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United States Department of State  
and the Broadcasting Board of Governors  
Office of Inspector General

# Report of Inspection

## Office of Civil Rights

Report Number ISP-I-06-41, June 2006

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## KEY JUDGMENTS

- The Office of Civil Rights (S/OCR) has been ineffective in ensuring that Equal Employment Opportunity (EEO) and diversity concerns are properly integrated into the Office of the Secretary's Bureau Performance Plan (BPP) and the Department's strategic and performance planning process.
- Rampant vacancies - one third of all authorized S/OCR positions - affect S/OCR morale and contribute to its backlog of EEO complaints. The office's new director has initiated a review of all position descriptions and a review of the entire office structure, exercises that must be completed promptly.
- Because it must recruit new staff and train them in the Equal Employment Opportunity Commission (EEOC) processes, S/OCR's new leadership has an unparalleled opportunity to evaluate the existing workflow and rebuild the office in line with current priorities.
- S/OCR's outreach unit is focusing an inordinate amount of its limited resources on commemorative events rather than devoting its attention to mandated programs for Hispanic and disabled persons and women and to the identification and analysis of EEO barriers.
- Top S/OCR management must provide the leadership to ensure that complaints are processed fairly, efficiently, and in a timely manner in keeping with EEOC standards. S/OCR needs to improve its case tracking through better operator training and senior oversight of the entire process, including the automated system.

The inspection took place in Washington, DC, between February 24 and March 17, 2006. Leslie Gerson (team leader), Richard D. English (deputy team leader), Boyd R. Doty, Louis McCall, and Jennifer Noisette conducted the inspection.



## CONTEXT

The Department of State (the Department) has had policies against discrimination for almost half a century. In 1961, President Kennedy endorsed presidential policies against discrimination that dated to 1940 and introduced the concept of affirmative action. Every federal agency now has an office to protect prospective and actual employees from discrimination and harassment in the workplace. The Department's EEOC program has evolved considerably, moving from a sole special assistant to a deputy assistant secretary for personnel, to a 1975 merger with the Federal Women's Program (FWP) office, to today's 26-position office headed by an assistant secretary-level director who reports to the Secretary of State.

S/OCR's mission is "to assist the Department of State in fostering a work environment free of discrimination and to maintain a continuing affirmative outreach program which promotes equal opportunity through the identification and elimination of discriminatory policies and practices." The Foreign Affairs Manual also describes S/OCR's role in managing special emphasis efforts for all minorities and women, including the FWP and the Hispanic Employment Program.

Although every federal agency must be concerned about EEO issues, the Department has a special concern. The Foreign Service Act of 1980 calls for a Foreign Service that is broadly representative of the American people. Since the Department is the face America presents to the world, especially in the more than 200 embassies and consulates around the world, its workforce should represent America's diversity, and its standards of fairness and justice must be exemplary.

The EEOC enforces federal laws prohibiting job discrimination and promoting affirmative action, but it also provides oversight and coordination of all federal EEO regulations, practices, and policies. S/OCR is guided by the EEOC's management directives, sends its staff to EEOC training, prepares mandated EEOC reports, submits unsettled formal complaints concerning discrimination or harassment to EEOC's administrative law judges, and is reminded when it is delinquent in any area. During the inspection, OIG consulted with the EEOC and reviewed the extensive materials available on the commission's website. The EEOC's standards for a model EEO program guided the inspection.

Out of a total Department workforce of approximately 19,000<sup>1</sup> Foreign Service and Civil Service employees, S/OCR receives approximately 80 new formal complaints of discrimination or harassment annually. An estimated 125 clients seek EEO counseling during that same period. This ratio of counseling and complaints to total work force is one of the lowest among all government agencies, although S/OCR's case-tracking and statistics-collection mechanisms are not entirely reliable, as discussed later in this report. Nevertheless, in FY 2005, S/OCR data shows the costs associated with settlements in the formal complaint process and alternative dispute resolution totaled approximately \$450,000. On the outreach front, however, the Department still struggles to have an effective program to promote workforce diversity, especially in the Foreign Service, where only 14 percent of generalists are minorities and only 26 percent of senior officers are women.

In 2001, S/OCR's director, who was formerly designated at the deputy assistant secretary level, was re-designated as an assistant secretary equivalent. This change, plus the fact that the Secretary appoints the director personally, ensures the director both visibility and access at the highest levels of senior management. Prior to 1989, S/OCR reported to the Under Secretary for Management, but in that year the office was moved to the Office of the Secretary (S). OIG's previous inspection of S/OCR noted that this situation was advantageous because it demonstrated high-level interest in S/OCR's work and was disadvantageous because it did not provide for regular operational supervision over S/OCR. The current structure, in which S/OCR reports to the Secretary through the Under Secretary for Management, seems to address these competing needs well.

OIG's last inspection of S/OCR was in March 1991, and a compliance followup review was completed in March 1993. Although the inspection was closed, a number of the recommendations from those reports either were not implemented or became ineffective some time later and have been addressed again in this inspection.

OIG limited this inspection to S/OCR itself. The inspection did not review the Department's efforts in the recruitment, retention, and promotion of minorities, where S/OCR plays an advisory role but where most of the operational responsibility falls under the Bureau of Human Resources.

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<sup>1</sup> This does not include Foreign Service national employees hired overseas or contractors.

## EXECUTIVE DIRECTION

Business and management writer and consultant Peter F. Drucker's five basic operations in the work of the executive manager: set objectives, organize, motivate and communicate, measure performance, and develop people.<sup>2</sup> Although S/OCR's leadership over the years has routinely established clear short-term objectives, usually focused on reducing the formal complaint and investigation backlogs, the failure to organize the office for longer-term goals, motivate staff with diverse backgrounds and skills, meet reporting timelines with accuracy, and ensure a diverse and well-trained workforce has limited S/OCR's day-to-day successes and the Department's ability to meet its broader outreach and diversity goals.

In recent years, S/OCR's leadership has tried to address these management and organizational issues head on, with limited success. During the inspection, a new office director at the Assistant Secretary-equivalent level took over after a yearlong staffing gap. During the hiatus in leadership, the office also lost over one third of its staff. Although these vacancies hampered the office's productivity, the new director has a unique opportunity to address organizational issues in tandem with the recruitment and training of nine new staff members. With the director's background in training and outreach and his stated emphasis on timeliness and accuracy, S/OCR could well turn the corner in the coming months.

In addition to the organizational and performance issues affecting S/OCR itself, the director and his deputy intend to take directly to assistant secretaries, deputy assistant secretaries, and executive directors S/OCR's message of fostering a work environment free of discrimination and which treats all persons with dignity and respect. The Secretary recently issued the required annual message on her commitment to EEO principles, and the new S/OCR director plans to reach out to all levels of management to ensure that they give priority to the Secretary's commitment. This outreach is intended to identify and address discrimination and harassment problems before they become formal complaints and statistics in S/OCR's annual reports.

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<sup>2</sup>Peter F. Drucker, *Management: Tasks, Responsibilities, Practices* (New York: Harper & Row, 1985).

The director's focus on proactive outreach could be as important to S/OCR's success as its organizational renewal. S/OCR's mission statement stresses its role in promoting, fostering, and monitoring EEO policies and practices. S/OCR can only achieve these goals by looking outward, but the office's ability to devote additional resources to prevention, training, and outreach depends on concomitant efficiencies in complaints management, investigations, and counseling. Recommendations for these areas are discussed in the policy and program implementation section of this report.

