, 586 individuals took this training in FY 2014, with more than 3,000 managers and supervisors having participated in these sessions since they were initiated in FY 2011.

During FY 2014, USCIS also facilitated a wide variety of training opportunities for employees to foster and sustain a diverse and high-performing workforce. DAP sponsored webinars on posttraumatic stress disorder presented by the Job Accommodation Network, as well as webinar trainings with OPM entitled *Schedule A Hiring Authority for Supervisors*. In addition, USCIS presented training on various subjects including: Fostering a Diverse and Respectful Workforce; Sensitivity; Generational Differences; Creating an Inclusive Workplace for LGBT Employees; and Deaf Awareness. In all, more than 869 employees participated in these training opportunities.

During August and September 2014, USCIS conducted its first EEO and diversity climate survey. This survey will serve as a critical management tool to better assess employee perceptions concerning the USCIS work climate and as a vehicle to target future efforts to

effectively address any identified concerns. The survey was administered by OPM and all federal USCIS personnel were invited to participate. Due to ambitious marketing, the agency achieved an employee participation rate in excess of 50 percent. Responses to the survey are currently being reviewed and analyzed, and it is expected that various action plans will be created in FY 2015 based on the response data.

In FY 2014, DAP provided guidance and support to managers and employees in connection with 1,125 disability accommodation requests, with more than 98 percent of the requests receiving approval. Rather than relying on individual offices to fund accommodations, USCIS continues to operate a central budget for accommodation funding by OEIOI, which has been recognized by the Department as a best practice. Additionally, in FY 2014, DAP began to develop and implement recruitment strategies to assist USCIS in achieving its hiring goals for increasing the numbers of individuals with targeted disabilities it employs through broader use of the Schedule A hiring authority.

## **6. U.S. Coast Guard**

### ***Infrastructure***

The USCG Civil Rights Directorate (CRD) completed the second year of its Strategic Plan of Action 2016, which is the framework for achieving CRD's mission. The integral component of the strategic plan is a 33-measure dashboard that provides staff members with a set of program-centric, measurable performance elements and specific standards that also serve to influence management decisions. During the year, all process owners continued to routinely review and update planned outcomes and achievements. Some of the favorable successes are detailed below.

USCG modernized its infrastructure in 2010, consolidating all of the civil rights service providers (CRSPs) under one CRD. Now, strategically located throughout the U.S., the CRSPs are better aligned to provide services to USCG members within their geographical locations. In continuing to look for ways to reduce costs, maximize resources, and minimize personally identifiable information breach risks, CRD worked with commands at two locations to build out office spaces for CRSPs, who physically operated from separate locations because of the pre-2010 organizational construct:

- At the USCG Academy in New London, Connecticut, two CRSPs were co-located into a single office space.
- In Baltimore, Maryland, three CRSPs, who previously were in separate locations across a large military facility, were co-located into one office.

These arrangements satisfied the intended goals, as well as enhanced supervisory and mentoring opportunities to staff members.

### ***Complaint Processing***

USCG continued to achieve a sustained level of ADR participation. During FY 2014, USCG accomplished a 100 percent offer rate for ADR, and attained a 41 percent pre-complaint participation rate, which marked a seven percent increase from FY 2013. These efforts resulted

in a 30 percent settlement rate and a 56 percent resolution rate for FY 2014, exceeding the resolution target of 43 percent. In addition, the Solutions and Complaints Division expanded its services by adding a section to the counseling report template that required counselors to annotate resolution attempts. Also, the staff implemented an assessment process to evaluate counselors' ADR skills and abilities in order to assist with their developmental needs. USCG attributes its improved outcomes to the addition of these services.

USCG also continued its excellent complaint processing performance during FY 2014. In FY 2014, USCG timely counseled 100 percent (93) of its pre-complaints. Furthermore, the agency achieved a 96 percent (27 of 28) timely investigation rate.

USCG's reasonable accommodation program recognized an increase in requests that were fulfilled during FY 2014. A total of 177 requests were fulfilled (an increase by 27 percent from FY 2013), including 588.5 hours of interpreting services. USCG granted accommodations, in part, through a contractual agreement with the U.S. Department of Transportation, Disability Resource Center (DRC). In addition, local USCG units and other governmental sources helped with providing assistance.

### ***Diversity Management***

USCG utilized three tools to consistently ensure that management is actively engaged in the protection of the workforce's civil rights:

1. The Command Checklist is a tool designed to assist USCG leadership with understanding their civil rights responsibilities and the elements of a model workplace environment. This tool is in the form of a self-assessment survey based on the model elements described in the EEOC Management Directive (MD) 715. Annually, USCG units with 50 or more members are required to assess their organization in accordance with applicable EEO/Equal Opportunity (EO) regulations and policies.
2. The Defense Equal Opportunity Climate Survey (DEOCS) is a survey tool required to be administered to units with 25 members and more, annually or within four months of new leadership taking command. The tool consists of multiple choice and survey questions purposely designed to solicit workforce perceptions and concerns; the results are used by leadership to inform plans for improving the workforce climate. During FY 2014, 18,336 USCG members completed the survey.
3. An EO review is an on-site visit to a USCG unit by CRSPs who conduct activities such as data and document reviews, interviews, and focus groups to assess EO readiness of the workforce. A review is intended to highlight EO perceptions, concerns, and best practices, and to identify appropriate follow-up actions by leadership. EO reviews are a service provided to leadership on request. During FY 2014, nine reviews were requested and timely conducted.

