

On June 14, 2004, the Co-Chairs of the Council of Federal EEO and Civil Rights Executives submitted a letter to the Equal Employment Opportunity Commission (EEOC) raising several concerns about the Instructions to Management Directive (MD) 715. One of the primary concerns which was reiterated on behalf of the Council involved the reality that EEOC is requiring data reporting pursuant to nine new occupational categories in contradiction to OPM's perennial use of the PATCOB categories under which HR data is reported. On July 7, 2004, the Director of the Office of Federal Operations at EEOC responded that several agencies had indicated that their information technology departments had not found it difficult to convert their statistical information into the newly created nine occupational categories.

While the comments that the Council Co-Chairs received from its members dealt with the Instructions to MD 715 in their entirety, EEOC responded specifically to only a few. Given the number of Council members who continued to express anecdotal concerns with other matters related to MD-715 and the MD-715 Instructions, the decision was made to see how widespread these concerns were and which particular areas were the most troubling.

Consequently, the Council Co-Chairs sought the assistance of several of its members to design a survey to poll its members on the MD-715 and the MD-715 Instructions. The survey was e-mailed to Council members in September 2004, and they were given until November 12, 2004, to complete it.

This position paper is divided into three parts: 1) the narrative portion; 2) an Appendix that contains the survey and the survey responses; and, 3) a section of MD-715 previous correspondence and other research documents.

The Council's Executive Board officers, together with some of the most senior Council members, are responsible for the content of this position paper.

HISTORICAL BACKGROUND OF MD-715

EEOC distributed MD-715 at the EXCEL Conference in August 2003. Although MD-715 became effective on October 1, 2003, the MD-715 Instructions were not issued until March 30, 2004. EEOC provided a 1-day training to federal agencies during May-August 2004, and gave them until January 31, 2005, to submit the first report. Thus, federal agencies only had five months (from September 2004 through January 2005) to execute the momentous changes required by MD-715.

HISTORICAL BACKGROUND OF THE EEOC REPORT

The 1999 report issued in accordance with MD 713 AND 714 was called the Annual Report on the Employment of Minorities, Women, and People with Disabilities in the Federal Government. Starting in 2000, the title of this report was changed to the Annual Report on the Federal Work Force after combining the Annual Report on the Employment of Minorities, Women, and People with Disabilities in the Federal Government and the Annual Federal EEO Statistical Report of

Discrimination Complaints (also called the 462 Report). Thus, one can argue that even before the issuance of MD-715 in August 2003, EEOC was de-emphasizing the role played by minorities and women in its report.

SURVEY RESPONSE RATE

Overall, fifty-four survey responses were received. Twenty-nine responses were from agencies with less than 10,000 employees, five were from agencies with workforces ranging from 10,000 to 29,999 employees, three were from agencies with workforces ranging from 30,000 to 50,000 employees, and seventeen were from agencies with workforces over 50,000 employees. This is a representative sample of the Federal EEO community.

COORDINATION WITH FEDERAL AGENCIES

In accordance with Executive Order 12067, EEOC is required to advise and consult with the affected Federal departments and agencies during the development of any proposed rules, regulations, policies, procedures or orders and shall formally submit such proposed issuances to affected departments and agencies at least 15 working days prior to public announcement. However, according to the survey, twenty-three respondents indicated that EEOC had not incorporated any of their MD-715 comments, eight indicated that EEOC had incorporated only a few, and seventeen respondents remained undecided. Only six respondents indicated that EEOC had incorporated all or most of their comments.

In addition, forty-seven respondents opined that although the Instructions to MD-715 contained new policy issues, EEOC had not consulted them. While EEOC does not have to consult federal agencies when issuing instructions to management directives, eighty-seven percent of survey respondents interpreted the MD-715 Instructions as clearly setting forth the type of changes in policy as would otherwise require consultation according to Reorganization Plan No. 1 of 1978. Specifically, pursuant to Reorganization Plan No. 1 of 1978, EEOC is required to consult affected agencies before it (EEOC) takes any action related to standardized data collection procedures – which is precisely what MD-715 mandates. Therefore, most respondents opined that EEOC used a semantic interpretation of “policy and management directive” to prevent federal agencies from submitting their comments on the Instructions to MD-715.

