

(2) On behalf of the Department, enter into an agreement with one or more federal agencies for processing of the Department's conflict-of-interest cases by the designated federal official chosen to serve as the EEO Officer Pro Tem.

(b) *Deputy Director of Equal Employment Opportunity.* The Deputy Director of the ODEEO is designated as the Deputy Director of EEO and acts in the absence of the Director of EEO.

(c) *Equal Employment Opportunity Officer.* The Director of EEO shall designate the Assistant Secretary or the Assistant Secretary's comparable as EEO Officer for the Department's respective organizational units for complaints arising in the respective Assistant Secretary's or Assistant Secretary's comparable organizational unit.

(d) *Equal Employment Opportunity Discrimination Complaint Manager (DCM).* Each Assistant Secretary (EEO Officer) shall designate a DCM to represent the organizational unit in EEO matters and assist the EEO Officer in carrying out EEO responsibilities. The DCM shall be the Administrative Officer (AO) for the organizational unit or another designee of the EEO Officer.

§ 7.4 Equal employment opportunity programs.

The Secretary, each Assistant Secretary, the General Counsel, the Inspector General, the President of the Government National Mortgage Association, the Chief Financial Officer, the Director of Healthy Homes and Lead Hazard Control, the Director of the Office of Departmental Operations and Coordination, and other HUD officials who may be determined by the Secretary for purposes of this part to be comparable to an Assistant Secretary, shall establish, maintain, and carry out a plan of equal employment opportunity to promote equal opportunity in every aspect of employment policy and practice. Each plan must be consistent with 29 CFR part 1614 and EEOC Management Directive 715. A copy of the EEOC Management Directive 715 is available at <http://www.eeoc.gov>.

[69 FR 62173, Oct. 22, 2004]

§ 7.5 EEO Alternative Dispute Resolution Program.

In accordance with the Secretary's Policy Statement regarding Alternative Dispute Resolution (ADR) located on the Department's website and 29 CFR 1614.102(b)(2), the Department shall establish and maintain an ADR program that addresses, at a minimum, EEO matters at the pre-complaint and formal complaint stages of the EEO process. ADR is a non-adversarial process that does not render a judgment with respect to the dispute. With the assistance of an impartial and neutral third party, ADR offers parties involved the opportunity to reach early and informal resolution of EEO matters in a mutually satisfactory fashion.

(a) *Program availability.* In appropriate cases, the EEO ADR Program is made available to an aggrieved person or Complainant during the pre-complaint and the formal complaint processing periods. Participation in the program by the parties is knowing and voluntary. Agency managers have a duty to cooperate in an ADR proceeding once the agency has determined that a matter is appropriate for ADR and the aggrieved person/complainant has elected to participate in ADR. At the formal stage, the complainant may request participation in the ADR Program. However, a determination of the appropriateness of ADR at the time of the request will be made on a case-by-case basis by the appropriate ODEEO official designated by the Director of EEO and does not affect the processing of the formal complaint, including the investigation.

(b) *EEO ADR program procedures.* The ODEEO shall establish and maintain all EEO ADR Program procedures which include appropriate consultations.

(c) *ADR training.* Training and education on the EEO ADR Program will be provided to all Department employees, managers and supervisors, and other persons protected under the applicable laws.

(d) *Pre-complaint ADR election process.* The appropriateness of a particular EEO matter or EEO complaint for the Department's ADR Program shall be determined on a case-by-case basis by the ODEEO official designated by the

§7.10

24 CFR Subtitle A (4-1-10 Edition)

Director of EEO. The EEO Counselor shall advise the aggrieved person that the aggrieved person may choose between participation in the EEO ADR Program or the EEO traditional counseling activities provided for at 29 CFR 1614.105(c). The aggrieved person's election to proceed through ADR instead of EEO counseling is final.

(e) *ADR counseling requirements.* (1) The minimum information to be provided by the EEO Counselor about the Department's ADR Program includes the following:

- (i) Definition of the term ADR;
- (ii) An explanation of the stages in the EEO process at which ADR may be available;
- (iii) A description of the ADR technique(s) used by the Department;
- (iv) A description of how the program is consistent with the EEO ADR core principles that ensure fairness and require voluntariness, neutrality, confidentiality, and enforceability;
- (v) An explanation of procedural and substantive alternatives; and
- (vi) All time frames for the EEO administrative process including ADR.

(2) The EEO Counselor shall have no further involvement in resolving the EEO matter after the referral to the EEO ADR program.

(f) *Extension of pre-complaint processing period for ADR.* Where the aggrieved person chooses to participate in ADR, the pre-complaint processing period shall not exceed 90 days from the date of initial contact with the EEO Office.

(1) The aggrieved person shall be informed in writing by the EEO Counselor, no later than the thirtieth day after contacting the EEO Counselor, of the right to file a discrimination complaint, if the matter presented by the aggrieved person has not been resolved.

(2) Prior to the end of the 30-day period from the date of initial contact with the EEO Office, the aggrieved person may agree, in writing, with the Department to postpone the final interview and extend the pre-complaint period for an additional period of no more than 60 days if the matter is not resolved. If the matter has not been resolved before the conclusion of the agreed extension, the notice of right to file a discrimination complaint shall be

issued no later than the 90th day of initial contact with the EEO Office. The notice shall inform the aggrieved person of the right to file a discrimination complaint within 15 days of receipt of the notice, of the appropriate official with whom to file a complaint and of the aggrieved person's duty to assure that the Department is informed immediately if the aggrieved person retains counsel or a representative and if the aggrieved person changes address.

(g) *EEO ADR Program's relationship to negotiated grievance, MSPB appeal and administrative grievance procedures.* Participation in the EEO ADR program does not preclude the aggrieved person or Complainant from exercising rights under any of the Department's other complaint or appeal procedures, when no resolution is reached. When participation in ADR results in a settlement agreement and the aggrieved person or Complainant believes the Department has failed to comply with its terms, the aggrieved person or Complainant may exercise the right of appeal pursuant to 29 CFR 1614.504.

RESPONSIBILITIES

§7.10 Responsibilities of the Director of EEO.

The Director and Deputy Director of EEO are responsible for:

(a) Advising the Secretary with respect to the preparation of plans, procedures, regulations, reports, and other matters pertaining to the government's equal employment opportunity policy and the Department's EEO/ADR programs;

(b) Developing and maintaining plans, procedures, and regulations necessary to carry out the Department's EEO programs;

(c) Evaluating, at least annually, the sufficiency of each organizational unit's EEO/ADR program and providing reports thereon to the Secretary with recommendations as to any improvement or correction needed, including remedial or disciplinary action with respect to managerial or supervisory employees who have failed in their responsibility;

(d) Appraising the Department's personnel operations at regular intervals to ensure their conformity with the