During FY 2014, CRD provided face-to-face EEO/EO awareness training to 19,647 civilian and military members USCG-wide, including personnel stationed in Alaska, Hawaii, Puerto Rico, and overseas. The number trained represented a significant increase from 17,880 employees trained in FY 2013. EEO/EO awareness training completion is required triennially by all workforce members.

In addition, EEO/EO awareness training was provided separately to USCG Senior Executives and equivalents. The training, entitled the *Senior Executive Leadership Equal Opportunity Seminar*, was highly engaging and designed for executives by professionals from the EEOC, USCG's Office of General Counsel and the Office of Human Resources as instructors. During FY 2014, USCG achieved a training completion rate of more than 90 percent by USCG senior leadership.

### ***Services and Proactive Engagement***

CRD continued its robust awards program, both internally and externally (involving affinity groups such as LATINA Style, Blacks in Government, and Image, Inc.), and administered 13 awards from 31 nominations during FY 2014. Support for affinity organizations and special emphasis program (SEP) groups continued as well.

Additionally, 158 USCG units participated in the official Partnership in Education (PIE) program during FY 2014. Administered by CRD and consistent with 29 C.F.R. 1614.102(a) (13), this program supports school and community-based involvement by USCG military and civilian members to help build awareness among the diverse workforce of the future. USCG personnel participated by tutoring at schools, delivering presentations, and organizing field studies at various units, including those in underserved areas. PIE volunteers continued to serve as role models and educational enhancers with innovative ideas and dedicated support to all participating schools.

CRD continued to receive praise from internal and external readers for the timely production of its monthly newsletter *Civil Rights on Deck*. The newsletter features articles on avoiding EEO complaints; best practices; emerging civil rights issues; solutions; leadership tools and resources; EEO/EO awards; special observances; new policies, etc.

USCG established a Military Campaign Office and a Sexual Assault Prevention Council comprised of executive level leadership. The latter provides strategic oversight to help eliminate incidents of sexual assault in the USCG. CRSPs offer assistance with the agency's efforts. During FY 2014, CRSPs continued to receive the required training specified in 29 C.F.R. § 1614, as well as extensive training in sexual assault prevention. CRSPs also provided support to military members who are covered under Article 120 of the Uniform Code of Military Justice (UCMJ), which requires immediate and specific actions if a sexual assault violation occurs.

USCG's commitment to Diversity and Inclusion (D&I) is steadfast through the dedication of executive leadership. Funds were allocated for first class D&I training; during FY 2014, 32 highly motivated individuals, representing each USCG district, attended a Train-the-Trainer course on D&I. Upon completion of the two-day seminar, the attendees earned certifications to

provide training USCG-wide.

This training is designed to positively affect change in diversity and inclusion, by linking its benefits to mission readiness. The trainers are responsible for scheduling and conducting training and reporting their activities to the Office of Diversity & Inclusion on a quarterly basis. Additionally, the USCG employs ten certified diversity professionals who serve as subject matter experts, offer specialized counseling and training, and recommend strategies to USCG leadership, with the overall goals of assisting the USCG with building more cohesive teams and enhancing mission readiness.

## **7. U.S. Customs and Border Protection**

### ***Infrastructure***

Within CBP's Office of the Commissioner, the Privacy and Diversity Office (PDO) is responsible for developing and administering all policies and directives related to ensuring full compliance with the Privacy Act, Freedom of Information Act (FOIA), EEO laws, civil rights and civil liberties laws, and federal diversity and inclusion policies.

PDO's Diversity and Civil Rights Division provides EEO, diversity and inclusion, and civil rights and civil liberties services to approximately 60,000 CBP employees, along with millions of travelers and members of the travel community that CBP interacts with in the performance of its homeland security mission. The Diversity and Civil Rights Division is comprised of a Director, who is supported by two Field Directors. In addition, there are Assistant Field Directors and the Policy, Planning, and Performance Division.

### ***Complaint Processing***

During FY 2014, CBP counseled 407 complaints representing an eight percent decrease, as compared to 443 counseled in FY 2013. Of the 407 cases counseled in FY 2014, 100 percent were counseled timely. In FY 2014, 220 formal complaints were filed, representing a ten percent decrease from FY 2013, when 245 complaints were filed. The number of investigations completed decreased by 14 percent in FY 2014, when 167 investigations were completed, as compared to 194 investigations in FY 2013.

In FY 2014, the staff consisted of 11 full-time investigators and four part-time investigators, equating to 13 full-time investigators, representing no change in the availability of full-time investigators in FY 2013. CBP completed 99 percent of its investigations within the regulatory timeframe in FY 2014, as compared to a 98 percent timely rate achieved during FY 2013.

PDO developed a comprehensive *Informal EEO Counseling Guide* to help EEO professionals understand their roles and responsibilities with regard to the pre-complaint processing program, and to help them confidently handle EEO issues as they arise. The *Guide* contained an overview of the history and purpose of the federal EEO complaints process, and guidelines for conducting a limited inquiry and preparing a Report of Counseling. Likewise, PDO issued a comprehensive ADR Handbook featuring the history of ADR; CBP Model Standards of Conduct for Mediators, adapted from documents published by the American Arbitration Association, the American Bar Association Dispute Resolution Section, and the Association for Conflict Resolution; mediator

selection and recertification process; and operating procedures for PDO staff and CBP mediators.

