

Civil Rights & Diversity Issuance System

Date: January 23, 2018

Office: Office of Civil Rights and Diversity

Subject: CRD – 007, Management Participation in Alternative Dispute Resolution (ADR) During the Equal Employment Opportunity (EEO) Process

1. PURPOSE. Require 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. This issuance applies to all bureaus, offices, and organizations in the Department, including the Offices of Inspectors General within the Department. The provisions of this issuance shall not be construed to interfere with or impede the authorities or independence of the Treasury Inspector General, the Treasury Inspector General for Tax Administration, or the Special Inspector General for TARP.

3. CANCELLATION. Human Capital Issuance System, Chapter 900-010, Transmittal Number TN-10-001, Management Participation in Alternative Dispute Resolution (ADR) During the Equal Employment Opportunity (EEO) Process (August 16, 2010)

4. EFFECTIVE DATE. This policy is effective with the date of signature.

5. REFERENCES.

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.

C. 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.

D. 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.

6. 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.

7. RESPONSIBILITIES.

Treasury Bureaus shall:

A. Within 90 calendar days of issuance of this CRD, develop or revise their ADR policy to comply with this issuance.

B. Satisfy any labor bargaining obligations with respect to the development or revision of their ADR policy.

C. 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 Diversity (OCRD) 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 OCRD offer ADR in the formal complaint process.

D. 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.

E. Ensure all ADR proceedings are conducted by a trained, third party neutral person (e.g., certified mediator). Mediators may be available through Treasury's Shared Neutrals Program or a bureau may use any other source that provides certified mediators.

F. 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.

G. 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.

I. 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.

J. Provide a copy of the bureau's new or revised ADR policy to OCRD within 30 calendar days of its issuance.

K. Ensure that the bureau EEO office reviews quarterly informal ADR participation rates and verifies to the Office of Civil Rights and Diversity that the number of completed EEO counselings (informal process), ADR offers, and ADR participation rates are accurately reported for inclusion in Treasury's internal EEO complaint management database site.

8. OFFICE OF PRIMARY INTEREST. Office of the Assistant Secretary for Management and Office of Civil Rights and Diversity.

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.

/Signed/
Mariam G. Harvey
Director
Office of Civil Rights and Diversity