Executive Order 12067 also requires EEOC to afford the public an opportunity to comment on new rules, regulations, procedures or orders involving equal employment opportunity. The Council Co-Chairs asked the officers of the major civil rights organizations at a previous NAACP function if EEOC had allowed them an opportunity to comment on MD-715 and the Instructions MD-715, and they indicated that they had not been consulted.

Even more importantly, Executive Order 12866 calls for a coordinated review of agency rulemaking to ensure that regulations are consistent with applicable law, the President’s priorities, and that decisions made by one agency do not conflict with the policies or actions taken or planned by another agency. Within OMB, the Office of Information and Regulatory

Affairs (OIRA) is responsible for these functions. This Executive Order also stipulates that “before issuing a notice of proposed rulemaking, each agency should, where appropriate, seek the involvement of those who are intended to benefit from and those expected to be burdened by any regulation (including, specifically, State, local, and tribal officials). In addition, each agency should afford the public a meaningful opportunity to comment on any proposed regulations, which in most cases should include a comment period of not less than 60 days.” We feel very strongly that EEOC has not abided by the guidelines of Executive Order 12866. First, EEOC did not invoke the Notice of Proposed Rulemaking (NPRM) process to get the involvement of OIRA. Second, rather than issue a management directive to address generic issues such as the requirements to create model EEO programs, we think that EEOC should have updated the affirmative action regulations found at 29 C.F.R. 1607 (Uniform Guidelines on Employee Selection Procedures, last updated in 1978!) and 29 C.F.R. 1608 (Affirmative Action Programs).

In the past, when various stakeholders have criticized EEOC for acting unilaterally, its staff has indicated that EEOC remains one of most underfunded agencies in the federal sector. While we don’t disagree with the previous statement, we think that this is precisely why EEOC needs to work more collaboratively with other EEO executives and civil rights organizations.

Even the perception that EEOC is ignoring the requirements of Executive Orders 12067 and 12866, and the Reorganization Plan No. 1 of 1978 can be a real barrier to agency buy-in and support of the MD-715 and the MD-715 Instructions.

INHERENT CONFLICT OF NEW CATEGORIES

The Instructions to MD-715 introduced nine occupational categories¹ and seven racial/national origin (RNO) categories^{2 3}. Nevertheless, the Office of Personnel Management has stated

¹ 1) Officials and Managers (further subdivided into: a) Grades 15 and above; b) Grades 13-14; c) Grades 12 and below; and, Other (contains employees in a number of different occupations which are primarily business, financial and administrative in nature, and do not have supervisory or significant policy responsibility. For example, Administrative Officers (OPM Code 0341) are appropriately placed in the "Other" sub-category); 2) Professionals; 3) Technicians; 4) Sales Workers); 5) Administrative Support Workers; 6) Craft Workers; 7) Operatives; 8) Laborer and Helpers; and, 9) Service Workers.

² 1) Hispanic or Latino (a person of Cuban, Mexican, Puerto Rican, Cuban, South or Central American, or other Spanish culture or origin, regardless of race); 2) White (a person having origins in any of the original peoples of Europe, the Middle East, or North Africa); 3) Black or African American (a person having origins in any of the black racial groups of Africa); 4) Asian (a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam); 5) Native Hawaiian or Other Pacific Islander (a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands); 6) American Indian or Alaska Native (a person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment); and, 7) Two or More Races.

³ Prior to MD-715, there were five RNO categories. These were: 1) Hispanic; 2) White; 3) Black; 4) Asian/Pacific Islander; and, 5) American Indian/Alaska Native.

publicly that it will continue using the PATCOB⁴ categories, while the Office of Management and Budget (OMB) indicated on November 23, 2004, that it was still engaged in negotiations with EEOC on the use of the proper RNO categories. The OMB staffer stated that the most contentious RNO matter remained the lack of racial data collected for the Hispanic category, and that this could potentially lead to an undercount of the Hispanics. It would be ironic if this matter that could adversely impact the allocation of federal resources to Hispanics was not addressed properly at a time when the EEOC Chair is a Hispanic.