Additionally, PDO developed an assessment tool to evaluate proficiency levels of EEO counselors and investigators in conducting interviews and inquiries. The tool allows PDO management to observe counseling and investigative interviews and customize Individual Development Plans and other professional development activities for their staff to enhance their skills.

PDO continued to support innovation and good stewardship with its paperless environment that features automating all EEO counseling forms for electronic signature and submission and electronic mailing transmittal of all case-related correspondence and electronic delivery of the eReport of Investigation (eROI), via email, to complainants and their representatives, CBP's Office of Chief Counsel, and to the EEOC, utilizing the EFX server for hearing and appeal submissions. Additionally, 59 percent of the staff assigned to complete EEO investigations telework full time, eliminating the need for government-paid office space.

During FY 2014, 24 new collateral duty mediators were recruited and trained to meet the customer demand of conducting face-to-face mediation sessions, bringing the total cadre of collateral duty mediators to 55. Nine monthly mediator training conferences were conducted-- six included webinar training presentations by the ADR Program Coordinator (total of 8.25 training hours). The total number of mediators trained at all nine conferences combined is 182, which represented a 65 percent increase over FY 2013. Further, collateral duty mediator attendance at monthly conferences increased by 60 percent, to an average of 22 individuals, between FY 2013 and FY 2014.

### ***Diversity Management***

In support of conveying the importance of diversity and inclusion as essential to the future success of the Agency, in FY 2014 CBP issued a *Diversity and Inclusion Policy Statement* and an *Anti-Discrimination and Anti-Harassment Policy Statement*. The *Diversity and Inclusion Policy Statement* affirmed the importance of leveraging diversity and inclusion management principles to build a positive work environment. CBP's diversity and inclusion management principles value not only having a workforce that includes individuals of varied races, religions, ages, national origins, genders, parental status, sexual orientations, and gender identities and expressions, but also having a workforce that embraces differences in approaches, insights, ability and experience. The *Anti-Discrimination and Anti-Harassment Policy Statement* affirmed CBP's commitment to EEO in all employment programs and practices and a work environment free from unlawful discrimination. In addition, the policy statement also reminded all employees that maintaining a workplace free from discrimination is a global responsibility and all employees have a duty to report misconduct, which includes discriminatory or harassing behavior. Furthermore, individuals who report, provide information related to a report, or file a complaint alleging unlawful employment discrimination or harassment shall not be subjected to any form of reprisal.

### ***Services and Proactive Engagement***

In support of the letter and the spirit of Executive Order 13583, *Establishing a Coordinated Government-Wide Initiative to Promote Diversity and Inclusion in the Federal Workforce*, CBP has instituted a Diversity and Inclusion Management Strategic Plan (D&I Plan) covering fiscal years 2013-2018. The D&I Plan aligns the strategic goals of the Agency with EEO principles, helping to make CBP a model workplace. CBP's D&I Plan identifies the efforts the Agency will undertake to further promote the diversity that CBP employees bring to the workplace, all in an effort to inspire innovation, encourage respect, and stimulate unlimited success in achieving the homeland security mission.

The guiding principles of the D&I Plan are:

- Integrating diversity and inclusion principles into CBP's organizational culture;
- Recruiting, developing, and retaining qualified individuals at all levels within CBP whose diverse backgrounds, experience, education, and skills will advance the mission; and
- Implementing policies and measures to leverage the full range of diversity currently present in CBP's workforce.

The Plan also outlines three goals consistent with the goals identified by OPM in the *2011 Government-Wide Diversity and Inclusion Strategic Plan*:

- **Workforce Diversity** – Recruit from a diverse, qualified group of potential applicants to secure a high-performing workforce drawn from all segments of American society;
- **Workplace Inclusion** – Cultivate a culture that encourages collaboration, flexibility, and fairness to enable individuals to contribute to their full potential and feel valued and supported; and
- **Sustainability** – Institutionalize diversity and inclusion management as a key strategic priority, through continued leadership commitment, accountability, and total workforce engagement.

Within the D&I Plan, CBP identified several objectives and specific action items to achieve each of the three goals. Some action items include: increasing transparency by creating a diversity dashboard to provide the workforce a snapshot of onboard and new hire diversity statistics; developing a better understanding of CBP's applicant pools through analysis of applicant flow data for mission critical positions; and expanding the Agency-wide mentoring program. Through these planned actions and a continued review of best practices, the Plan will serve as a catalyst for sustained progress over time.

CBP continued to maintain executive-level support and participation through its Diversity and Inclusion Management Council, which is comprised of the Agency's most senior leaders. Moreover, the Agency regularly undertakes efforts towards continuous improvement and proactive engagement. Two examples of CBP's commitment to continuous improvement and proactive engagement are the drafting of a Local Diversity and Inclusion Management Council Plan and an Employee Resource Group Handbook. The development of both products involved a survey of best practices of organizations from multiple industries – both private and public. These structures are intended to expand upon CBP's current diversity and inclusion management

model. CBP utilizes Diversity and Inclusion Program Committees (DIPCs) to establish and maintain a diverse, inclusive, and highly engaged workforce at all CBP locations. DIPCs are staffed with collateral duty staff members who provide leadership, coordination, and direction. Field locations throughout CBP have DIPCs to assist local management in their efforts to achieve CBP's diversity and inclusion goals. DIPCs help CBP to achieve its goals through developing and sponsoring local diversity and inclusion events and activities and planning and engaging in outreach to local colleges, universities, and community organizations.