## Strategic Planning

For a number of years, the Department has used a performance plan exercise to establish priorities and justify resources. S/OCR is mentioned once in the Office of the Secretary/Executive Secretariat's BPP and then only as an entity that exists, followed by a brief description. No goals are outlined, no benchmarks are set, and no resource issues are discussed in the BPP. The Department's 2004 five-year strategic plan also mentions a commitment to diversity, but does so only fleetingly in a core values-related bullet point on community. The EEOC's guidance for the essential elements of a model agency stresses the integration of EEO objectives into an agency's strategic mission; however, OIG found almost no meaningful inclusion of EEO in the Department's key planning and resource documents.

**Recommendation 1:** The Office of Civil Rights should establish a process for contributing its goals and objectives to the Office of the Secretary's annual Bureau Performance Plan and other strategic planning documents on human resources matters. (Action: S/OCR)

## Office Structure

S/OCR has a director, deputy director, and office management assistant. The office is loosely organized into four units: outreach, alternative dispute resolution (ADR) and EEO counselor coordination, complaints management, and attorney advisors. Despite the suggestion that the units have discrete responsibilities, the functions of counseling, investigations, and training are, in fact, assigned to staff members from all units. For example, a lawyer has been doing much of the training, a responsibility more logically assigned to the outreach unit. The outreach unit has now been assigned the training portfolio. The ADR and EEO counseling program manager handles office administration. Both the complaints management



and outreach units prepare the required reports, with input from the ADR staff. The director's office management assistant also conducts investigations and counseling. Many of the office's position descriptions share identical critical elements, although the grade levels of the incumbents in those positions differ and the employees work under distinct chains of command. In fact, S/OCR does not have a current organization chart.

Although cross-training is always advisable and provides flexibility in a small office, S/OCR's past organizational choices have blurred lines of authority and misdirected some of its high-priced assets. Timeliness may also have been affected by some of the collateral assignments. Attorneys at the GS-14 and GS-15 levels should be spending the bulk of their time on legal issues, not on investigations or training. Staff assigned to counseling duties should be able to give priority to that function and not have to delay required reports, complaints management, or contacting their counseling clients. If the attorneys devoted 90 percent of their time to legal issues, management might not need to fill the vacant GS-14 attorney position, and could redirect that resource to the understaffed counseling or outreach functions. Finally, when responsibility for a task is routinely shared among persons working in different chains of command, it is more difficult to oversee the timeliness and evaluate the quality and neutrality of the product. The director has already requested a review of position descriptions but has not yet done a parallel review of the entire S/OCR structure and how it facilitates strategic priorities.

**Recommendation 2:** The Office of Civil Rights, in coordination with the Office of the Executive Secretariat, should conduct a top-to-bottom, function-by-function, position-by-position review to determine the office's structure and staffing needs to fulfill its policy goals. (Action: S/OCR, in coordination with S/ES)

## Morale

Morale in S/OCR is fair at best, but the staff is uniformly dedicated to the mission of the office. Some employees have been with the office since the 1970s; others came from EEO programs in other agencies. But a number of developments over the years - some even considered positive changes by EEOC standards - have affected office morale.

Prolonged staffing gaps have not only worn the staff down, but the employees see the gaps as symptomatic of a lack of Department commitment to EEO goals. The introduction of attorneys to the office as permanent staff members means certain key responsibilities were transferred from the longest-serving employees. Contributing to the low morale were the recruitment of new employees for leadership positions, the limited opportunities for advancement within the office, and the perceived renegeing on a commitment to promote employees when they eliminated significant backlogs.

A manager can address promotion setbacks and revised job responsibilities with excellent office communication. The deputy director initiated periodic staff meetings a year ago, but in those meetings the exchange of information about staff members' intersecting responsibilities has not been the norm. Sharing concerns, cooperative efforts to overcome obstacles, and management explanations of tough choices have never occurred effectively. The effects of earlier communication failures on efficiency and timeliness are discussed later in this report.

The new director immediately signaled his intention to improve communication. He met with each staff member individually to discuss skills, expectations, and aspirations, and he initiated weekly meetings of the entire office. The deputy director is also an active listener with strong communication skills. S/OCR's staff welcomed these developments. As S/OCR recruits to fill its vacancies, several of them at attractive GS-13 and GS-14 grades, the office's leadership must redouble its efforts to be forthright and transparent whenever those positions are not offered to current staff members. Similarly, any shifting of work assignments and chains of command will cause staff anxiety in the workforce. Maintaining open and regular communication during the selection of new staff and the review of the office structure will be essential to rebuilding morale.

## Oversight Focuses Upon Performance Measurement

S/OCR prepares more than a dozen mandated reports annually. Some reports track the number, types, or time spent on office activities. Through these reports, S/OCR's management and EEOC can see clearly where the office is not meeting standards on timeliness and where backlogs are developing. In fact, S/OCR has difficulty collecting reliable statistics for a variety of reasons and submits many of its reports late, a problem discussed later in this report.

In the past, analysis of these reports has helped S/OCR's management to focus resources on problem areas. In FY 2001, the EEOC ranked S/OCR eighty-first out of 96 agencies in terms of timeliness of complaint processing. The director at

that time committed to improving complaints processing and set up a process to contract-out investigations, the root of most of the delays. By FY 2004, the EEOC's ranking of S/OCR was at thirty-fourth place out of 93 agencies. But by FY 2005 the ranking had slipped to fifty-third place, although it was ranked first among cabinet level agencies. Although most of the mandated reports are not designed for internal management uses, but for EEOC oversight and the monitoring of governmentwide equal employment and outreach efforts the reports are an excellent, if underutilized, management tool.

EEO managers can only make optimal use of the trends indicated by the reports if the managers are familiar with every step in the reporting process and if they maintain effective oversight of the work of each of the office's operational units. S/OCR's staff acknowledges the accessibility of its management, but during the yearlong staffing gap in the director's position, the deputy had to cover two portfolios when he had only just arrived from a different position in a different agency. The director also had to rely on unit chiefs to fill the management gap and never had the opportunity to review the operations of each unit unless someone brought a problem to his attention. Senior management oversight is vital to ensuring adherence to standards on neutrality, timeliness, accuracy, reporting, and customer service. OIG counseled S/OCR's management on ways to increase operational oversight of all of the office's functions.

## Staff Training

Much of S/OCR's staff has worked in the EEO field for years and has benefited from a range of training courses offered by the EEOC. As new staff members join S/OCR, they will require time to get essential training. Similarly, recently recruited staff members, including the director, deputy director, and head of the outreach unit, need the full range of EEO training as soon as possible. (EEOC regulations and processes are not intuitive.) S/OCR's leadership needs to know the office's subject matter to be fully successful and to undertake required outreach. The new S/OCR director has a strong training background and is the ideal person to ensure that long-time staff members have the opportunity to improve their skills.

S/OCR is at the right place in time for a significant institutional refocus. Its director and deputy are excellent communicators, and neither has been in the office long enough to be proprietary about S/OCR's structure. The need to fill nine vacancies within the next few months offers them a rare chance to attract diversity of skills and experience. In his first three weeks on the job, the director identified most of his challenges and crafted a way forward on all fronts. The director was

the Secretary's choice to fill the S/OCR senior position and has the Secretary's full support. He combines his appointee status with longstanding personal and professional relationships with much of the Department's management. The opportunities to address S/OCR's many challenges are unparalleled.

