



HUMAN RESOURCES ISSUANCE SYSTEM



Chapter: 900-002

Transmittal Number: 04-02

Date:

Office: Office of Equal Opportunity and Diversity

Subject: Processing Claims of Discrimination in Conflict of Interest or Position Situations in the Formal Complaint Process

1. **PURPOSE.** To establish policy and procedures for processing discrimination complaints in the formal complaint process when a conflict of position or interest has been determined to exist. Each case will be examined on its own merits in making decisions for the most appropriate way to process the complaint, based on the particular situation.¹
2. **SCOPE.** The provisions of this Chapter apply to the Office of the Deputy Assistant Secretary for Human Resources and Chief Human Capital Officer, the Office of the Chief, EEO and Diversity Field Services, AWSS, and the Treasury Complaint Center.
3. **CANCELLATION.** NA.
4. **EFFECTIVE DATE.** This policy is effective with the date of this chapter
5. **REFERENCES.**
 - A. Equal Employment Opportunity Commission (EEOC) regulations, 29 CFR 1614.102(a)(2), (b)(4) and 605(c).
 - B. EEOC Management Directive (MD) 110, Chapter 1, Sections III and VI, Chapter 6, Section VI.c, and Section VII.C(3)(b)

¹ Although an official may be named as an alleged discriminating official it is appropriate to examine the actual actions taken (or not taken) to determine if a potential conflict exists.

6. **BACKGROUND.** OEOP-002-03, dated March 4, 2003, establishes Treasury's conflict of interest policy in the EEO complaint program. In order to ensure **and maintain** the integrity of the Equal Employment Opportunity (EEO) process, it is essential that conflicts of interest or position, as well as the appearance of such conflicts, be avoided in the processing of complaints of discrimination. Impartiality and fairness in the system are keys to the credibility of the EEO program.

This additional policy is being issued to reflect recent organizational changes at the Department of the Treasury. Specific positions are mentioned because officials serving in those positions have unique responsibilities for the processing of EEO complaints and the Department believes advance guidance on these issues will help ensure the impartiality and fairness of the complaints process.

7. **POLICY.** It is the policy of the Department of the Treasury to ensure an objective EEO complaint processing program by avoiding or eliminating conflicts of interest or position with respect to the formal EEO complaint program.

8. **RESPONSIBILITIES.**

A. Complaints Naming a Management Official of the Treasury Complaint Center, the Chief, EEO and Diversity Field Services, AWSS, or his/her Principal Deputy as Alleged Discriminating Officials.

1. Generally, if a complaint arises from **an** action taken by a management official of the Treasury Complaint Center or the Chief, EEO and Diversity Field Services, AWSS (IRS), or his/her principal Deputy, it would be inappropriate for the Treasury Complaint Center to process that complaint. In those instances, the complaint will be referred to the Department and the decision to accept/dismiss the complaint will be made by the Director, Office of Equal Opportunity and Diversity (OEOD), Department of the Treasury.
2. If the complaint, or any portion of the complaint, is accepted, an investigation will be performed by a contract investigator, and the costs (including any travel costs required) will be borne by the Treasury Complaint Center. It is expected that a local investigator be retained whenever possible to minimize travel costs, or a telephone investigation be conducted **if possible and** effective. Alternatively, OEOD **may** use a trained investigator from another bureau or agency, if available. The investigator **will** at no time be under the TCC's authority.
3. The Director of Operations will supply the Director, OEOD with appropriate information relating to accounting codes to ensure that the costs are appropriately charged to Center appropriations.
4. The Director, OEOD, and his/her staff, will coordinate the contract and review the

investigation file to ensure the contractor meets contract specifications.

5. The Chief, EEO and Diversity Field Services, **AWSS**, will designate an appropriate official in IRS to review the file for the Agency review. The Director, OEOD, will provide a copy of the file to the Complainant and the agency designee for review and comment prior to certification that the file is complete.
6. If **both** the employee and management indicate an interest in pursuing alternative dispute resolution, a Treasury Shared Neutrals mediator(s) will be used. IRS will be responsible for any travel costs incurred in a mediation.

B. *Complaints Naming the Director, Office of Equal Opportunity and Diversity or the Deputy for Human Resources as Alleged Discriminating Officials*

1. If a conflict of interest is determined to exist because the Director, OEOD or his/her immediate supervisor have been named **as** alleged discriminating officials, the Assistant Secretary (Management), as the Department's EEO Officer, will review and issue any final agency decision on the merits of the complaint which may include appropriate relief, or may delegate such authority to another Assistant Secretary in the Department, **as** appropriate. In such cases, the Director, OEOD will recuse himself/herself from providing any advice or consultation with regard to the processing of the complaint.

2. In most circumstances, the Treasury Complaint Center will be responsible for accepting and investigating these complaints. The Director, OEOD will delegate authority to approve a dismissal in these cases to the Director of Operations, TCC.

9. OFFICE OF PRIMARY INTEREST. Office of Equal Opportunity and Diversity, Deputy Assistant Secretary for Human Resources and Chief Human Capital Officer.



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