Through CBP monthly observance activities, DIPC volunteers and employees around the Nation continue to cultivate a culture where similarities and differences of individuals are respected and valued. These dedicated professionals across the country help promote diversity through increased cultural awareness, education, and appreciation of differences. During FY 2014, 829 DIPC volunteers sponsored over 1,000 workplace diversity activities, with over 73,000 in total attendance for the year.

CBP is committed to investing in the leadership development of its managers and supervisors. All new supervisors are required to complete mandatory Supervisory Leadership Training, which includes EEO Awareness Training. During FY 2014, 528 new supervisors completed this training. Also, a total of 4,441 CBP employees completed diversity and inclusion, affirmative employment, and reasonable accommodation related training in the CBP Virtual Learning Center.

PDO uses CBP's internal Self-Inspection Program (SIP) to audit CBP's compliance in meeting the parameters identified in CBP's MD-715 report, which is prepared pursuant to EEOC's authority under Section 717 of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-16. During 2014, PDO included in the report a total of 10 self-inspection worksheets, which were administered 372 times and included a total of 37 questions in the combined worksheets. The questions were related to the six elements of a model EEO program identified in EEOC's MD-715. The worksheets were implemented in Headquarters and field office locations, which conducted self-assessment activities performing, certifying, and approving the results of office self-inspections. During 2014, PDO's self-inspection results revealed overall high levels of compliance in executing many functions supporting the CBP mission.

## **8. U.S. Immigration and Customs Enforcement**

### ***Infrastructure***

During FY 2014, the Office of Diversity and Civil Rights (ODCR) restructured its staff to improve its complaints-processing productivity and deliverables by adding human resources (four full-time equivalents (FTEs) and one detailee) to the Civil Rights Division (CRD). CRD engaged the Six Sigma methodology, a set of techniques and tools for process improvement, which led to more efficient EEO complaint processing.

Most notably, during FY 2014, ODCR's in-house counsel continued to provide legal services to the ICE Assistant Director, a Senior Executive Service appointee, and three operational divisions. In addition, ODCR consolidated the duties of the GS-13 Special Emphasis and Outreach Program Manager (SEOPM) to include the role of Disability Program Manager as the

subject matter expert. Moreover, ODCR hired a GS-13 SEOPM to manage ICE's SEP. ODCR continued to partner with other ICE program offices to provide EEO awareness by extending a detail opportunity to a GS-15 Supervisory Policy Analyst for assignment in the Diversity Management Division (DMD). In this role, the detailee serves as the Deputy Diversity Officer, developing programmatic policy on diversity and inclusion for use throughout ICE. ODCR introduced the new Investigations Unit within CRD, with a GS-15 program manager to provide oversight and guidance to both internal and external investigators from case assignment to delivery of the report of investigation. In partnership with the Office of the Principal Legal Advisor (OPLA), ODCR obtained a GS-14 Management and Program Analyst to serve a 9-month detail to assist in providing oversight and guidance to the Investigations Unit.

In FY 2014, ODCR continued to redesign its complaint and ADR programs. The implementation of an investigation oversight position brought significant results in virtually eliminating a large backlog of existing complaints that were not being timely processed.

### ***Complaint Processing***

ODCR pre-complaint activity increased from 230 completed counselings during FY 2013 to 283 completed counselings in FY 2014. In addition, ODCR increased the percentage of timely counselings completed to 36 percent (103 of 283) in FY 2014, as compared to 30 percent (68 of 230) in FY 2013.

In FY 2014, 185 formal EEO complaints were filed. This is a 28 percent increase, in comparison to the EEO complaints filed in FY 2013 (145). ODCR completed 167 investigations in FY 2014, a 38 percent increase in completed investigations, as compared to 121 investigations in FY 2013.

There were 90 complaints filed on the basis of reprisal, 88 complaints filed on the basis of sex, and 77 complaints filed on the basis of age in FY 2014. The top three claims cited in formal EEO complaints filed were non-sexual harassment (96), assignment of duties (31), and promotion/non-selection (29).

### ***Diversity Management***

ICE is fully committed to diversity and inclusion; it is mission imperative and enhances the agency's ability to engage with the public it serves. A diverse workforce will allow ICE to recruit and retain the best and the brightest personnel, as well as improve equal employment opportunities. ICE's leaders understand that workplace inclusion fosters a fair, collaborative environment that respects, values, and empowers all employees. Full inclusion enables the agency to maximize the talents of its employees so that they may fully contribute to the agency's mission success.

### ***Services and Proactive Engagement***

Despite the departure of its full-time Disability Program Manager in FY 2014, ICE's Reasonable Accommodation Program processed 97 reasonable accommodations requests. Moreover, 97 percent of those requests were processed within the established timeframes, with an average processing time of 18 days. In FY 2014, ICE drafted reasonable accommodation standard operating procedures (SOP), which are expected to be finalized and published in the second quarter of FY 2015. DMD continued to conduct quarterly visits for ICE managers and

supervisors to the U.S. Department of Defense Computer Electronic/Accommodation Program to provide them the opportunity to observe and experience assistive technology resources available to their employees.

