



Office of Inspector General

November 2005
Report No. 06-001

**FDIC's Equal Employment Opportunity
Discrimination Complaint Process**

EVALUATION REPORT

Office of Audits



oig



FDIC's Equal Employment Opportunity Discrimination Complaint Process

Results of Evaluation

Background and Purpose of Evaluation

The Office of Diversity and Economic Opportunity (ODEO) implements the discrimination complaint resolution process in accordance with Title 29 of the Code of Federal Regulations, Part 1614, *Federal Sector Equal Employment Opportunity*, effective November 9, 1999, which mandates specific time frames for federal agencies to process, investigate, and issue agency decisions on discrimination complaints.

We conducted this review as a follow-up to evaluations of the FDIC's Equal Employment Opportunity (EEO) discrimination complaint resolution process that we performed in 1998 and in 2000 with the FDIC's Office of Enterprise Risk Management, formerly the Office of Internal Control Management.

The objective of this review was to evaluate the FDIC's discrimination complaint resolution process and management of the FDIC's formal complaint case load. However, we were unable to accomplish our objective due to data reliability issues associated with ODEO's case tracking system. We focused, instead, on ODEO's conversion to a new complaint tracking system. We limited our scope to presenting, not validating, ODEO's case processing statistics and ODEO's perspective on the statistics.

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ODEO reported that the volume of discrimination complaints filed annually and the discrimination complaints case load have significantly decreased. ODEO management attributes these decreases to a combination of factors, including corporate downsizing and the implementation of an alternative dispute resolution program. However, we noted that ODEO's overall average case processing time frames have increased by 39 percent since 1996 to 986 days, whereas other federal agencies have experienced a 24-percent increase in case processing time frames over this same period, averaging 469 days. While ODEO management has expressed that a number of factors in the process are outside of its control, those factors are not unique to the FDIC and may not explain why the Corporation's case processing time frames exceed the federal sector average.

Additionally, ODEO is currently without reliable data in its discrimination complaint case tracking system. During 2004, ODEO converted discrimination complaint data from a legacy system to a new commercial-off-the-shelf system. We concluded that the data conversion effort was not adequately managed, resulting in unreliable data in the new system. The lack of a reliable case tracking system could hamper ODEO's ability to effectively manage its complaint case load and to efficiently meet internal and external reporting requirements. Further, ODEO cannot readily respond to ad hoc requests for information, and there is an increased vulnerability for reporting errors using manually gathered information.

ODEO maintained that reliable data could be extracted from the new case tracking system to produce accurate, required reports in a reasonable amount of time. Nevertheless, ODEO has initiated action to improve the reliability of the system.

We reported findings related to case processing time frames and data reliability in our prior evaluations. The FDIC needs to devote renewed and sustained management attention to this program and ensure that ODEO promptly and effectively improves the reliability of its case tracking system.

Recommendations and Management Response

We recommended that ODEO (1) develop a formal remediation plan to address data reliability of the case tracking system that establishes milestones and identifies appropriate and sufficient resources to complete the remediation in a timely and effective manner and (2) arrange for an independent follow-up review of ODEO's compliance with EEO case processing time frames, following remediation of the case tracking system data reliability issues.

Management agreed with both of our recommendations.

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Acronyms

AJ	Administrative Judge
C.F.R.	Code of Federal Regulations
COTS	Commercial-off-the-Shelf
DIT	Division of Information Technology
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
FAD	Final Agency Decision
FDIC	Federal Deposit Insurance Corporation
FY	Fiscal Year
GAO	Government Accountability Office
HRT	Human Resources Technologies, Inc.
ODEO	Office of Diversity and Economic Opportunity
OERM	Office of Enterprise Risk Management
OIG	Office of Inspector General
SDLC	System Development Life Cycle



DATE: November 4, 2005

MEMORANDUM TO: D. Michael Collins
Director, Office of Diversity and Economic Opportunity

FROM: Russell A. Rau [Electronically Produced Version; original signed by Russell A. Rau]
Assistant Inspector General for Audits

SUBJECT: *FDIC's Equal Employment Opportunity Discrimination Complaint Process (Report No. 06-001)*

This report presents the results of our evaluation of the FDIC's Equal Employment Opportunity (EEO) discrimination complaint resolution process. The objective of this review was to evaluate the FDIC's discrimination complaint resolution process and management of the FDIC's formal complaint case load. However, we were unable to accomplish our objective due to data reliability issues associated with the Office of Diversity and Economic Opportunity's (ODEO) discrimination complaint tracking system. We focused, instead, on ODEO's conversion to a new complaint tracking system. We limited our scope to presenting, not validating, ODEO's case processing statistics and ODEO's perspective on the statistics. Additional details on our objective, scope, and methodology are in Appendix I.