We think that EEOC should have brought the previous issues to closure before requiring federal agencies to change their data systems. Changing data systems is an expensive and time-consuming proposition. By asking federal agencies to change their data systems now, EEOC runs the risk of having to ask agencies to change them a second time after EEOC, OPM and OMB reach consensus on these issues. The latter is simply unacceptable, as it ignores one of the President's visions for government reforms enunciated in his Management Agenda – making the federal government more results oriented.

Furthermore, MD-715 sets forth management and accountability as one of the essential elements of a Model EEO Program and indicates that agencies must ensure effective coordination between their EEO programs and related human resource programs as an example in this element. Unfortunately, neither EEOC nor OPM are leading by example in this area, since there has been no consensus or collaboration on this issue. We have reached an impasse that will impact negatively on agencies' capability to achieve ultimate implementation of MD-715.

NINE OCCUPATIONAL CATEGORIES

EEOC indicated to the Council that the nine occupational categories will provide more useful information and allow comparisons to the private sector. Since the 1960, private employees have reported information to the EEOC on one of the more well-known reports collected by the Commission, the EEO-1 report. The EEO-1 report provides a breakout of the employer's workforce by gender and race/ethnicity in nine job categories. EEOC determined that its past experience in analyzing EEO-1 reports contributed to its decision to use the same nine occupation categories in the federal sector. Nevertheless, the Council has repeatedly stated its position to EEOC that the roles that the federal and the private sectors play are totally different, whether or not one is addressing affirmative action issues or the complaints process, and, consequently, different job categories should be used by each. This explains why categories like Sales Workers and Operatives are of limited use to describe jobs in the federal workforces.

⁴ PATCOB categories continue to be used by the Office of Personnel Management to report the statistical information of the federal workforce. Prior to MD-715, EEOC also used them in its reports. The six PATCOB categories are Professional; Administrative; Technical; Clerical; Other; and, Blue Collar.

Most survey respondents agreed with the statements in the previous paragraph. Thirty-five respondents indicated that they had not converted their statistical information into the new nine occupations categories. Moreover, thirty-four respondents stated that EEOC should continue using the PATCOB categories.

While EEOC indicated that it had discussed the nine occupational categories with OPM as OPM proceeds with developing the new Enterprise Human Resources Integration system, there is no guarantee that OPM will listen to EEOC. In fact, in its letter to the Council, EEOC indicated that even if OPM continued its historical use of the PATCOB categories, OPM's data needs differed significantly from the EEOC's data needs in its role as the enforcer of the civil rights laws governing employment – not a very good indication that EEOC is trying to find common ground with OPM. Assuming, *arguendo*, that OPM did listen to EEOC by accepting the use of the nine occupational categories for EEO purposes, it will create confusion and frustration for EEO practitioners. For example, agencies, attorneys, and employees will not be able to do comparative multi-year analyses to determine the progress that agencies have made in upholding the civil rights laws because the pre-MD-715 data is in PATCOB format.

RACE AND NATIONAL ORIGIN CATEGORIES

Forty survey respondents indicated that they had not converted their workforce statistical information into the new seven RNO categories. Moreover, thirty-six respondents opined that EEOC should use the previous RNO categories. Even the Office of Management and Budget has concerns about these RNO categories.

COMMON ISSUES RELATED TO THE NINE OCCUPATIONAL CATEGORIES AND THE SEVEN RACE AND NATIONAL CATEGORIES

Federal agencies rely on different payroll systems to get their workforce statistical information. Twenty-one agencies get this information from the Department of Agriculture National Finance Center, eight from the Department of the Interior Payroll System, and twenty-five from other systems like the Defense Civilian Personnel Data System. EEOC should be aware by now that changing the occupational and RNO categories is a complex proposition that impacts on the budgetary and staffing resources available to federal agencies.

In addition, thirty-five respondents pointed out that their Offices of Human Resources were the first ones to receive the statistical information from the different payroll systems, and forty-one respondents showed that the statistical information was subdivided by PATCOB categories when they first received it.

Again, while the Instructions to MD-715 call for increased cooperation between the EEO and Human Resources offices, it is impossible to achieve this goal when both offices rely on different statistical information. And again, it must be noted that EEOC is not leading by example on this issue since MD-715 represents a serious barrier to any level of increased cooperation between these two offices. Indeed, most survey respondents agreed with our

assessment. Fifty respondents thought it was best for research purposes if EEOC and OPM used the same PATCOB and RNO categories.