In FY 2014, ICE established an Executive Diversity Council. The purpose of the Council is to ensure that ICE achieves its goal of creating a culturally diverse work environment free from discrimination. The Council is comprised of ICE's Deputy Directors of major program offices, serves in an advisory capacity to the ICE Director, and will operate consistent with EEOC's MD-715, and the goals and objectives outlined in the ICE Diversity and Inclusion Strategic Plan (2013 to 2017), pursuant to Executive Order 13583. The Council is responsible for assisting in the development of affirmative employment initiatives, to help ensure that all employees are provided with equal opportunity to achieve their full potential. The Council reports to the ICE Director annually.

In FY 2014, ICE continued the use of its Directorate and Program Office Model Workplace (MWP) Checklist to support completion of the MD-715. As required by MD-715, ICE conducted its state of EEO briefing with the ICE Director, and a MWP briefing with each of the ICE's Executive Associate Directors and Program Office Assistant Directors. These briefings provided an overview of ICE's EEO and affirmative employment efforts. The briefings also outlined triggers and barriers to EEO and identified specific strategies to overcome the identified barriers to ICE's senior executives.

ICE continued its proactive efforts to minimize and eliminate potential workplace disputes, EEO and Inspector General complaints, and union grievances by use of the Organizational Climate Assessment (OCA) process. The OCA process evaluated interpersonal relationships and workgroup effectiveness by using an integrated assessment process, which consisted of an initial validated survey, a series of follow-up interviews of both individuals and focus groups, a review of relevant files and records, and personal onsite observations by assessment team members. These assessments benefitted the agency in highlighting the need for transparency, consistency, and fairness in the agency's policies, practices, and SOPs. ICE leadership values the OCA process as a tool to increase employee engagement and overall organizational effectiveness. In FY 2014, at the request of Program Office Assistant Directors, ODCR conducted two full OCAs and three mini assessments (scaled-down versions of OCAs). ODCR has received an overwhelming number of requests for OCAs and now has a standing waiting list of 11 program offices.

During FY 2014, ODCR began to push an electronic service ("e-service") delivery option to all complainants. This initiative increased ICE ODCR's timeliness in submitting hearing and appeal documents to the EEOC electronically through its EFX portal. E-service delivery provided required documents to assigned EEO complaint investigators through the use of the U.S. Department of Justice's myFX system for secure data transmittal and contract compliance and allows complainants the opportunity to electronically receive all EEO-related correspondence. In addition, ODCR sent all EEO-related correspondence to ICE managers via email, which improved service delivery and eliminated mailing delays. This initiative provided greater protection of personally identifiable information in the investigative stage.

During FY 2014, ODCR continued to build its cadre of in-house investigators by increasing their numbers from 11 to 35. In FY 2012, ODCR trained and qualified Special Agents to investigate EEO complaints. During FY 2014, ODCR expanded the selection pool to include other occupational series (e.g., other law enforcement officers, mission support, program managers, and human resource specialists). By using in-house collateral investigators, ODCR realized a cost-savings of \$34,000 in contract investigative costs during FY 2014. The in-house collateral duty investigators conducted a minimum of two cases per year, with an estimated average cost savings of approximately \$3,700 per complaint.

In accordance with No FEAR Act requirements, employees must receive No FEAR Act training every two years. ICE trains one half of the workforce every year in order to meet this requirement. At the end of FY 2014, ICE successfully met the bi-annual training requirement, with 9,485 employees having completed the No FEAR Act training, and with more than 50 percent of the workforce trained.

## **9. U.S. Secret Service**

### ***Infrastructure***

During FY 2014, USSS filled two vacant positions; the Affirmative Employment Program Manager/EEO Specialist and a Sign Language Interpreter. In November 2014, a leadership decision was made to realign the Diversity and Inclusion Program with the Equal Employment Opportunity Program, thereby creating the Office of Equal Employment Opportunity and Diversity (EEOD). Under the reorganization, the EEOD acquired two staff members: an Assistant Equal Employment Manager, GS-260-15, (Deputy Director for EEOD) and a Program Analyst, GS-0343-12.

### ***Complaint Processing***

During FY 2014, individuals initiated 35 pre-complaints, representing less than one percent of a workforce population of 6,354 employees. Out of the total workforce population of 6,354 employees, 19 individuals, less than one percent, filed formal complaints. At the close of FY 2014, 34 percent (12) of the 35 pre-complaints either withdrew or did not file formal complaints. Additionally, at the end of the reporting period, four complaints were pending the conclusion of ADR, or were within the 15-day timeframe to file a formal complaint.

During FY 2014, an annual EEO Assessment of the Office's internal program operations was conducted, in which program benchmarks and management controls were reviewed. Although all program areas were in compliance with EEOC and the Department's standards, USSS established and implemented new controls to improve the program's performance. In addition, USSS is revising its ADR program to utilize contractor support to conduct mediation services. USSS's ADR program is currently performed by the agency's Ombudsman program. It is anticipated that by obtaining external mediation services, participation in ADR will increase significantly, thereby encouraging more complainants to elect mediation to resolve their issues at the lowest possible level.

In FY 2014, pre-complaints decreased by 15 percent (six) and formal complaints decreased by 34 percent (ten), as compared to FY 2013. Of the 33 pre-complaints that concluded EEO

counseling, 100 percent were counseled within the regulatory time period. All formal complaints were acknowledged within five days of receipt. During FY 2014, the agency conducted 13 investigations, and 100 percent of all Report of Investigations (ROIs) were issued within the EEOC regulatory timeframe. In cases where EEOC hearings were requested, all case files were timely submitted to the EEOC either electronically via email or via the EEOC's EFX system.