## POLICY AND PROGRAM IMPLEMENTATION

According to the EEOC, there are six elements to a successful EEO-civil rights program. They are: proactive prevention, responsiveness, efficiency, management and program accountability, commitment from agency leadership, and integration of EEO into the agency's strategic mission. OIG used these elements to review and evaluate S/OCR's programs and policies. The integration of EEO into the Department's strategic mission is addressed in the Executive Direction section of this report, and the other five elements are discussed below.

### DEMONSTRATED COMMITMENT FROM AGENCY LEADERSHIP

The Department's commitment to EEO issues is, in some respects, a model among federal agencies, but should receive attention in two areas. In 2001, S/OCR's director was redesignated at the assistant secretary-equivalent rank. This step indicated not only Department management's support of S/OCR's role in the EEO program but also facilitated the director's access to the Department's senior leadership. S/OCR has been a part of the Office of the Secretary since 1989. This meets the EEOC's requirement that an EEO director "...shall be under the immediate supervision of the head of [an] agency..." and reflects high-level attention to EEO issues. OIG's 1991 inspection of S/OCR cautioned that S/OCR lacked ongoing attention and oversight by a senior Department management official. The Under Secretary for Management now provides day-to-day oversight of S/OCR's operations, an acknowledgment of S/OCR's important intersection with the activities of the Bureau of Human Resources. Recently, the Secretary decided to include S/OCR's director in senior staff meetings, an important signal that EEO issues are an integral part of all Department policies and programs.

EEOC guidelines also require agency heads to issue a written policy statement committing to EEO and a workplace free of harassment; they do so at the beginning of their tenure and thereafter annually. This statement is to be disseminated to all employees. (The Secretary issued the two mandated statements during the inspection.) Although the Secretary speaks publicly on the value of diversity and EEO and appears at S/OCR-sponsored commemorative events, these activities are

no substitute for the annual statements, which should be widely disseminated by Department Notice and featured on the S/OCR website. OIG counseled S/OCR on the importance of ensuring that S/OCR revises and reissues these statements for the Secretary's signature annually.

The Department's FY 2004 Management Directive (MD)-715 report to the EEOC was signed by the acting director of S/OCR. However, the EEOC's model for an EEO program calls for a submission to be signed by the agency head. After submitting the MD-715 report, an EEO director is supposed to brief the agency head on the "state of the agency," a briefing that normally coincides with the annual reissuance of the agency's EEO policy. The Department, however, provided no briefing for the Secretary after the submission of the FY 2004 MD-715 report.

**Recommendation 3:** The Office of Civil Rights should submit the fiscal year 2005 Management Directive-715 report to the Equal Employment Opportunity Commission for the Secretary's signature and brief the Secretary on the state of the agency regarding compliance with Equal Employment Opportunity Commission guidance and federal Equal Employment Opportunity law. (Action: S/OCR)

## PROACTIVE PREVENTION OF UNLAWFUL DISCRIMINATION

A model EEO program should efficiently and fairly process EEO complaints and proactively work to prevent unlawful discrimination. S/OCR and the Department have worked proactively to prevent unlawful discrimination, but the balance of S/OCR's resources is focused on the complaints process. In 1991, OIG reported that, "should the EEO complaints backlog be cleared in the future, consideration should be given to shifting some resources from the case management unit to the affirmative action and outreach unit... (to) permit a more positive and proactive role and image... ." This tension between S/OCR's proactive and reactive responsibilities persists.

S/OCR's three-person outreach unit is responsible for managing several special emphasis programs, coordinating training, preparing the MD-715 and other reports, organizing commemorative events, and working with minority organizations. The outreach unit also participates in the Department's recruiting and coordinates the Department's annual EEO award.

S/OCR's special emphasis programs, which are EEOC-mandated for underrepresented groups, include the FWP, the Hispanic Employment Program, and the Persons with Disabilities Program. Each outreach unit staff member coordinates one of these programs. The assignment of a coordinator alone, however, does not fulfill the mandate for implementing a meaningful program. The outreach unit would like to devote more time to the development of these programs and to coordination with Department offices that play a role on these issues, but the staff cannot do so because of competing responsibilities. The FWP coordinator, for example, attempts to maintain an accurate roster of FWP coordinators domestically and abroad but has not had time to develop meaningful dialogue with them, provide them with useful information, or develop a program they can implement.

The outreach unit conducts EEO training in several ways. Its staff participates as presenters in formal courses at the Foreign Service Institute and briefs incoming Foreign and Civil Service orientation classes and responds to bureau or office requests for EEO training. The staff may also provide training overseas to address post-specific problems. All of the unit's staff members conduct outreach to historically black colleges and universities by supplementing the Bureau of Human Resources' recruitment teams. Every S/OCR unit chief's critical job elements include the requirement to conduct a certain number of trainings or briefings each year. These are overseen and coordinated by the outreach unit.

The outreach unit also has a heavy schedule of report preparation. Its principal report is the MD-715, but the unit also prepares several other reports required by other agencies and contributes to several reports coordinated in other S/OCR units. At the time of the inspection, the MD-715 report was not automated, which affects the timeliness of its submission and the time available to provide the requisite analysis that is key to the report's usefulness. S/OCR has contracted for E-Versity software to facilitate the report's preparation, and the vendor and the Department technical liaisons have indicated that E-Versity should be fully functional shortly.

## Commemorative Events

Holding commemorative events and working with minority groups are major focuses of S/OCR's outreach. The outreach unit is S/OCR's liaison to the Department's Diversity Advisory Council, which is composed of employee organizations within the Department and maintains outside links to national minority organizations that facilitate the organization of commemorative events. The



calendar of commemorative events includes 11 events, with at least one event occurring each month except in July and December.<sup>3</sup> Planning starts five months from the event and takes up about 20 percent of staff time in the outreach unit.

S/OCR could not provide OIG with a record of the number of Department employees attending commemorative events, but many of the events were sparsely attended and mainly attracted employees who identified with the group being highlighted. A notable exception was the event honoring Native Americans. S/OCR had arranged for transportation and admission to the Smithsonian's new American Indian Museum.

OIG's 1991 inspection of S/OCR concluded that ceremonial activities took up too much of the office's time at the expense of other important programs. This remains the case. OIG suggested that S/OCR consider combining events or limiting commemorations to a single, annual diversity day or an annual diversity week. OIG does not consider the benefits from the current calendar of commemorative events sufficient to justify maintaining the arrangement. Redirecting resources from the commemorative event schedule to other outreach activities, particularly those involving the special emphasis programs mentioned earlier, could have a greater impact on the Department's diversity goals.

**Recommendation 4:** The Office of Civil Rights should review, restructure, and downsize its commemorative event activities to make resources available for other diversity and outreach activities that would yield greater measurable results. (Action: S/OCR)

## Balancing Proactive and Reactive Roles

S/OCR's outreach unit provides proactive approaches to achieving EEO objectives. Although all of S/OCR lends assistance to the outreach unit from time to time, most S/OCR resources are dedicated to the reactive side of EEO; that is, to counseling, investigating, processing, and attempting to close or settle complaints of discrimination. The Department already compares well with other agencies in terms of the number of counseled individuals compared to its total

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<sup>3</sup> Commemorative events include American Indian Heritage Month, Dr. Martin Luther King, Jr., National African American History Month, National Hispanic Heritage Month, National Women's History Month, Holocaust Days of Observance, National Asian Pacific American Heritage Month, Gay and Lesbian Pride Month, Women's Equality Day, National Disability Employment Awareness Month, and Veteran's Day.



workforce, if S/OCR's statistics are accurate. By undertaking a gradual shift of additional resources to outreach, OIG believes the Department can improve its EEOC ranking among agencies in the long term. It can do so using the special emphasis programs, attention to barrier analysis and barrier elimination plans, and monitoring of Department-wide EEO efforts.