MINORITIES, WOMEN AND PEOPLE WITH DISABILITIES

The goal of MD 712, 713 and 714 was the establishment and maintenance of effective affirmative action programs for minorities, women, and people with disabilities. This goal changed with the issuance of MD-715 to maintaining effective affirmative programs of equal employment opportunity under Section 717 of Title VII and Section 501 of the Rehabilitation Act.

When we looked at the Congressional intent of Title VII (29 C.F.R. Section 1608.1(b)), we found the following: “Congress enacted Title VII in order to improve the economic and social conditions of minorities and women by providing equality of opportunity in the work place.” While we support the inclusion of White Males in the statistical information collected under MD-715, we think that EEOC should include the Congressional intent of Title VII in MD-715.

The reality is that we have not achieved workforce diversity to such a level that we can afford to obliterate concepts of race, ethnicity, and/or gender and underrepresentation of same. Not surprisingly, we note that thirty survey respondents indicated that the omission of minorities and women from MD-715 will have a negative impact on the enforcement of civil rights.

UNDERREPRESENTATION

According to MD-713, agencies with 1,001 or more employees had to establish specific numerical objectives (goals) for employment of persons with targeted disabilities. For the purpose of setting numerical objectives (goals), agency could consider their own past performance, the performance of agencies with exemplary records, and overall government progress.

MD-714 allowed agencies to establish numerical goals for each job category or major occupation that was below its corresponding civilian labor force benchmark when there was a manifest imbalance or conspicuous absence of EEO Group(s) in the work force. It clarified that numerical objectives (goals) did not require or mandate the selection of unqualified persons or preferential treatment based on race, national origin or sex. Instead, it stated that the purpose of numerical measures was to attain, rather than maintain, a balanced work force.

MD-714 defined conspicuous absence as follows: Particular EEO group that is nearly or totally nonexistent from a particular occupation or grade level in the workforce. It defined manifest imbalance as the representation of EEO groups in a specific occupational grouping or grade level in the agency's workforce that is substantially below its representation in the appropriate civilian labor force.

While MD-715 required agencies with 1,000 employees or more to maintain a special recruitment program for individuals with targeted disabilities and to establish specific goals for the employment and advancement of such individuals, it remained silent on the establishment of goals for minorities and women. When we pointed out to EEOC that MD-715 could be perceived as creating a disparate impact on minorities and women at a previous NAACP function, it indicated that this difference was caused by the enforcement of two different statutes – the Civil Rights Act of 1964 and the Rehabilitation Act of 1973. Considering that none of these statutes have been amended after MD-715 became effective on October 1, 2003, we do not think that this is a valid justification. Thirty-two survey respondents considered this practice will have a negative impact on the enforcement of civil rights.

MD-715 requires agencies to look at the racial, national origin, gender and disability profiles of their workforces to determine possible areas where barriers may exist. While cautioning agencies of the inappropriateness to rely solely on statistics in determining the existence of a workplace barrier, it requires agencies to conduct barrier analyses to find out. Upon finding a barrier, MD-715 calls for its elimination. However, MD-715 does not require agencies to take remedial actions for the harm caused by these unlawful barriers in the past.

For example, let's say that an agency conducted a barrier analysis and found that requiring a college degree for its personnel vacancies was having an adverse impact on African-American and Hispanic applicants. To reach parity with the civilian labor force benchmark for the relevant geographic area, the agency would have had to hire 25 African-American and 12 Hispanic applicants. Under MD-714, this agency would establish voluntary goals to remedy the manifest imbalance of these groups and eliminate the barrier. However, MD-715 would require the agency only to eliminate the barrier – the requirement to have a college degree. After eliminating the barrier, it would be okay for this agency to just hire one African-American and one Hispanic applicant for its personnel positions, while ignoring the fact that African-Americans and Hispanics still remained underrepresented by 24 and 11 personnel positions. We think that it is unfair for MD-715 to assume that agencies have reached a level playing field after identifying and eliminating barriers. We note that thirty-four respondents concluded that the omission of the term “underrepresentation” from MD-715 will have an adverse impact on the future enforcement of civil rights in the federal sector.