### ***Diversity Management***

The EEOD Deputy Director served as the Co-Chair of the Department's "Inclusion Working Group" and coordinated bi-monthly meetings with all component representatives—ensuring that the Department met the established criteria outlined by the Department's D&I Strategic Plan. The Deputy Director planned the meeting agendas, identified targeted outcomes, and suggested activities to encourage a greater degree of inclusion at the Component-level and throughout the Department. EEOD is transitioning from utilizing an external contractor to developing a new iteration of D&I training for executives, managers, supervisors, and employees. In support of this initiative, the USSS's EEOD Director and Deputy Director participated in OPM's first "Game Changer Course," to launch the New Inclusion Quotient (New IQ) training throughout the organization. Our goal is to ensure that our future D&I training is more results driven and based on the information received from the Federal Employee Viewpoint Survey (FEVS).

To maximize our goal of creating an atmosphere of organizational inclusion, the USSS utilizes employee working groups, to encourage open dialogue regarding workforce issues and factors that affect employee satisfaction, recruitment, and retention. These groups explored important issues impacting employees and the work environment, developed solutions, and provided valuable input and recommendations to senior management. Immediate action was taken to address deficiencies in various areas.

EEOD has the responsibility for monitoring the workforce to ensure that every effort is made to achieve a workforce that reflects all segments of society and its diversity. USSS leaders and EEOD staff are responsible for the successful implementation of the EEO mission, which includes ensuring compliance with White House initiatives and with the policies and procedures of EEOC, the Department, and OPM.

In FY 2014, the USSS held its fourth annual Unity Day event. Unity Day recognizes and celebrates the unique diversities that make up the USSS workforce by combining special emphasis program observances and other events into one annual event. The Unity Day event encouraged USSS employees to participate in a wide variety of planned programs and activities. This event, which was sponsored by EEOD and the Office of Human Resources and Training, was designed to enhance cross-cultural awareness by encouraging and promoting interaction, understanding, teamwork, harmony, pride, and mutual respect among the USSS workforce.

### ***Services and Proactive Engagement***

During FY 2014, consistent with the Secret Service Strategic Plan (FY 2014 to FY 2018) Strategic Goal 2 – Human Capital: *The U.S. Secret Service will focus on forecasting hiring needs, recruiting, training, equipping, and retaining valued employees*, EEOD conducted a follow-up Assessment of the office's internal EEO program operations. The EEOD program

also conducted the EEOC MD-715 Annual Assessment, in order to determine the USSS compliance with Federal EEO program requirements. The results of that assessment are contained in the USSS Annual MD-715 FY 2014 Report, with noted action items and objectives to be accomplished in FY 2015.

EEO and diversity initiatives are mandatory standards of performance for all leaders and managers with supervisory responsibilities. Leaders and managers are evaluated on their commitment to the principles of equal opportunity and diversity through the leadership core competencies. Leaders and managers possess a clear understanding of their roles and responsibilities for successful EEO program implementation. Leaders and managers actively engage in resolving workplace conflicts, providing reasonable accommodations, participating in community outreach and recruitment activities, participating in diversity initiatives, and working closely with EEOD to establish and sustain a healthy equal opportunity environment throughout USSS.

As a proactive measure, EEOD, in partnership with the Office of Chief Counsel, provided education and training to ensure the workforce is informed about the reasonable accommodation program and the anti-harassment policy. In addition to the training programs previously described, information on the USSS Reasonable Accommodation Policy Directive HRT-04-(05) was made available to all employees during the new employee orientation training. This information is also maintained on the USSS intranet and the external internet websites. Training was also provided to a number of different groups, including first-line supervisors, field office Special Agents in Charge, and managers attending the required the Department's Cornerstone Training. EEOD continued to provide training to new employees and newly appointed Sergeants.

USSS continued to support the Department-wide veteran recruiting efforts. Team members from the Recruitment Division and the Human Capital Division (HCD) serve on the Department's Veterans Employment Council, and they actively participate in devising and executing Departmental programs related to recruitment, diversity, outreach, marketing, program evaluation, and best practices.

USSS also continued to participate in the Pathways Program for students and recent graduates and the Student Volunteer Service Program (Internship). As a result of its involvement in these intern programs, the agency recruited nine Hispanic students, in various field offices, throughout the United States.

EEOD placed *Did You Know?* signs in the gallery rooms on each floor of the USSS's Headquarters Building. The signs informed managers, supervisors, and employees that sign language interpreting services are available for USSS employees, applicants for USSS employment, visitors, and non-employees participating in USSS sponsored programs. An official message *Protocols for American Sign Language Interpreting Services at the USSS* was sent to all USSS employees.

## **CONCLUSION**

In closing, the Department's EEO program reflects a strong and collaborative partnership between CRCL and the Department's Components, shown through the various improvements in the Department's EEO program during FY 2014. The FY 2014 achievements have paved the way for continued measureable and valuable improvements in the Department's EEO program, to be continued into FY 2015, and beyond.