Due to understaffing, S/OCR cannot give sufficient attention to the following areas:

- monitoring upward mobility programs,
- providing more employees with EEO and anti-harassment training,
- monitoring and participating in Board of Examiners activities relating to the hiring of minorities and women,
- developing a grant oversight program for grantees receiving federal funds, and
- performing the EEOC-required barrier analyses that are critical to identifying and eliminating barriers to equal opportunity.

The outreach unit had only three of its vacant positions filled at the time of the inspection. At one point in FY 2005, all of its positions were vacant, and the deputy director was authorized to hire two employees. A Foreign Service unit chief joined the staff in the fall of 2005. OIG believes that filling three additional positions in this unit would enable it to meet reporting requirements, better analyze diversity data, develop new training programs, provide feedback to bureaus, develop interagency contacts, and participate in recruitment efforts. Perhaps most importantly, the unit could devote at least two officers almost full time to the vital special emphasis programs.

**Recommendation 5:** The Office of Civil Rights, in coordination with the Office of the Executive Secretariat, should establish three positions in its outreach unit and recruit staff to fill them once the review of its office structure is complete. (Action: S/OCR, in coordination with S/ES)

## MANAGEMENT AND PROGRAM ACCOUNTABILITY

### Barrier Analysis

Barrier analysis involves the identification and analysis of obstacles to diversity and equal opportunity, which should then be followed by the development of appropriate remedies. Although barrier analysis is not a new discipline, S/OCR does not have a comprehensive program to carry out that analysis. S/OCR included no barrier analyses in its FY 2004 MD-715 and has yet to do it for the FY 2005 MD-715. (Furthermore, the FY 2005 submission was overdue at the time of the inspection.) Barrier analysis requires adequate data collection and careful scrutiny of such factors as the human resources programs designed to increase diversity in the Department, the federal grant programs undertaken in collaboration with the Office of Acquisitions, and the upward mobility programs for underrepresented employees. S/OCR has never had adequate staff devoted to this function, but the director said he intends to redress this situation in a revised office structure.

**Recommendation 6:** The Office of Civil Rights, in coordination with the Bureau of Human Resources, should write and implement a standard operating procedure for including barrier analysis as part of the Management Directive-715 process. (Action: S/OCR, in coordination with DGHR)

### Reasonable Accommodation

The outreach unit is responsible for coordination of policy on the provision of reasonable accommodation for disabled employees. Sections 501 and 505 of the Rehabilitation Act of 1973 prohibit discrimination against qualified federal employees who have disabilities. Executive Order 13164, which applies to federal agencies, helps implement the requirements of the Act. According to EEOC policy guidance, the Executive Order requires federal agencies to establish effective written procedures for processing requests for reasonable accommodation by employees and applicants with disabilities.

Having an effective reasonable accommodation procedure is a necessary part of a model EEO program. According to the EEOC, the Department has no reasonable accommodation policy, although S/OCR says it has been working on a policy document for a number of years. In the interim, Department employees with

disabilities have worked with the Office of Employee Relations in the Bureau of Human Resources to seek reasonable accommodation on a case-by-case basis. Recently the chief of the outreach unit was instrumental in getting the Department to issue a policy on the transportation of disabled Department employees who are on official business. However, ad hoc solutions to reasonable accommodation problems cannot replace official policy.

**Recommendation 7:** The Office of Civil Rights, in coordination with the Bureau of Human Resources, should prepare written policy and procedures for the Department regarding the provision of reasonable accommodation to comply with applicable standards and obtain promulgation of the policy by the Department. (Action: S/OCR, in coordination with DGHR)

## RESPONSIVENESS AND LEGAL COMPLIANCE

A model EEO program demonstrates responsiveness and legal compliance by:

- Timely and accurate reporting to the EEOC of an agency's EEO efforts and accomplishments, and
- Certifying to the EEOC by January 31 after the end of a fiscal year that the agency complies with EEO laws, regulations, and guidance consistent with MD-715.

The Department has requested and received extensions of the reporting requirement for FY 2004 and FY 2005. However, the FY 2004 certification to EEOC was incomplete. It certified that barrier analyses had been conducted when this was not the case. Although the report included plans to eliminate identified barriers, it did not include the requisite barrier analyses. In consultations with the EEOC, OIG learned it was not possible to have barrier elimination plans without performing barrier analyses.

### Legal Unit

S/OCR had, at the time of the inspection, three attorneys in the legal unit. These lawyers make indispensable contributions. For example, they review investigation plans to ensure that essential lines of inquiry will be pursued and review the reports of investigation and final agency decisions to ensure that these documents

were properly completed and met the standards of legal sufficiency. The lawyers may also conduct training or investigate sensitive cases, although these nonlegal activities may not constitute the best use of their time.

The EEOC said it is a best practice for an EEO office to have its own lawyers since this promotes neutrality in discrimination cases. By having its legal counsel inhouse, S/OCR can provide neutral legal advice, as long as the complaint remains in S/OCR. If a complainant takes his or her case to the EEOC's administrative law judge, the Department becomes the defendant, and the Office of the Legal Adviser represents the interests of the Department in an adversarial process. S/OCR steps aside in such cases, after ensuring that all documentation is legally sufficient. If the dispute eventually goes to court, Department of Justice lawyers represent the Department, with the assistance of the Office of the Legal Adviser. Again, S/OCR plays no role in defending the Department.

Several sources said S/OCR's legal unit maintains a close relationship with the Office of the Legal Adviser. While such a relationship can be beneficial, S/OCR must be vigilant to maintain neutrality at all times. Even the perception of bias in favor of the Department in circumstances where neutrality is required can be harmful. OIG informally recommended that S/OCR management review this situation and take appropriate action to promote S/OCR neutrality in all cases.

## Timeliness

EEOC guidelines set standards for the timeliness of processing complaints. (See Table 1.) The Department and S/OCR must address timeliness for other more immediate reasons, however. OIG understands that the failure to achieve timely completion of complaint processing forced the Department to pay settlements in some old cases, some of which the Department might have won, had the complaint been processed more quickly. (In the past, some complaint investigations were reportedly taking 700 days. Complainants' attorneys can demand sanctions from the courts when investigations are not completed in a timely manner.)

For FY 2005, investigations that were completed by S/OCR personnel took an average of 208 days, almost 30 days more than the 180 days set by the EEOC. During the same period, investigations that were completed by contractors took an average of 191 days. These investigations are not necessarily comparable, however, since those completed by agency personnel generally involved sensitive cases of entire offices or sexual harassment. Moreover, the amendment of a complaint extends the time available to complete the investigation by an additional 180 days.

In any event, inhouse and contactor-based investigations averaged in excess of the prescribed 180-day benchmark

Investigations, however, are not the only area where S/OCR has timeliness problems. EEOC standards also require complainants to be counseled within 30 days of their initial informal complaint, but 30 of S/OCR's 98 counseling cases in FY 2005 went beyond the maximum 90-day limit. Pursuant to EEOC regulations and guidance, counseling may never occur later than 90 days after the complaint.

