



**EEOC Form 462 Report and  
Furthering EEO Trend Analysis  
Efforts**

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**EEOC EXCEL**

**Jamie Price, EEOC, OFO**

**Junish A. Arora, DHS, CRCL**



# Overview of Presentation

- Presentation and Training Materials
- Methodology



## EEOC Form 462 EEO Statistical Report

- Is a report submitted to EEOC annually to evaluate an agency's complaint processing program
- Provides a tool to compile agency complaint processing program data that can be compared against government-wide complaint processing program data and used as a benchmark
- Serves as an inset of a roadmap for trigger/barrier investigations



## Elements of a Model EEO Program

- Demonstrated **C**ommitment from Agency Leadership
- **I**ntegration of EEO into the Agency's Strategic Mission
- Management & Program **A**ccountability
- Proactive **P**revention of Unlawful Discrimination
- **E**fficiency, and
- **R**esponsiveness and Legal Compliance



## **Demonstrated **Commitment** from Agency Leadership**

- Allocation of sufficient resources – staffing, funding
  - EEO staff has the knowledge, skills and ability to ensure that agency EEO programs and procedures are effectively implemented
- Ensure all employees are informed of their rights and the operation of complaint process
- Provide training to all employees as to the above matters



## **Integration of EEO into Agency's Strategic Mission**

- Agency's EEO program should be structured in such a manner as to maintain a work place free of discrimination
  - Agency's EEO Director shall be under the immediate supervision of the agency head
- Allocation of sufficient resources



## **Management and Program [Accountability](#)**

- Review findings of discrimination and other evidence to determine the appropriateness of taking disciplinary action
- Ensure there are procedures for effective coordination between EEO office and related programs like ADR, FEORP, and Human Resource programs



## Proactive **Prevention** of Unlawful Discrimination

- Agencies must work to proactively prevent potential discrimination before it occurs and establish systems to monitor compliance with employment civil rights laws
  - A part of that obligation to prevent discrimination is to conduct a self-assessment on an annual basis



## **MD 715 Agency Self-Analysis**

- The self assessment must encompass the full spectrum of employment within the agency and must include, but not be limited to, an evaluation of the following with respect to the agency's status at the end of each fiscal year:
  - Information and trend data reflecting the nature, status and disposition of complaints in the administrative process (EEOC, MSPB and FLRA) and in court alleging violations of the Rehabilitation Act



## Efficiency

- Provide a tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed at each stage of the EEO complaint process, the issues and bases of the complaints, the aggrieved individuals, the involved management officials and other necessary information needed to analyze complaint activity to identify trends.



## **Responsiveness and Legal Compliance**

- Agencies should report their EEO program efforts and accomplishments to EEOC
- Agencies should respond and comply with all directives and orders including final orders in administrative decisions, in accordance with instructions, time frames and deadlines.

# EEOC Form 462 Trend Analysis Tables

TREND ANALYSIS -					
TABLE I: AGENCY TIMELINESS					
	2005	2006	2007	2008	2009
<b>A. All Counselings (minus remands)</b>					
Total #					
# Timely					
% Timely					
<b>B. All Investigations</b>					
Total #					
# Timely					
% Timely					
Average Processing Days – Investigations					
<b>C. Merit Decisions (No AJ)</b>					
Total #					
# Timely					
% Timely					
Average Processing Days – Merit FADs (No AJ)					
<b>D. Dismissals (No AJ)</b>					
Total #					
Average Processing Days – Dismissal FADs (No AJ)					

## EEOC Form 462 Trend Analysis Tables Cont'

**TABLE II: AGENCY COMPLAINTS/COMPLAINANTS - TRENDS AND % COMPLAINANTS OF WORKFORCE**

Agency/Year	# of Complaints Filed	% Chg Complaints from Prior Year	# Complainants	Total Workforce	% Complainants are of Workforce
2009					
2008					
2007					
2006					
2005					

# EEOC Annual Report Trend Analysis

*EEOC FY 2008 Annual Report on the Federal Work Force*

## **Government-Wide (The Government)**

### Outcome of Counselings Completed in FY 2008

Pre-Complaint Counseling Outcomes	Completed by EEO Counselor		Completed Using ADR		All Completed Counselings	
	#	%	#	%	#	%
<b>Pre-Complaint Counselings:</b>	26,066		12,832		38,898	
<b>Settlements</b>	1,589	6.1%	5,984	31.1%	7,573	19.5%
<b>Withdrawals or No Complaints Filed</b>	7,010	26.9%	6,848	35.5%	13,858	35.6%
<b>Complaints Filed*</b>					16,266	41.8%
<b>Decision to File Complaint Pending at End of Fiscal Year</b>					1,201	3.1%

\*Includes only complaints filed in FY 2008 where counseling was also completed during FY 2008.