Background

ODEO is responsible for implementing the discrimination complaint resolution process required by Title 29 of the Code of Federal Regulations, Part 1614, titled, *Federal Sector Equal Employment Opportunity*, effective November 9, 1999, which mandates specific time frames for federal agencies to process, investigate, and issue agency decisions on discrimination complaints. These regulations are included in the Equal Employment Opportunity Commission's (EEOC) policies, procedures, and guidance published in Management Directive 110 (EEO MD-110), effective November 1999, for the FDIC.

ODEO issues annual reports to the EEOC on its progress in resolving discrimination complaints and statistical information relating to the FDIC's EEO complaints to the Congress on an annual fiscal year basis under the *Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002* (No Fear Act). The FDIC's procedures for initiating and processing EEO complaints of alleged employment discrimination are contained in FDIC Circular 2710.2, *EEOC Discrimination Complaint Procedures*, effective December 3, 2003. Appendix II depicts the discrimination case resolution process.

We conducted this review as a follow-up to evaluations¹ we performed of the FDIC's EEO discrimination complaint resolution process in 1998 and in 2000 with the Office of Enterprise Risk Management (OERM).² Those evaluations reported noncompliance with EEOC complaint processing time frames and made several recommendations to improve the FDIC's discrimination complaint process.

¹ Information about prior evaluation reports is in Appendix I.

² Formerly the Office of Internal Control Management.

Evaluation Results

ODEO reported that the volume of discrimination complaints filed annually and the discrimination complaint case load have decreased significantly. ODEO management attributes these decreases to a combination of factors, including agency downsizing and the implementation of an alternative dispute resolution program. However, we noted that ODEO's overall average case processing time frames have increased by 39 percent since 1996 to 986 days, whereas other federal agencies have experienced a 24-percent increase in case processing time frames for the same period, averaging 469 days. While ODEO management has expressed that there are a number of factors in the process outside of its control, those factors are not unique to the FDIC and may not explain why the Corporation's case processing time frames exceed the federal sector average. The lengthy case processing time frames result in the FDIC not providing its employees with an efficient and effective process for resolving discrimination complaints and possibly not complying with EEOC policies.

We could not independently verify or perform our own analysis of the FDIC's discrimination complaint statistics or case processing time frames because ODEO is currently without reliable data in its discrimination complaint case tracking system. During 2004, ODEO worked with the Division of Information Technology (DIT)³ and a vendor to convert discrimination complaint data from a legacy case tracking system to EEONet.⁴ We concluded that the data conversion effort was not adequately managed and did not accurately map the data fields between the two systems, resulting in unreliable data in EEONet.

As a result, ODEO was not able to readily provide information on open and closed cases to allow us to meet our evaluation objective. Moreover, the lack of a reliable case tracking system hampers ODEO's ability to effectively manage its complaint case load and to efficiently meet internal and external reporting requirements. Further, ODEO cannot readily respond to ad hoc requests for information, and there is an increased vulnerability for error in manually gathering information from case files and other sources of information to respond to information requests and to develop required reports.

ODEO maintained that reliable data could be extracted from EEONet to produce accurate, required reports in a reasonable amount of time. Nevertheless, ODEO has contracted with a vendor to input and validate missing data in EEONet. ODEO has not, however, developed a formal remediation plan that establishes milestones and identifies appropriate and sufficient resources to complete the remediation in a timely manner.