The EEOC has found that processing times by agencies continue to exceed regulatory deadlines.<sup>4</sup> However, the longer it takes the legal unit to accept or dismiss a complaint, the less time is available to investigators to meet the 180-day benchmark. When legal advisors were brought into S/OCR, the job of accepting or dismissing complaints was transferred to the legal unit in the hope of reducing the time it took to complete that step, not because they involve inherently legal functions. In this area, further improvement is needed. Moreover, OIG found that the FY 2004 "462 report," the EEOC-mandated Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints, contained no data for the timeliness of final agency decisions. This was said to have arisen because of S/OCR's misunderstanding of what data was to have been included. Final agency decisions are the agency's determination of whether discrimination has occurred.

The EEOC data from FY 1993 to FY 2003 on what accounted for the delays in the handling of complaints at federal agencies identified five major reasons. They were: excessive time to issue the notice accepting the complaint, delays in submitting requisitions for investigative services, excessive time to review and approve investigative plans, delays in obtaining affidavits, and inadequate complaint-tracking systems. OIG's review of S/OCR found no indications that any of the first four reasons were routinely responsible for delays in complaint processing. However, S/OCR could improve its tracking system's program and how the system is used by staff to identify individual cases that may have been delayed.

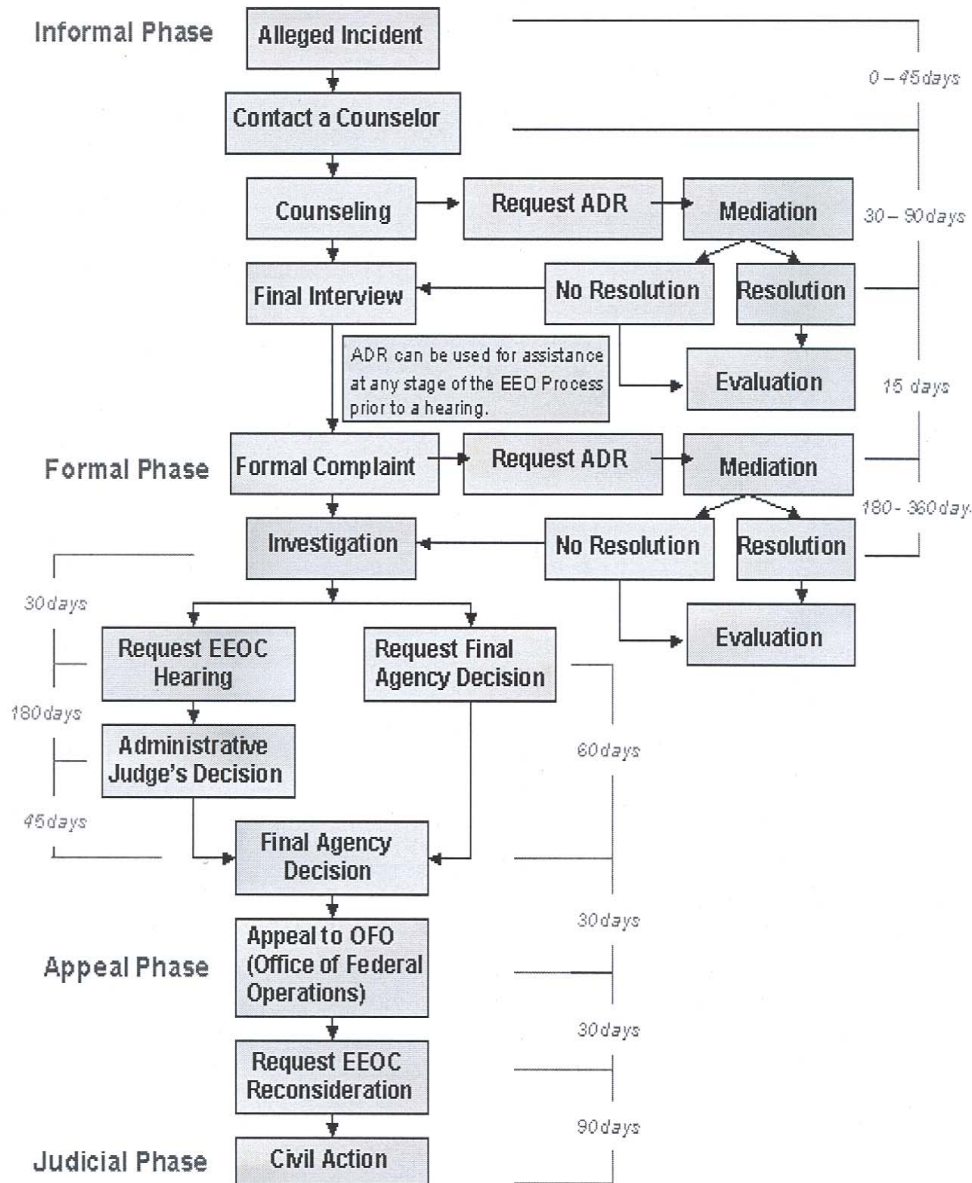
OIG also found overwhelming evidence that communication within S/OCR was poor because various individuals failed to share necessary information about the status of cases and because some individuals were uncooperative and unhelpful to their colleagues for personal reasons. More communication and better interpersonal attitudes would make the office more efficient. In addition to the new

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<sup>4</sup> Annual Report on the Federal Work Force Fiscal Year 2004, Section B, *Federal Agencies' EEO Programs: Complaints Decrease, But Processing Times by Agencies Continue to Exceed Regulatory Deadlines, Equal Employment Opportunity Commission.*

director's steps to improve communication, S/OCR also must more fully use a "tickler" system to warn responsible individuals that they will soon need to take actions to meet pending deadlines. OIG informally recommended that S/OCR review its tracking system and introduce features that would provide a genuine tickler system.

Table 1: EEO Complaint Process





Because S/OCR tends to have all employees working on several different functions, OIG counseled the office's management that efficiency and timeliness would improve with a better distribution of work. Once again, the proposed review of the office's structure and better senior-level office oversight could yield improvements in timeliness.

The EEOC's study of agency complaint processing delays also suggested ways to improve the timeliness of complaint processing. Those suggestions included:

- Ensuring that the EEO program is staffed with employees who have the necessary knowledge, skills, and abilities,
- Carefully examining procurement processes to identify and eliminate time-consuming steps,
- Establishing staff incentives for timely processing and consequences for untimely processing, and
- Establishing incentives and consequences for outside contractor performance.

The EEOC also recommends that complaint investigators establish deadlines for the receipt of information from complainants and witnesses. EEOC expects investigators to note in their investigation files any failure to comply with requests for information in a timely manner and witnesses who are necessary to any subsequent hearing. If witnesses have refused to cooperate or have otherwise been unavailable, investigators are expected to note this in their files, but complete the investigations and issue the reports without the information sought. OIG made informal recommendations to address these issues.

## Investigations

Contractors conduct most of S/OCR's EEO investigations. Some investigations are sensitive, and S/OCR conducts those with its own staff. In addition, S/OCR staff conducts its own investigations of all complaints of sexual harassment since such investigations may require thorough knowledge of the Department's mission, organization, procedures, and institutional culture. One S/OCR attorney is an experienced, certified investigator and conducts many of the inhouse investigations. Others in S/OCR also have experience as investigators and may conduct investigations individually or on teams.

The EEOC's manuals describe the procedures to follow in investigations. The procedures are important to ensuring that the issues raised by the case are considered and to resolving the matter fairly. The procedures also protect the rights of those accused, witnesses, and others involved. Failure to observe the proper procedures could adversely affect the performance of organizations and complicate subsequent legal actions.