# APPENDIX 1

FY14 Annual No FEAR Act Report – Federal Court Cases

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DEPARTMENT OF HOMELAND SECURITY

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*Number of Cases Filed in Federal Court,  
Pending or Resolved Under Section 724.302(a)(1)*

	TITLE VII	ADEA	EPA	REHABILITATION ACT	GINA	WHISTLEBLOWER
Number of cases filed, pending, or resolved	151	43	1	29	1	12

*Number of Cases and Reimbursement by Status  
Under Section 724.302(a)(1-2)*

	TITLE VII	ADEA	EPA	REHABILITATION ACT	GINA	WHISTLEBLOWER
Cases pending hearing	68	20	0	7	0	3
Cases heard/pending decision	30	12	0	6	1	4
Decision issued in favor of the Complainant (either in its entirety or partial)	1	0	0	0	0	0
Decision issued in favor of the Agency	33	6	1	7	0	5
Arbitration/Mediation	1	0	0	0	0	0
Settlement	14	3	0	9	0	0
Appeal	4	2	0	0	0	0
Remand	0	0	0	0	0	0
Amount of Reimbursement	\$585,283.00	\$7,833.00	0	\$448,834.00	0	0
Amount of Reimbursement for Attorney Fees	\$42,050.00	0	0	0	0	0

***Number of Employees Disciplined in Cases Under Section 724.302(a)(3)***

	TITLE VII	ADEA	EPA	REHABILITATION ACT	GINA	WHISTLEBLOWER
Reprimand	0	0	0	0	0	0
Suspension without pay	0	0	0	0	0	0
Reduction of grade or pay	0	0	0	0	0	0
Removal	1	0	0	0	0	0

***Number of Employees Disciplined, Whether or Not in Connection with Federal Cases Under  
Section 724.302(a)(5) (i.e. Including EEO Administrative Cases)***

	TITLE VII	ADEA	EPA	REHABILITATION ACT	GINA	WHISTLEBLOWER
Reprimand	1	0	0	0	0	0
Suspension without pay	0	0	0	0	0	0
Reduction of grade or pay	0	0	0	0	0	0
Removal	1	0	0	0	0	0

# APPENDIX 2

# DHS - Equal Employment Opportunity Data Posted Pursuant to the No Fear Act: FY 2014

Complaint Activity	Comparative Data					
	Previous Fiscal Year Data					2014
	2009	2010	2011	2012	2013	
Number of Complaints Filed	1457	1202	1297	1211	1210	1217
Number of Complainants	254	293	294	245	229	1185
Repeat Filers	20	18	28	14	16	27

Complaints by Basis	Comparative Data					
	Previous Fiscal Year Data					2014
	2009	2010	2011	2012	2013	
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>						
Race	334	409	460	413	451	352
Color	95	131	137	147	155	119
Religion	43	56	63	53	58	62
Reprisal	774	541	603	562	580	535
Sex	322	397	474	451	454	398
PDA	0	0	2	7	8	7
National Origin	526	208	222	223	191	178

Equal Pay Act	1	0	4	2	3	12
Age	288	356	430	401	422	336
Disability	214	279	327	288	275	283
Genetics	0	3	4	2	6	4
Non-EEO	23	42	85	72	80	78
<b>Complaints by Issue</b>	<b>Comparative Data</b>					
	<b>Previous Fiscal Year Data</b>					<b>2014</b>
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	
Appointment/Hire	46	56	80	67	68	54
Assignment of Duties	365	107	103	104	98	103
Awards	14	21	25	20	21	14
Conversion to Full-time	1	0	2	1	1	2
<b>Disciplinary Action</b>						
Demotion	6	9	12	18	8	7
Reprimand	49	58	88	73	75	48
Suspension	27	63	74	65	63	58
Removal	14	17	31	34	24	38
Other	15	30	49	22	28	56
Duty Hours	15	23	34	17	21	17
Evaluation Appraisal	60	91	98	94	80	72
Examination/Test	6	7	6	4	10	8
<b>Harassment</b>						
Non-Sexual	588	406	476	474	498	459
Sexual	45	50	41	36	46	35

Medical Examination	4	10	8	12	8	13
Pay (Including Overtime)	17	16	39	26	34	43
Promotion/Non-Selection	223	232	246	262	272	161
<b>Reassignment</b>						
Denied	24	24	30	25	30	23
Directed	41	36	55	40	34	42
Reasonable Accommodation	37	52	64	65	59	65
Reinstatement	7	6	7	11	3	3
Retirement	4	8	8	9	3	3
Termination	138	188	163	86	102	81
Terms/Conditions of Employment	347	163	220	120	105	96
Time and Attendance	30	47	52	56	46	47
Training	24	35	33	36	31	22
Other	79	88	64	31	34	65
<b>Processing Time</b>	<b>Comparative Data</b>					
	<b>Previous Fiscal Year Data</b>					<b>2014</b>
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	
Complaints pending during fiscal year						
Average number of days in investigation	235.57	215.02	237.91	233.08	239.62	261.17
Average number of days in final action	223.57	392.42	152.84	87.98	105.46	71.84
Complaint pending during fiscal year where hearing was requested						
Average number of days in investigation	219.26	204.35	231.61	230.90	233.35	252.26
Average number of days in final action	26.29	61.80	71.68	54.35	54.59	39.93
Complaint pending during fiscal year where hearing was not requested						