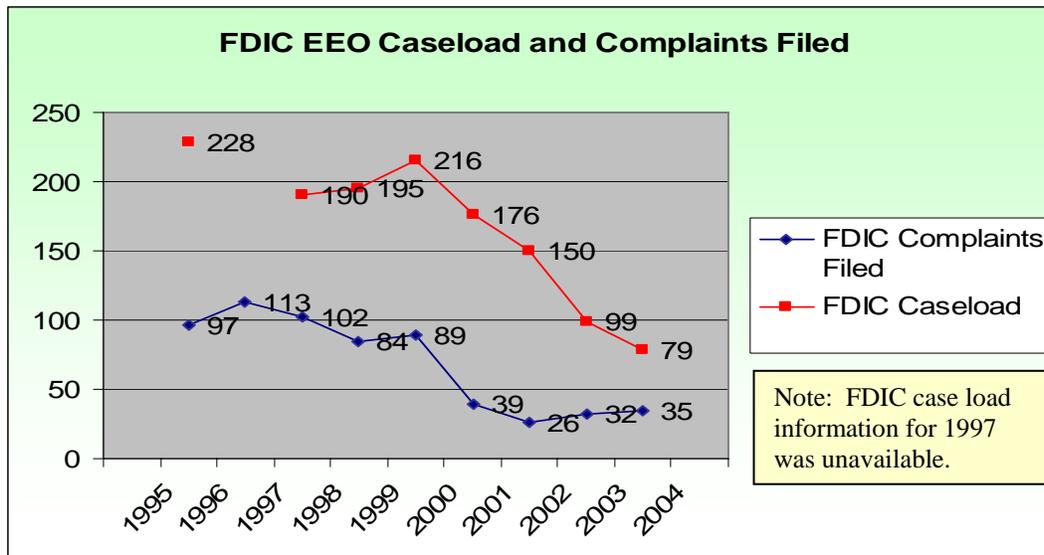
³ Formerly the Division of Information Resources Management.

⁴ According to the vendor's Web Site, EEONet is an EEO case management system built to assist EEO managers and counselors throughout an organization in managing all aspects of information and program management related to EEO complaints and resolutions. Built to support the EEOC reporting requirements, EEONet allows automated generation of the reports required by EEOC as well as a variety of other reports and documentation that can be customized to user and management requirements.

Decrease in Volume of Discrimination Complaints and Case Load

ODEO has reported that the volume of discrimination complaints filed annually has decreased 64 percent from 97 cases filed during 1996 to 35 cases filed in 2004. Further, the Corporation's discrimination complaints case load has decreased by 65 percent from 228 open cases in 1996 to 79 open cases in 2004. Figure 1 below details the number of EEO discrimination complaint cases filed compared to the average number of cases in process from 1996 through 2004.

Figure 1: FDIC EEO Case Load and Complaints Filed



Source: EEOC's Annual Report on the Federal Work Force, Fiscal Year 1996-2004.

ODEO management attributes these decreases to a combination of:

- an overall reduction in FDIC staff through downsizing;
- the implementation of an Alternative Dispute Resolution program;⁵
- changes in corporate culture resulting from management's commitment to the principles outlined in the FDIC's Strategic and Diversity plans;
- an increased use of grievance procedures to resolve compensation-related disputes; and
- a November 1999 change in the EEOC's regulations⁶ allowing EEO complainants to amend a previously filed complaint prior to the conclusion of an investigation into the complaint, to include issues or claims that are like or related to those raised in the previously filed complaint rather than requiring an EEO complainant to file a new complaint.