Investigation is one of S/OCR's most important functions, but the office lacks a senior position devoted strictly to this function. Without such a person, the office cannot ensure that all investigations are conducted fairly, efficiently, and in a timely manner. S/OCR does not have an identified expert on EEOC standards for investigations and therefore cannot ensure compliance with those standards.

**Recommendation 8:** The Office of Civil Rights, in coordination with the Office of the Executive Secretariat and the Bureau of Human Resources, should designate a position for a chief investigations officer from the positions already allocated to the Office of Civil Rights. (Action: S/OCR, in coordination with S/EX and DGHR)

## EFFICIENCY

An efficient model EEO program is one that offers a fair and impartial complaint resolution system and access to alternative dispute resolution (ADR), better known as mediation. S/OCR's ADR unit has two members, a unit chief and a program manager. Three positions in that unit have been vacant for some time. The unit also oversees the EEO counselor program worldwide and therefore must respond to requests for guidance from hundreds of volunteer EEO counselors. The counselors try to resolve issues before they become formal complaints or to advise employees on how to proceed with a formal complaint or mediation. The unit's program manager, however, devotes her time almost entirely to managing contracts for investigations and mediations.

S/OCR's focus on mediation is one of the EEOC's recommended efficiency practices. After a person has made a complaint informally and has entered into the counseling process, he or she may request ADR before, or instead of, filing a formal complaint. Mediation can resolve disputes quickly and reduce the formal complaint caseload. Due to its limited staff, S/OCR has a contract with the Justice Center of Atlanta, GA, which provides trained ADR professionals for mediations.



S/OCR has used the center much less frequently lately, however, because mediators have become more available under the far less costly “Shared Neutrals” program. This interagency, cooperative program makes employees from another department or agency available to mediate disputes.

S/OCR recognizes that the ADR section needs more staff to facilitate mediation and ensure prompt assistance to EEO counselors, and the new director has given priority to immediately recruiting a mediator.

EEOC’s efficiency benchmarks also require an accurate, accessible, verifiable, and comprehensive case-tracking system that can manage an effective and timely complaint-processing program as well as gather reliable data for the 462 report. Although S/OCR’s program is now ranked among the top five of cabinet-level agencies in the timeliness of complaint processing, S/OCR’S overall EEO program is inefficient. S/OCR does not have an effective case-tracking system for complaints and cannot produce a timely and accurate 462 report or a track record where all elements of its complaints-processing program meet EEOC benchmarks for timeliness. In fact, no element of its complaints processing program meets those benchmarks. In fairness, however, few federal agencies meet all EEO standards for a model EEO program.

In its FY 2004 MD-715 report, S/OCR termed its complaints management unit “the foundation for the mission of the Office of Civil Rights.” The complaints management unit collects the data for the 462 report, oversees all formal complaints, interacts on a daily basis with contract investigators, prepares the weekly case management report, and prepares the quarterly and annual No Fear reports mandated by the No Fear Act. Despite having purchased a software package for tracking cases called iComplaints, the complaints management unit must devote considerable time of two of its four full-time staff to the manual preparation of 462 reports and No Fear reports because of deficiencies in the iComplaints software and lack of skill in its use.

Although the complaints management unit plays an important role in the complaints processing program it is not the only S/OCR element involved in the program. EEO counselors (who may come from any S/OCR unit to undertake this as a collateral duty) and the ADR staff are the first persons initially involved in the informal phase of EEO complaint processing. Once a complainant files a formal complaint, the complaints management unit takes over, as do inhouse and contract investigators and the legal unit.

The complaints management staff currently has a unit chief, three case managers, and an EEO assistant who supports another unit as well. Nevertheless, the unit's duties and responsibilities have increased with the introduction of new mandated reports, and the internal distribution of labor within S/OCR has shifted work to that unit. Position descriptions of the complaints management staff do not reflect the actual work they do. Employees have had continuing problems mastering the iComplaints software and have needed to laboriously prepare the 462 reports and No Fear reports manually. In addition, the unit's duties include:

- Working closely with contract investigators,
- Obtaining documents for investigators,
- Telephoning employees to notify them that they will be interviewed by an investigator (cited as a best practice by EEOC),
- Serving as occasional EEO counselors,
- Supporting commemorative events, and
- Clearing on all final agency decisions before they receive final approval from the legal unit and the complaints management unit processes them out to the complainants.

Furthermore, for a full year prior to the arrival of the new chief of the outreach unit, the complaints management unit shared in coordinating the S/OCR training program as that responsibility was rotated throughout the office. During 2005, the complaints staff was tasked with the lead on four of the annual commemorative events, which would have been handled by the outreach unit. Although other staff members in S/OCR have been trained to input their own case data into iComplaints, they give their data to the complaints staff for inputting instead. In all, these tasks have combined to reduce the efficiency of the unit. In its review of S/OCR's overall structure, S/OCR management plans to redirect some of the work that the complaints unit has accumulated over the past few years or fill the vacant position in that unit.

**Recommendation 9:** The Office of Civil Rights should review its case-tracking, report compilation, and report production processes and make adjustments to improve overall efficiency. (Action: S/OCR)

## RESOURCE MANAGEMENT

### BUDGET

S/OCR has an FY 2006 budget of \$606,000, which seems adequate for its functions. S/OCR's two largest budget elements are professional services (such as investigations, outside training, and website servicing), which has a budget of \$371,000, and travel, which has a budget of \$103,000. One employee in the ADR unit also performs the budget review and processes contractor payments, and her effectiveness and attention to detail was pointed out to OIG.

An EEOC complaint, when adjudicated, may result in a settlement payment to the complainant. Under current policy, the cost of any settlements does not come out of the S/OCR budget but is paid by the office against which the judgment is sustained.

### PREMIUM TRAVEL

S/OCR generated 36 travel orders during FY 2005. Of these, 10 involved premium-grade travel. Each of these 10 travel vouchers was reviewed, and all were found to comply with Department regulations. In the future, S/OCR will use form DS-4087 for authorizing business class travel, per the March 1, 2006, published procedures.

### STAFFING AND RIGHTSIZING

The staffing pattern for S/OCR shows 26 positions. At the time of the inspection, three of the positions were on detail to other units, and six were vacant. The incoming director has met with the offices where the detailees work and has requested that the individuals be returned or that S/OCR be reimbursed for the details. This will allow S/OCR to fill these critical positions and return to full

staffing. Two of the six vacancies date back to October/November 2004. S/ES-EX's policy is to leave vacant positions unfilled until a new director can select his or her staff. The fact that the principal position was open for almost a year meant that there were several long-term vacancies affecting backlogs and debilitating the office. OIG counseled S/OCR management to consider recruiting Presidential Management Fellows and other interns to fill some of the vacancies in an effort to attract staff with relevant educational backgrounds and appropriate interpersonal skills.

S/ES-EX is arranging for an experienced contractor to redraft the position descriptions in S/OCR to reflect accurately the appropriate mix of skills for the organization and facilitate posting and filling the vacancies. OIG informally recommended that this task be given a high priority, as it is an essential first step in filling the large number of vacancies.

As the new director makes decisions about restaffing and filling vacancies, he will need to evaluate the right size and staffing mix for S/OCR to meet its obligations and produce timely results.