We quote the following passage from page 3 of 6 of the Instructions to MD-715, “... the purpose of Title VII is equal employment opportunity, not parity or proportional representation.”

OMISSION OF SUPREME COURT DECISIONS

The landmark Supreme Court decision regarding affirmative action programs in the federal sector is Adarand Constructors Inc. v. Peña, 115 S.Ct. 2097 (1995). While the Department of Justice issued guidance on Adarand in 1996, EEOC did not issue any technical guidance which specifically addressed its impact/applicability to existing federal sector programs over which EEOC had jurisdiction. In the absence of said guidance, federal agencies relied on the Justice guidance to determine the existence of a significant underrepresentation of a particular group by

applying the 2-standard deviation analysis. We note that EEOC is mandated by Executive Order 12067 to “provide leadership and coordination to the efforts of Federal departments and agencies to enforce all Federal statutes, Executive orders, regulations, and policies which require equal employment opportunity without regard to race, color, religion, sex, national origin, age or handicap.”

MD-715 does not make any mention of Adarand or other Supreme Court decisions. We think that EEOC has done a great disservice to federal agencies by omitting important court decisions from MD-715. While claiming that MD-715 replaced policies that were twenty years old, it is unfortunate that EEOC did not take this opportunity to address the Adarand decision in MD-715. [See Washington Post article by Darryl Fears dated October 7, 2004, and entitled EEOC Applies New Diversity Rules]. Federal agencies have been left in the dark again by EEOC regarding the appropriateness or inappropriateness of using the 2-standard deviation analysis to determine the existence of a barrier. Twenty-five survey respondents concluded that such omission will have a detrimental impact on equal opportunity programs.

APPLICANT FLOW DATA FORM

The Council previously praised the EEOC’s decision to require federal agencies to collect applicant flow data under MD-715. However, collecting this information requires the development of a form that would need the approval of OMB under the Paperwork Reduction Act. While the Council suggested the establishment of an EEOC working group to design a uniform form, it recognizes that until the RNO issue is settled between EEOC and the OMB, this working group will not be able to accomplish its assignment.

Out of fifty-four federal agencies that participated in this survey, only five indicated that EEOC had contacted them regarding joining this working group. We think that EEOC should have participation from a more representative sample of federal agencies in this working group.

TRAINING

EEOC offered a 1-day training on MD-715 from May through August 2004. However, forty survey respondents indicated that this training was not adequate.

While we are aware that federal agencies can arrange with EEOC to have a more customized training on MD-715, we think that EEOC should provide a free, longer and more thorough MD-715 training that serves the generic needs of these agencies.

CONCLUSION

Only sixteen survey respondents opined that MD-715, as it is currently being implemented, was an improvement over MD 712, 713, and 714. This is certainly not a vote of confidence for MD-715 by the EEO community in the federal sector.

While thirty-eight survey respondents indicated that they will be able to submit the MD-715 report by the January 31, 2005 due date, they stated that the report will not have all the information that EEOC requested. Consequently, we question the usefulness of this data to EEOC and further question the accuracy of the ultimate MD-715 report.

Forty-three survey respondents concluded that EEOC should hold the MD-715 report requirement in abeyance until EEOC has had the time to address the issues raised in this survey with OPM, OMB, the Census Bureau, and the EEO community. We agree.

The Council remains committed to working with EEOC, but the survey indicates that there are still many unresolved issues. We hope that a more effective path to confronting and resolving these issues can be developed shortly.

APPENDIX

MD-715 SURVEY

(54 agencies provided responses to the survey)

1) How many employees does your agency have?

- a) less than 10,000 – **29 (54%)**
- b) 10,000 to 29,999 – **5 (9%)**
- c) 30,000 to 50,000 – **3 (5%)**
- d) over 50,000 – **17 (32%)**

2) What payroll system do you use to get your workforce statistical information?

- a) Dept. of Agriculture's National Finance Center - **21**
- b) Dept. of the Interior's Payroll System - **8**
- c) other system (please specify): **Defense Finance & Accounting Services, Oracle HR-DFAS, Defense Civilian Personnel Data System, FAA, DCPDS, National Finance Center, Department of the Army and CHRIS (Consolidated Human Resources Information Systems), NSA, and HHS Central Payroll System**

3) Who gets the workforce statistical information first at your agency?