Average number of days in investigation	251.51	231.26	253.09	237.04	250.33	278.49						
Average number of days in final action	710.59	752.81	234.00	138.21	167.77	118.27						
<b>Complaints Dismissed by Agency</b>	<b>Comparative Data</b>											
	<b>Previous Fiscal Year Data</b>										<b>2014</b>	
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>							
Total Complaints Dismissed by Agency	171	195	137	156	126	125						
Average days pending prior to dismissal	285	379	169	130	105	153						
<b>Complaints Withdrawn by Complainants</b>												
Total Complaints Withdrawn by Complainants	73	112	108	137	100	99						
<b>Total Final Agency Actions Finding Discrimination</b>	<b>Comparative Data</b>											
	<b>Previous Fiscal Year Data</b>										<b>2014</b>	
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>							
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	12		4		8		16		19		12	
Without Hearing	0	0	0	0	0	0	0	0	0	0	0	0
With Hearing	12	100	4	100	8	100	16	100	19	100	12	100
<b>Findings of Discrimination Rendered by Basis</b>	<b>Comparative Data</b>											
	<b>Previous Fiscal Year Data</b>										<b>2014</b>	
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>							
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>	#	%	#	%	#	%	#	%	#	%	#	%
<b>Total Number Findings</b>	8		5		9		9		19		23	

Race	3	38	1	20	2	22	0	0	4	21	5	22
Color	0	0	0	0	2	22	1	11	1	5	1	4
Religion	0	0	0	0	1	11	0	0	0	0	0	0
Reprisal	3	38	2	40	4	44	5	56	10	53	11	48
Sex	3	38	1	20	1	11	4	44	7	37	11	48
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	1	13	0	0	1	11	1	11	2	11	4	17
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	2	40	1	11	2	22	1	5	5	22
Disability	0	0	1	20	3	33	1	11	6	32	7	30
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	1	11	0	0	1	4
<b>Findings After Hearing</b>	8		4		6		8		5		6	
Race	3	38	1	25	2	33	0	0	1	20	1	17
Color	0	0	0	0	2	33	0	0	0	0	0	0
Religion	0	0	0	0	1	17	0	0	0	0	0	0
Reprisal	3	38	2	50	2	33	5	63	4	80	3	50
Sex	3	38	0	0	1	17	4	50	2	40	1	17
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	1	13	0	0	1	17	0	0	1	20	1	17
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	2	50	1	17	2	25	1	20	1	17
Disability	0	0	1	25	2	33	1	13	1	20	3	50
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	1	13	0	0	0	0

<b>Findings Without Hearing</b>	0		1		3		1		14		17	
Race	0	0	0	0	0	0	0	0	3	21	4	24
Color	0	0	0	0	0	0	1	100	1	7	1	6
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	2	67	0	0	6	43	8	47
Sex	0	0	1	100	0	0	0	0	5	36	10	59
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	1	100	1	7	3	18
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	4	24
Disability	0	0	0	0	1	33	0	0	5	36	4	24
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	1	6
<b>Findings of Discrimination Rendered by Issue</b>	<b>Comparative Data</b>											
	<b>Previous Fiscal Year Data</b>										<b>2014</b>	
	<b>2009</b>		<b>2010</b>		<b>2011</b>		<b>2012</b>		<b>2013</b>			
	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>
<b>Total Number Findings</b>	8		5		9		9		19		23	
Appointment/Hire	0	0	0	0	1	11	0	0	1	5	2	9
Assignment of Duties	0	0	0	0	0	0	2	22	1	5	2	9
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0
<b>Disciplinary Action</b>												
Demotion	1	13	0	0	0	0	0	0	0	0	0	0

Reprimand	0	0	0	0	1	11	0	0	2	11	0	0
Suspension	0	0	0	0	0	0	0	0	1	5	2	9
Removal	1	13	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	1	4
Duty Hours	0	0	0	0	1	11	0	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0	0	1	11	1	5	1	4
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	4	50	1	20	1	11	2	22	9	47	10	43
Sexual	0	0	1	20	0	0	0	0	1	5	3	13
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	1	11	0	0	0	0
Promotion/Non-Selection	3	38	2	40	0	0	3	33	1	5	5	22
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	1	20	0	0	0	0	2	11	3	13
Reasonable Accommodation	0	0	0	0	2	22	1	11	2	11	1	4
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	1	20	2	22	1	11	1	5	3	13
Terms/Conditions of Employment	0	0	1	20	2	22	0	0	3	16	2	9
Time and Attendance	0	0	0	0	0	0	0	0	1	5	1	4
Training	0	0	2	40	0	0	1	11	0	0	0	0
Other - User Defined	0	0	0	0	0	0	1	11	1	5	1	4





Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	1	7	4	24
Reassignment													
Denied	0	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	3	18
Reasonable Accommodation	0	0	0	0	0	0	0	0	0	1	7	1	6
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	1	33	0	0	0	1	7	2	12
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	2	14	2	12
Time and Attendance	0	0	0	0	0	0	0	0	0	1	7	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0	0
Other - User Defined	0	0	0	0	0	0	0	0	0	1	7	1	6
<b>Pending Complaints Filed in Previous Fiscal Years by Status</b>	<b>Comparative Data</b>												
	<b>Previous Fiscal Year Data</b>										<b>2014</b>		
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>								
Total complaints from previous Fiscal Years	1011	788	732	942	950								1137
Total Complainants	937	728	679	861	895								1071
<b>Number complaints pending</b>													
Investigation	87	65	49	90	117								106
ROI issued, pending Complainant's action	9	12	6	6	12								8
Hearing	511	427	551	672	714								919
Final Agency Action	265	235	109	154	105								102
Appeal with EEOC Office of Federal Operations	161	240	393	540	729								901

<b>Complaint Investigations</b>	<b>Comparative Data</b>					
	<b>Previous Fiscal Year Data</b>					<b>2014</b>
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	
Pending Complaints Where Investigations Exceed Required Time Frames	233	164	189	189	212	165