## EEOC Annual Report Trend Analysis Cont'

*EEOC FY 2008 Annual Report on the Federal Work Force*

### **Government-Wide (The Government)**

#### Agency Use of ADR for EEO Dispute Resolution in FY 2008

	<b>Counseling</b>	<b>Complaint</b>
Completed/Ended Counselings/Complaint Closures	38,898	16,654
Total Number Offered ADR	31,607	3,111
ADR Offer Rate*	81.3%	18.7%
ADR Participation Rate*	49.5%	6.5%
Total ADR Settlements	5,984	624
Total ADR Settlements Amount	\$1,631,376.39	\$6,004,946.56

\* EEOC revised the formula for calculating the ADR offer and participation rates in FY 2006.

## EEOC Annual Report Trend Analysis Cont'

*EEOC FY 2008 Annual Report on the Federal Work Force*

### **Government-Wide (The Government)**

#### Timeliness in FY 2008

	Total #	# Timely	% Timely	FY 2007 APD*	FY 2008 APD	% Change
All Pre-Complaint Counselings (minus remands)	38,898	35,439	91.2%			
All Investigations	11,157	8,229	73.8%	176	180	2.3%
All Complaint Closures	16,654			355	336	-5.4%
Merit Decisions (no AJ)	4,576	2,732	59.7%	403	420	4.2%
Dismissal Decisions (no AJ)	4,133			105	72	-31.4%

\*APD = Average Processing Days

# EEOC Annual Report Trend Analysis Cont'

*EEOC FY 2008 Annual Report on the Federal Work Force*

## **Government-Wide (The Government)**

### Outcomes of Complaints in FY 2008

	Complaint Closures		Final Agency Decision (no AJ Decision)		Final Order (AJ Decision Fully Implemented)		Final Order (AJ Decision Not Fully Implemented)	
	#	%	#	%	#	%	#	%
<b>Total Complaints Filed</b>	16,752							
<b>Total Closures</b>	16,654							
<b>Settlements</b>	3,249	19.5%						
<b>Withdrawals</b>	1,569	9.4%						
<b>Total Final Agency Actions</b>	11,836	71.1%	8,709	73.6%	3,063	25.9%	64	0.5%
<b>Dismissals</b>	4,298	36.3%	4,133	96.2%	162	3.77%	3	0.1%
<b>Merit Decisions</b>	7,538	63.7%	4,576	60.7%	2,901	38.5%	61	0.8%
<b>Finding Discrimination</b>	191	2.5%	27	14.1%	107	56%	57	29.8%
<b>Finding No Discrimination</b>	7,347	97.5%	4,549	61.9%	2,794	38%	4	0.1%

## DHS EEO Balanced Scorecard

Pre-Complaint Activity Scorecard	FY07	FY08	FY09	FROM FY07-FY09
Total Workforce				↑/↓ +/- %
Counselors				↑/↓ +/- %
Completed Counselings				↑/↓ +/- %
-Untimely Counselings				↑/↓ +/- %
-% Untimely Counselings				↑/↓ +/- %
Settlements				↑/↓ +/- %
Withdrawals/No Complaint Filed				↑/↓ +/- %

## DHS EEO Balanced Scorecard Cont'

ADR Activity Scorecard	FY07	FY08	FY09	From FY07 -FY09	
ADR Offered at Pre-complaint Phase				↑/↓	+/- %
-Accepted into ADR				↑/↓	+/- %
-% Accepted into ADR				↑/↓	+/- %
-ADR Settlements				↑/↓	+/- %
-No Formal Complaint Filed				↑/↓	+/- %
ADR Offered at Formal Phase				↑/↓	+/- %
-Accepted into ADR				↑/↓	+/- %
-ADR Settlements				↑/↓	+/- %
-Withdrawal				↑/↓	+/- %
Staff Resources Available for ADR				↑/↓	+/- %

## DHS EEO Balanced Scorecard Cont'

Formal Complaints Activity Scorecard	FY07	FY08	FY09	FROM FY07-FY09	
Complaints Filed				↑/↓	+/- %
Top Issues					
-Promotion/Non-selection				↑/↓	+/- %
-Harassment				↑/↓	+/- %
-Termination				↑/↓	+/- %
-Disciplinary Action				↑/↓	+/- %
Top Bases					
-Reprisal/Retaliation				↑/↓	+/- %
-Age				↑/↓	+/- %
-Color				↑/↓	+/- %
-Sex (Female)				↑/↓	+/- %
-Race (Black)				↑/↓	+/- %

## DHS EEO Balanced Scorecard Cont'

Formal Complaints Activity Scorecard Con't	FY07	FY08	FY09	FROM FY07-FY09	
Investigations Completed				↑/↓	+/- %
-Untimely Investigations				↑/↓	+/- %
-% Untimely Investigations				↑/↓	+/- %
-Average Days for Investigation				↑/↓	+/- %
Total Complaints Pending				↑/↓	+/- %
-Investigation				↑/↓	+/- %
-Hearing				↑/↓	+/- %
-Final Agency Decision/Action				↑/↓	+/- %