- a) Office of Human Resources Management - **35**
- b) Office of Civil Rights - **8**
- c) Other (please specify) – **HR Connect, Civilian Personnel Inputs, EEO extracts, Office of Departmental Equal Employment Opportunity, Affirmative Employment Division and accessible when needed**

4) How is your workforce statistical information subdivided when it's delivered to your agency?

- a) by PATCOB - **41**
- b) by the EEOC nine job categories -**3**
- c) other (please specify): **Raw data, system allows the EEO office to retrieve utilizing various formats, Mixed, go for FOCUS reports and it comes in a large "generic" database and the EEO office requests how they want the data sorted and then made available in the nine categories**

5) *Has your agency converted its workforce statistical information into the new EEOC nine job categories?*

- a) Yes, it's converted all – 5 (9%)**
- b) Yes, it's converted some – 3 (6%)**
- c) Yes, it's working on it – 11 (20%)**
- d) No – 35 (65%)**

6) *Do you think that EEOC should continue using the PATCOB categories?*

- a) Yes – 34 (63%)**
- b) No – 16 (30%)**
- Undecided – 4 (7%)**

7) *Has your agency converted its workforce statistical information into the new EEOC race and national origin (RNO) categories?*

- a) Yes, it's converted only the new hires – 4 (7%)**
- b) Yes, it's converted all employees – 3 (6%)**
- c) Yes, it's working on it – 7 (13%)**
- d) No – 40 (74%)**

8) *Do you think that EEOC should use the pre-MD 715 RNO categories?*

- a) Yes – 36 (67%)**
- b) No – 18 (33%)**

9) *Do you think that it is best for research purposes to have EEOC and OPM use the same PATCOB and RNO categories?*

- a) Yes – 50 (92%)**
- b) No – 2 (4%)**
- Undecided – 2 (4%)**

10) What do you think will be the impact of not having the term minorities and women mentioned in MD-715?

a) It will have a negative impact – 30 (56%)

b) It will have a positive impact – 4 (7%)

c) It will not have any impact – 17 (31%)

Undecided – 3 (6%)

11) What do you think will be the impact of not having the word under representation mentioned in MD-715?

a) It will have a negative impact – 34 (63%)

b) It will have a positive impact – 2 (4%)

c) It will not have any impact – 16 (29%)

Undecided – 2 (4%)

12) What do you think will be the impact of having goals for the employment and advancement of individuals with targeted individuals but not having any for able-bodied employees?

a) It will have a negative impact – 32 (59%)

b) It will have a positive impact – 6 (11%)

c) It will not have any impact – 13 (24%)

Undecided – 3 (6%)

13) What do you think will be the impact of not having the Adarand decision mentioned in MD-715?

a) It will have a negative impact – 25 (46%)

b) It will have a positive impact – 3 (5%)

c) It will not have any impact – 23 (43%)

Undecided – 3 (6%)

14) Has EEOC contacted your agency to work on the design of an applicant flow form to collect RNO data that will ultimately be submitted to OMB?

a) Yes – 5 (9%)

b) No – 44 (82%)

Undecided – 5 (9%)

15) Do you think that EEOC incorporated the changes that your agency submitted on MD-715?

a) Yes, it incorporated all – 2 (4%)

b) Yes, it incorporated most – 4 (7%)

c) Yes, it incorporated a few – 8 (15%)

d) No, it did not incorporate any – 23 (43%)

Undecided – 17 (31%)

16) Do you think that the Instructions to MD-715 contained policy issues, and, consequently, EEOC should have allowed federal agencies to comment on them?

a) Yes – 47 (87%)

b) No – 7 (13%)

17) Do you think that the EEOC MD-715 training that you received was adequate?

a) Yes – 12 (22%)

b) No – 40 (74%)

Undecided – 2 (4%)

18) Do you think that MD 712, 713, and 714 provided better guidance to federal agencies than MD-715?

a) Yes – 28 (53%)

b) No – 16 (30%)

Undecided – 9 (17%)

19) Will your agency be able to complete the first MD-715 report by January 31, 2005?

