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**SUBJECT:** Management Participation in Alternative Dispute Resolution (ADR) During the Equal Employment Opportunity (EEO) Process

1. **PURPOSE.** This Issuance requires management participation in Alternative Dispute Resolution (ADR) in the EEO process when it is offered by the Agency and the aggrieved/complainant agrees to participate in ADR to resolve the issue(s) that initiated the claim/complaint.
2. **SCOPE.** The provisions of this Issuance apply to all bureaus, offices, and organizations in the Department, including the Offices of Inspectors General within the Department. The Issuance applies to all Treasury employees, including consultants, detailees, temporary employees, and interns (hereafter called employees), and contractor employees performing work for the Department of the Treasury, its offices, and bureaus, whenever the employee is working in a government-designated office, traveling, or working from home on behalf of the Department. The provisions of this issuance shall not be construed to interfere with or impede the authorities or independence of the Offices of Inspector General.
3. **POLICY.** It is the policy of the Department of Treasury to require management's participation in ADR in the EEO process when it is offered by the Agency and the aggrieved/complainant agrees to participate in ADR to resolve the issue(s) that initiated the claim/complaint, and, consistent with the provisions set forth herein, to ensure the participation of an appropriate-level official to be designated as the settlement authority in such proceedings.
4. **RESPONSIBILITIES.**
  - a. Treasury Bureaus shall:
    - 1) Within 90 calendar days of issuance of this CRD, develop or revise their ADR policy to comply with this issuance.
    - 2) Satisfy any labor bargaining obligations with respect to the development or revision of their ADR policy.
    - 3) Identify which issues are not appropriate for EEO ADR or state that determinations will be made on a case-by-case basis and describe the criteria that will be used in making the determination. The Treasury Office of Civil Rights and EEO (OCRE) will only offer ADR in the formal complaint process where an offer of ADR was made by the bureau in the informal counseling process, or the bureau's EEO Director or a representative from the bureau's legal counsel's office requests that OCRE offer ADR in the formal complaint process.
    - 4) Require a management official with settlement authority either to be present or immediately accessible during ADR proceedings. The management official with

settlement authority may not be the responsible management official (RMO) or other agency official directly involved in the complaint at issue. While an RMO may participate in an ADR proceeding, it is recommended that, when administratively feasible and as a best practice, a management official at least one level above the RMO participate to help reach resolution.

- 5) Ensure all ADR proceedings are conducted by a trained, third-party neutral person (e.g., certified mediator). Bureaus are responsible for coordinating and providing mediators in the EEO administrative process and may use any other source that provides certified mediators.
  - 6) Require that the terms of the resolution of any EEO matter are contained in a written agreement that is signed by the employee and the bureau.
  - 7) Require through a clear written policy that the confidentiality of EEO ADR proceedings is protected. The details of a resolution should be disseminated only to offices that need the information for implementation or reporting purposes.
  - 8) Distribute the new or revised ADR policy to all bureau employees and post the policy on the bureau's intranet site. Bureaus are encouraged to provide training to employees on the benefits of ADR and to train managers and supervisors on how to represent the bureau in ADR proceedings.
  - 9) Provide a copy of the bureau's new or revised ADR policy to OCRE within 30 calendar days of its issuance.
  - 10) Ensure that the bureau EEO office reviews quarterly informal and formal ADR participation rates and verifies to OCRE that the number of completed EEO counseling's (informal process), ADR offers, and ADR participation rates are accurately reported for inclusion in Treasury's internal EEO complaint management database site.
5. **CANCELLATION.** CRD-007, "Management Participation in Alternative Dispute Resolution (ADR) During the Equal Employment Opportunity (EEO) Process," dated January 23, 2018.
6. **AUTHORITIES.**
- a. 29 C.F.R. Part 1614, Sections 1614.102(b)(2), 1614.105(b)(2) and 1614.603.
  - b. Administrative Dispute Resolution Act of 1996 (September 1996), 5 U.S.C. § 571 - § 574.
7. **REFERENCES.**
- a. EEOC Management Directive-110 (August 2015), Chapter 1, Section V, Delegation of Authority to Resolve Disputes; Chapter 2, Section VII, The EEO ADR Program; and, Chapter 3, Alternative Dispute Resolution for EEO Matters.
  - b. EEOC Management Directive-715 (October 2003), Model Agency Title VII and Rehabilitation Act Programs, Section II.E. Efficiency.

*This issuance supplements requirements contained in the references cited above; it is not self-*

*contained and must be read in conjunction with the cited references, any subsequent revisions or successor documents, and any applicable collective bargaining agreements. The references in this document may change without alteration of this policy, in which case the most recent version of the reference in question will apply to this policy and its requirements.*

8. **OFFICE OF PRIMARY INTEREST.** Assistant Secretary for Management and Office of Civil Rights and Equal Employment Opportunity
9. **POLICY REVIEW.** The provisions of this Issuance are subject to modification by changes in pertinent statutes and the U.S. Equal Employment Opportunity Commission (EEOC) regulations. The applicable provision or provisions shall be amended or superseded through interim guidance effective on the dates specified in any statutory or regulatory change. This Issuance will be reviewed after five years.

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Director, Office of Civil Rights and Equal Employment  
Opportunity