## DHS EEO Balanced Scorecard Cont'

Final Actions Activity Scorecard	FY07	FY08	FY09	FROM FY07-FY09	
Complaints closed in FY				↑/↓	+/- %
-By Withdrawal				↑/↓	+/- %
-By Settlement				↑/↓	+/- %
-By Final Action				↑/↓	+/- %
Finding of Discrimination				↑/↓	+/- %
Average Days for Merit Decisions				↑/↓	+/- %
Average Days for Dismissals				↑/↓	+/- %
Complaints Closed with Corrective Actions				↑/↓	+/- %
% Complaints Closed w/ Corrective Actions				↑/↓	+/- %
-With Monetary Benefits				↑/↓	+/- %
-With Non-Monetary Benefits				↑/↓	+/- %

## DHS EEO Balanced Scorecard Cont'

EEO Costs Scorecard	FY07	FY08	FY09	FROM FY07-FY09	
Pre-Complaint Settlement Costs				↑/↓	+/- %
ADR Funding				↑/↓	+/- %
Formal Investigation Costs				↑/↓	+/- %
Cost Per Investigation				↑/↓	+/- %
Formal Closures With Monetary Benefits				↑/↓	+/- %
-Back Pay/Front Pay				↑/↓	+/- %
-Lump Sum Payment				↑/↓	+/- %
-Attorney/s Fees/Costs				↑/↓	+/- %
-Compensatory Damages				↑/↓	+/- %

## Pre-Complaint/Counseling Costs

TABLE III: GOVT-WIDE AGENCY EEO COSTS					
	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
<b>Pre-Complaint Settlement Costs</b>	<b>\$3,137,911</b>	<b>\$1,703,627</b>	<b>\$1,666,651</b>	<b>\$2,300,700</b>	<b>\$4,027,772</b>
Cost per Pre-Complaint Settlement w/ Monetary Benefits	\$5,204	\$2,912	\$2,680	\$3,349	\$6,112

# Formal Complaint Costs

**TABLE III: GOVT-WIDE AGENCY EEO COSTS**

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
<b>Complaint Investigation Costs</b>	<b>\$29,943,635</b>	<b>\$37,221,231</b>	<b>\$33,345,454</b>	<b>\$27,411,427</b>	<b>\$30,397,771</b>
Cost Per Investigation	\$2,521	\$2,715	\$3,083	\$4,207	\$4,315
Cost per Agency Investigation	\$3,080	\$4,864	\$5,112	\$4,753	\$5,352
Cost per Contract Investigation	\$2,218	\$1,808	\$2,113	\$2,247	\$2,324
<b>Complaint Closures w/ Monetary Benefits</b>	<b>\$29,695,916</b>	<b>\$51,662,617</b>	<b>\$32,625,668</b>	<b>\$36,388,853</b>	<b>\$41,247,966</b>
Back Pay/Front Pay	\$2,606,932	\$3,525,256	\$1,882,244	\$7,092,018	\$4,127,228
Lump Sum Payment	\$11,830,829	\$29,146,389	\$15,878,137	\$14,914,734	\$17,182,695
Attorney's Fees/Costs	\$7,304,544	\$9,452,521	\$9,205,908	\$8,907,148	\$11,264,489
Compensatory Damages	\$7,953,611	\$9,538,451	\$5,659,380	\$5,474,953	\$8,673,554
Average Monetary Benefit	\$17,900	\$26,838	\$20,328	\$23,924	\$24,878

# Total Cost Comparisons

TABLE III: GOVT-WIDE AGENCY EEO COSTS					
Total Costs	\$62,777,462	\$90,587,475	\$67,637,773	\$66,100,980	\$75,673,509
Avg Pre-Complaint Settlement Costs	\$399	\$223	\$224	\$309	\$532
Avg Formal Complaint Closure Costs	\$5,564	\$7,927	\$7,218	\$8,315	\$9,505
Avg Costs Per Incident	\$3,344	\$4,802	\$4,083	\$4,370	\$5,008



## Questions/Contact Information

*Jamie Price, Senior Attorney Advisor  
Acting Director, Evaluations & Reports Division  
Office of Federal Operations  
Federal Sector Programs  
Equal Employment Opportunity Commission  
(202) 663-4484  
[Jamie.Price@eeoc.gov](mailto:Jamie.Price@eeoc.gov)*

*Junish A. Arora, J.D.  
Senior EEO Diversity Manager  
Office for Civil Rights & Civil Liberties  
Department of Homeland Security  
(202) 254-8206  
(202) 360-3295  
[junish.arora@dhs.gov](mailto:junish.arora@dhs.gov)*