a) Yes – 4 (7%)

b) No – 10 (19%)

c) Yes, but it will not have all the information requested – 38 (70%)

Undecided – 2 (4%)

20) Do you think that EEOC should hold the first MD-715 report in abeyance until it has had time to assess all the issue raised with OPM, OMB, the Census Bureau, and the EEO community?

a) Yes – 43 (80%)

b) No – 6 (11%)

Undecided – 5 (9%)

21) Other comments

- *EEOC should have received written concurrence from OPM before issuing the MD-715 Instructions. Our agency has been advised that the National Finance Center will not update its system without OPM's approval. Therefore, we are unable to meet all of MD 715's requirements.*
- *EEOC was a little pre-mature in issuing the reporting requirements. The statistical data being requested in some areas of the report are unrealistic and will be very difficult to report on, specifically the data on merit promotion and awards. EEOC didn't allow agencies adequate time to revise their databases in order to be able to provide the appropriate responses.*
- *MD-715 was an ill-conceived directive that did not consider the impact on federal agency data collection and failed to consider the impact on discrimination complaints with each agency.*
- *MD-715 was implemented by a politically motivate individual within EEOC that could not understand the previous Mds and the guidance provided. Subsequently, MD-715 does not provide any guidance to agencies on how to have an affirmative employment program*
- *Most agencies will only have a Special Emphasis Program observing Ethnic and National Origin groups. "If we can keep the employees happy with observances we've done our job."*

- *The MD-715 instructions are very comprehensive and require a great deal of analysis, which will exceed the Jan 31 deadline. Moreover, it is curious whether EEOC will be realistically able to track agencies progress under this new directive. At this point, I am very skeptical about whether this directive will significantly improve the representation of women, minorities and persons with disabilities at it purports.*
- *My agency will submit information as it can. The new categories will not be in place for us, so we will report very little statistical information on the tables.*
- *We've spent a lot of energy on discussing the data collection process, the categories, etc. When do we get to spend time on program matters? EEOC could have avoided a lot of grief by talking with agencies for feedback and providing time to get adjusted.*
- *Does EEOC really expect that they can provide policy guidance in the MIDDLE of the year and have us report BACK for the full year in the format that they mandate? Does EEOC really think that the small agencies can make fast changes to the statistical systems? I consider EEOC to be acting arrogantly.*
- *The Fed HR data retooling issue is critical, as is having legal definitions or UR.*
- *The data retooling is a major requirement in that every instance in which an occupational series is used, HR, payroll, retirement, benefits, applicant pool, the SOC and census codes have to be applied and retrofitted to all records going back to the very first entry of an employee record for all employees active and inactive. You can't "cut off" a database record mid career and "start fresh", the fields have to be consistent, and therefore the records and their 1000's of underlying tables are impacted.*
- *This means that every employee record is impacted, every record that has the employee's series, not simply current records. This also requires major IT funding and systems analysis across the federal spectrum.*
- *I believe this year should be a phase-in year. The newness and complexity of this report causes most EEO folks to pull out their hair trying to meet the requirements. Trying to implement and produce a report for something that has taken twelve (12) years to publish, short on guidance, one that's loaded with changes as you're trying to prepare in a short suspense is horrendous, and frankly, stupid. Something of this magnitude should have been a phase-in as we try to work the "bugs" out. This is a good "tool" to thin the ranks, as it is a very frustrating ordeal for even the seasoned EEO folks.*
- *I do not believe that the way the questions in the MD-715 are structured will provide the EEOC with the information it is attempting to acquire from the agency.*
- *Until EEOC returns to its enforcement mandate of civil rights laws, this is all moot. The problem is that EEOC has backed away from its mission in order to be more politically correct- until there are some teeth in the regulation and strong enforcement, civil rights for federal employees will continue to decline.*
- *EEOC is toothless/paper tiger*

- *The barrier analysis should focus on job type, money earned (actual salaries) an independence/decision making authority*
- *It is difficult now more than ever to plan and track progress*
- *We need specific guidance on Census 2000*
- *The 9 employment categories need to re-worked. Specifically, the Officials and Managers.*

**MD-715 PREVIOUS CORRESPONDENCE &
OTHER RESEARCH DOCUMENTS**