## TRAINING

S/OCR has made considerable use of training in 2005 and 2006. Over the period, its employees attended 22 classes at FSI and 17 training conferences and courses held outside of the Department. However, OIG noted that, while some of this training was mandatory or directly relate to job responsibilities, other training did not seem relevant and appropriate. OIG informally recommended that S/OCR develop a well-thought-out training plan and prepare it in conjunction with the newly drafted position descriptions. S/OCR's director has already met with staff to discuss individual development plans.

## CONTRACTING

OIG reviewed with S/OCR and S/ES-EX the procedures for contracting out investigations and final agency determinations. All contractors are listed on the schedule of General Services Administration contractors. OIG noted that S/OCR's administrative coordinator had prepared thorough standard operating procedures for qualifying contractors and for transmitting cases for investigation.

OIG discussed with S/OCR the value of preparing standard operating procedures for the contractor payment process as well.

## AWARDS

Over the last five years, S/OCR has given seven major awards (aside from Franklin and Extra Mile awards) to its employees. Some employees questioned the transparency and even-handedness of the awards program. OIG informally recommended that the new director clearly explain his philosophy on granting of awards for accomplishments and make sure the rules are transparent. Until the unit is fully staffed, it may be best to let it be known that awards will be considered for efforts above and beyond the norm; this may help get the workload accomplished and improve morale.

## INFORMATION MANAGEMENT AND INFORMATION SECURITY

S/OCR does not manage its information technology resources effectively. The office of information resource management in the Office of the Secretary (S/ES-IRM) provides S/OCR with support for its unclassified and classified computer networks and with software development and integration assistance. S/OCR uses the Department's software and hardware configurations but also has its own software packages, eVersity and iComplaints. OIG primarily reviewed the iComplaints software and the effectiveness of the office's website because eVersity is still in the early stages of testing. However, the S/ES-IRM software development staff should keep in mind the security and configuration issues identified by this report regarding iComplaints. These concerns may affect the eVersity deployment because both software packages were created by the same vendor.

### iComplaints

The iComplaints software is a commercial, off-the-shelf product developed by Micropact that allows S/OCR to collect, track, manage, process, and report on information regarding EEO complaints and cases. The software is a web-based application that runs under Microsoft Windows and has an Oracle database backend.

S/ES-IRM did not follow Department systems management and security standards when iComplaints was deployed in 2003 and has not followed Department configuration management guidelines throughout the lifecycle of iComplaints. The application was not included in the Office of the Secretary's local configuration control board (CCB) process when version or configuration changes became necessary, despite the requirement in 5 FAM 862. Only the software development unit of S/ES-IRM participates in the configuration management process for iComplaints; individuals with functional and security responsibilities are not included. This situation causes miscommunication and discontent between the software development staff and S/OCR. OIG informally recommended that S/ES-IRM include iComplaints in its local CCB process so as to include input from the information systems security officer and an S/OCR representative. As part of the application configuration change control process, 5 FAM 864 requires that bureaus include developed or purchased applications in the Information Technology Baseline database. However, iComplaints is not in this database. OIG informally recommended that S/ES-IRM add iComplaints to the database.

S/ES-IRM also did not ensure that iComplaints was configured to meet all Department security standards. The software was configured with a generic administrative account that was shared throughout S/OCR, allowing several individuals to perform basic systems administrative tasks such as adding, deleting, and modifying users. This violates 12 FAM 622. After reviewing the application audit logs, OIG found that these administrative actions did not identify which user accounts were added, deleted, or modified. This situation allows an individual to modify and gain access to sensitive information without leaving an identifiable trail within the application. Also, password management within iComplaints is insufficient. The software does not require a password length of eight characters, has no mandatory password strength, and its password age limit is contrary to 12 FAM 623 requirements.

**Recommendation 10:** The Executive Secretariat should design and implement a version of iComplaints software that meets Department security guidelines. (Action: S/ES)

S/OCR is not using iComplaints to meet its business needs and regulatory requirements and has not designated a staff person to work with the contractor and technical staff to ensure that iComplaints meets its requirements. No one within the office has the responsibility and authority to request modifications to iComplaints. OIG informally recommended that S/OCR senior management make a staff member responsible for ensuring that the software meets its requirements.

OIG also found that S/OCR's staff enters incomplete data into iComplaints; in some cases, data is not entered at all. These anomalies contribute to inaccurate results for the No Fear and 462 reports. There is no standardization of how the data is entered into any of the fields within iComplaints nor does management oversee whether data are entered accurately or in a timely manner. Individuals also do not enter the contact or complaint information as it is received, and some office staff members enter the data into the application after the No Fear or 462 reports are generated. OIG informally recommended that S/OCR management implement a standard operating procedure to address how iComplaints should be used and ensure that the staff adheres to these standards.

Once the management and security concerns regarding iComplaints are corrected, S/OCR should allow the application to be used by EEO counselors at the bureaus and posts to alleviate the data entry burden on S/OCR. Currently, EEO counselors at posts and bureaus fill out a form and e-mail the complaint or initial contact forms to S/OCR, where staff enter it into iComplaints. This is an unnecessary burden and duplication of effort. If a counselor could enter the data directly into iComplaints, S/OCR could capture the data in a timely manner. OIG informally recommended that S/OCR deploy iComplaints to all bureaus and posts to allow EEO counselors access to enter and maintain their individual informal cases and contacts.

## Intranet Website Management

S/OCR's Intranet website does not effectively provide EEO information to customers. The website is difficult to search for basic answers on how to file a complaint or make contact with a counselor. The site does have a hot link to a list of domestic EEO counselors but not one to EEO contacts at posts. Three of the site's four hot links for individual units within S/OCR are not populated with any information. The majority of the website deals with addressing sexual harassment matters in several languages, but the site does not provide clear information on the breadth of services offered by S/OCR and how to initiate action. OIG informally recommended that S/OCR update its Intranet content to make it more customer oriented.





## FORMAL RECOMMENDATIONS

- Recommendation 1:** The Office of Civil Rights should establish a process for contributing its goals and objectives to the Office of the Secretary's annual Bureau Performance Plan and other strategic planning documents on human resources matters. (Action: S/OCR)
- Recommendation 2:** The Office of Civil Rights, in coordination with the Office of the Executive Secretariat, should conduct a top-to-bottom, function-by-function, position-by-position review to determine the office's structure and staffing needs to fulfill its policy goals. (Action: S/OCR, in coordination with S/ES)
- Recommendation 3:** The Office of Civil Rights should submit the fiscal year 2005 Management Directive-715 report to the Equal Employment Opportunity Commission for the Secretary's signature and brief the Secretary on the state of the agency regarding compliance with Equal Employment Opportunity Commission guidance and federal Equal Employment Opportunity law. (Action: S/OCR)
- Recommendation 4:** The Office of Civil Rights should review, restructure, and downsize its commemorative event activities to make resources available for other diversity and outreach activities that would yield greater measurable results. (Action: S/OCR)
- Recommendation 5:** The Office of Civil Rights, in coordination with the Office of the Executive Secretariat, should establish three positions in its outreach unit and recruit staff to fill them once the review of its office structure is complete. (Action: S/OCR, in coordination with S/ES)
- Recommendation 6:** The Office of Civil Rights, in coordination with the Bureau of Human Resources, should write and implement a standard operating procedure for including barrier analysis as part of the Management Directive-715 process. (Action: S/OCR, in coordination with DGHR)
- Recommendation 7:** The Office of Civil Rights, in coordination with the Bureau of Human Resources, should prepare written policy and procedures for the Department regarding the provision of reasonable accommodation to comply with applicable standards and obtain promulgation of the policy by the Department. (Action: S/OCR, in coordination with DGHR)

**Recommendation 8:** The Office of Civil Rights, in coordination with the Office of the Executive Secretariat and the Bureau of Human Resources, should designate a position for a chief investigations officer from the positions already allocated to the Office of Civil Rights. (Action: S/OCR, in coordination with S/EX and DGHR)

**Recommendation 9:** The Office of Civil Rights should review its case-tracking, report compilation, and report production processes and make adjustments to improve overall efficiency. (Action: S/OCR)

**Recommendation 10:** The Executive Secretariat should design and implement a version of iComplaints software that meets Department security guidelines. (Action: S/ES)

## INFORMAL RECOMMENDATIONS

Informal recommendations cover matters not requiring action by organizations outside of the inspected unit and/or the parent regional bureau and are not be subject to the OIG compliance process. However, any subsequent OIG inspection or on-site compliance review will assess the unit's progress in implementing the informal recommendations.