Increase in Case Processing Time Frames

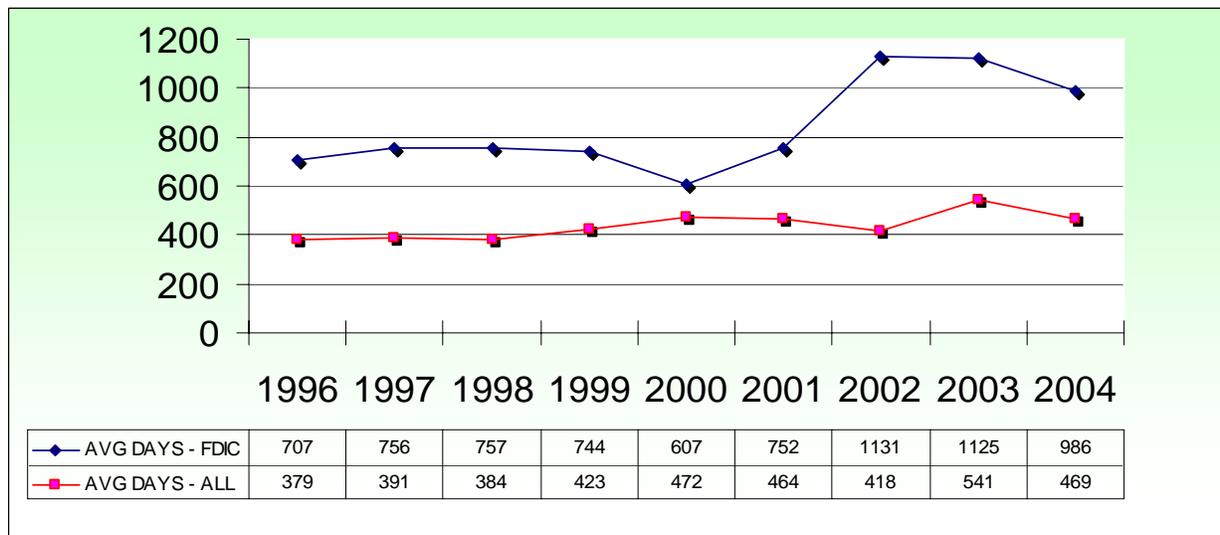
ODEO's overall average case processing time frames have increased by 39 percent since 1996, from 707 days in 1996 to 986 days in 2004 despite a substantial decrease in the case load and the number of complaints filed as discussed earlier. During the same time frame, other federal agencies have experienced a 24-percent increase in case processing time frames.

⁵ The program implements a spectrum of resolution processes, including negotiation, facilitation, mediation, and evaluation during the informal discrimination pre-complaint process to attempt to resolve more claims earlier in the process, helping to reduce the number of formal complaints.

⁶ 29 C.F.R. § 1614.106(d).

Figure 2 compares the average number of processing days for all EEO discrimination complaint closures for the FDIC and the federal government during fiscal year (FY) reporting periods 1996 through 2004.

Figure 2: Average Number of Processing Days for All Complaint Closures



Source: EEOC's Annual Report on the Federal Work Force, Fiscal Year 1996-2004.

ODEO management identified several factors that increase discrimination complaint processing time frames and that were out of ODEO's control:

- **Class Complaints** - Class complaints of discrimination placed in abeyance and awaiting an Administrative Judge's (AJ) decision on the parameters and definition of the class are included in the EEOC's calculation of average number of days to resolve a discrimination complaint. ODEO must also hold in abeyance other individual discrimination complaints asserting the same basis⁷ of discrimination as class complaints until the EEOC rules on the certification of the class complaint. ODEO had three class complaints from 2001 through 2004.
- **Hearings** – The complainant has the right to request a hearing before an EEOC AJ. ODEO asserts that complaints awaiting a hearing by an AJ are outside of its control. The EEOC reported that the average government-wide processing time for hearings was 355 days during 2004.
- **Amended Cases** – As discussed earlier, a 1999 change to EEOC regulations allowed complainants to amend previously filed complaints to include like or related issues and claims. ODEO asserted that while this change resulted in fewer new complaints being filed, it increased the number of days required to resolve discrimination complaints.

These factors may explain time frame increases but are not unique to the FDIC and may not explain why the FDIC's case processing time frames continue to exceed the federal sector average. Lengthy case processing time frames result in an FDIC process that is not efficient

⁷ The basis for a discrimination complaint under an equal employment statute includes race, color, national origin, sex, religion, reprisal, age, or disability.

and effective in resolving employee discrimination complaints and potential FDIC noncompliance with EEOC policies.

Tracking and Reporting Discrimination Complaints Data

ODEO is currently without reliable data in its discrimination complaint case tracking system due to an inadequate data conversion effort. The lack of reliable data could hamper ODEO's ability to effectively manage its complaint caseload and to efficiently meet internal and external reporting requirements. Further, ODEO cannot readily respond to ad hoc requests for information, and there is an increased vulnerability for error in manually gathering information from case files to respond to information requests and to develop required reports.