S/OCR's new director, the deputy, and the chief of the outreach unit have not yet taken the EEOC or FSI training courses that would equip them to manage the office more effectively and to conduct the outreach that is an integral part of their portfolios.

**Informal Recommendation 1:** The Office of Civil Rights' training program should give priority to training for its management staff, including the director, deputy, and outreach unit chief.

In the first two years of the requirement that MD-715 reports be provided to the EEOC, S/OCR began report preparation very late, hampering its ability to perform barrier analysis and develop barrier elimination plans. S/OCR has had to request an extension of the January 31 report deadline each year.

**Informal Recommendation 2:** The Office of Civil Rights should establish procedures to ensure that the outreach unit starts working on the Management Directive-715 report promptly at the conclusion of each fiscal year.

S/OCR is not a regular attendee at EEOC meetings held for federal agency civil rights offices.

**Informal Recommendation 3:** The Office of Civil Rights should ensure that appropriate members of its staff attend Equal Employment Opportunity Commission-sponsored meetings regularly.

Although S/OCR has taken a lead with some best practices of its own, it does not have a systematic approach for identifying best practices at other agencies and the EEOC.

**Informal Recommendation 4:** The Office of Civil Rights should compile a list of Equal Employment Opportunity best practices used by other offices of civil rights and gradually incorporate those practices into its operations.

S/OCR did not brief the Secretary on the “state of the agency” regarding EEO issues as required.

**Informal Recommendation 5:** The Office of Civil Rights should brief the Secretary of State each year on the state of the agency, preferably just prior to the issuance of the Secretary’s annual statement of the Equal Employment Opportunity and anti-harassment policy.

S/OCR’s legal unit had a cooperative relationship with the Office of the Legal Adviser, one that is perceived to affect S/OCR’s neutrality in some cases. Even the perception of bias in favor of the Department, in circumstances where neutrality is required, can be harmful.

**Informal Recommendation 6:** The Office of Civil Rights should review the situation and take appropriate action to promote neutrality of the office with respect to all complaints.

S/OCR’s case-tracking system is ineffective. S/OCR needs to make better use of a “tickler” system that will warn the responsible individuals that they will soon need to take an action to meet pending deadlines.

**Informal Recommendation 7:** The Office of Civil Rights should review its case-tracking system and introduce features that would provide a genuine tickler system that would provide responsible staff members with adequate notice of pending deadlines.

S/OCR’s record on timeliness is mid-ranked among federal agencies but must improve.

**Informal Recommendation 8:** The Office of Civil Rights should conduct a review of case processing to identify obstacles and opportunities for improvement and the opportunities to create incentives for timely case processing.

**Informal Recommendation 9:** The Office of Civil Rights’ senior management should carefully monitor the progress of all cases on not less than a weekly basis.

**Informal Recommendation 10:** The Office of Civil Rights should establish interim goals to mark progress in improving the timeliness of processing.

**Informal Recommendation 11:** The Office of Civil Rights, to identify ways of improving timeliness in processing cases, should obtain advice and information from the Equal Employment Opportunity Commission on best practices and should reach out to counterparts in other federal agencies to share ideas.

S/ES-EX is arranging for an experienced contractor to redraft the position descriptions in S/OCR to reflect accurately the appropriate mix of skills for the organization and facilitate filling the vacancies.

**Informal Recommendation 12:** The Office of Civil Rights, in coordination with the Office of the Executive Director in the Office of the Secretary, should give top priority to completing the redrafting of the vacant position descriptions.

S/OCR staff members have undertaken a range of training, some of which appears irrelevant.

**Informal Recommendation 13:** The Office of Civil Rights should develop a well-thought-out training plan, prepared in conjunction with the newly drafted position descriptions.

Over the last five years, S/OCR had given seven major awards (aside from Franklin and Extra Mile awards) to its employees. Some employees have questioned the transparency and even-handedness of the awards program.

**Informal Recommendation 14:** The Office of Civil Rights should undertake actions to make its awards program transparent and advise its staff of the criteria for awards.

As part of the application configuration change control process, 5 FAM 864 requires that bureaus add information about any applications they have developed or purchased to the Information Technology Applications Baseline database. OIG found that the iComplaints software is not in the baseline database.

**Informal Recommendation 15:** The Office of Information Resource Management of the Office of the Secretary should add information about the iComplaints software to the Department's Information Technology Applications Baseline database.

S/OCR has not designated a staff member to work with the contractor and technical staff to ensure that the iComplaints software meets their requirements. In addition, no one in the office has the responsibility and authority to request modifications to iComplaints.

**Informal Recommendation 16:** The Office of Civil Rights should assign a staff member responsibility to ensure that the iComplaints software meets its requirements.

The iComplaints software contains incomplete data, and some cases or contacts were not entered at all.

**Informal Recommendation 17:** The Office of Civil Rights should implement a standard operating procedure to address how the iComplaints software should be used and should also ensure that the staff adheres to these standards.

When responding to EEO complaints, EEO counselors at posts and bureaus fill out a form and e-mail the complaint or initial contact forms to S/OCR, whose staff oversees the EEO counselor program. The information is then entered into iComplaints. This process duplicates effort and causes an unnecessary burden on S/OCR staff because the same data are entered twice.

**Informal Recommendation 18:** The Office of Civil Rights, after correcting iComplaints-related management and security concerns, should deploy iComplaints to all bureaus and posts to allow Equal Employment Opportunity counselors to be able to use the software to maintain their individual informal cases and contacts.

S/OCR's Intranet website does not effectively provide EEO information to customers. The site is difficult to search to find basic answers on how to file a complaint or contact a counselor.

**Informal Recommendation 19:** The Office of Civil Rights should update the content on its intranet website to make it more customer oriented and should include on the site a step-by-step description of how to file a discrimination or sexual harassment complaint, with realistic time lines and links to supplemental information about complaints that do not involve discrimination.

PRINCIPAL OFFICIALS

	<b>Name</b>	<b>Arrival Date</b>
Director	Barry Wells	02/06
Deputy Director	Gregory B. Smith	12/04





## ABBREVIATIONS

ADR	Alternative dispute resolution
CCB	Configuration Control Board
BPP	Bureau Performance Plan
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
FSI	Foreign Service Institute
FWP	Federal Women's Program
IRM	Bureau of Information Resource Management
MD	Management directive
NO FEAR	Notification and Federal Employee Antidiscrimination and Retaliation Act
OIG	Office of Inspector General
S/ES-EX	Office of the Executive Director of the Office of the Secretary
S/OCR	Office of Secretary's Office of Civil Rights