EEOC issued Management Directive (EEO MD-715), effective October 2003, to provide policy guidance and standards for establishing and maintaining effective affirmative EEO programs and affirmative action programs. EEO MD-715 presents essential elements of model agency EEO programs, including the use of a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed at each stage of the agency's complaint resolution process and that presents information necessary to analyze complaint activity and identify trends.

EEOC also issued a federal sector report entitled, *Attaining a Model Agency Program: Efficiency*, which states that an accurate, accessible, verifiable, and comprehensive case tracking system is essential for managing an effective and timely complaint processing program. The report also noted that the lack of an effective and accurate data collection system increases complaint processing time, impairs management's ability to identify and correct deficiencies in complaint processing, and obscures the actual workload of the EEO staff.

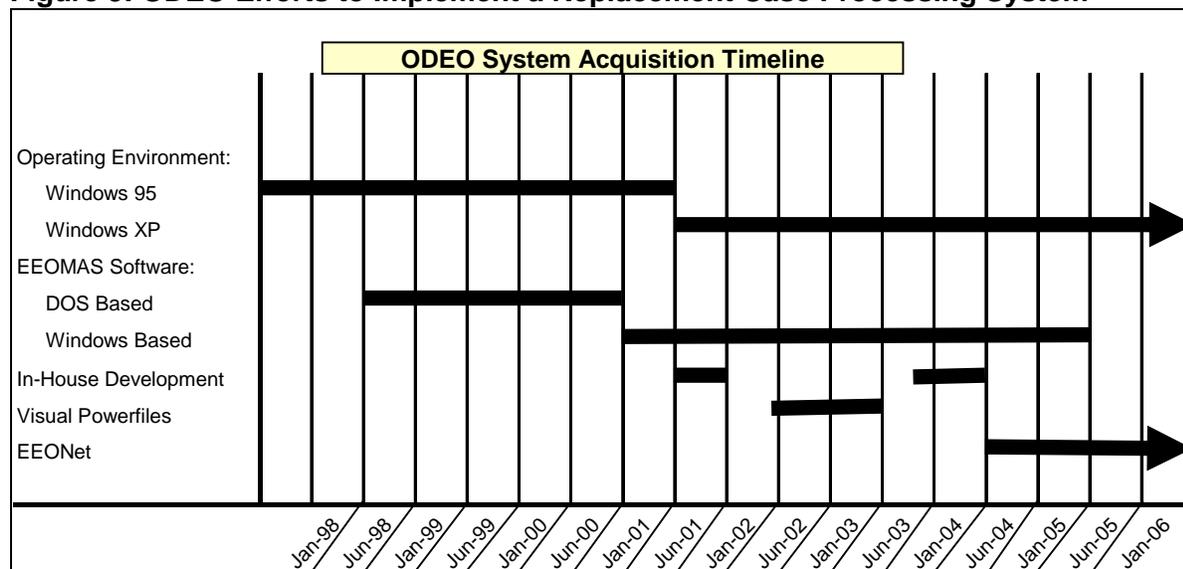
Historical Efforts to Implement a Case Tracking System

In 1998, ODEO began using a commercial-off-the-shelf (COTS) product, called EEOMAS, as ODEO's discrimination complaint case tracking system. ODEO customized EEOMAS to manage the discrimination complaints process and track FDIC discrimination complaint information. In 1999, ODEO, OERM, and the Legal Division conducted an extensive 100-percent file review to ensure that data within EEOMAS were accurate. From 1999 through 2004, OERM conducted limited data reliability reviews of EEOMAS with positive results. ODEO began using standard and ad hoc EEOMAS reports to track and manage the complaint workload and report elapsed days statistics to ensure that ODEO could meet internal and external reporting requirements.

While EEOMAS provided valuable information, the system had a number of deficiencies that made it unacceptable for long-term use. For example, DIT tested EEOMAS in March 2001 for Windows 2000 compatibility and determined that EEOMAS would not operate in the new FDIC system architecture. DIT researched various tracking system options for ODEO and found that most government agencies built their own systems due to the lack of available Web-based COTS products on the market. DIT suggested in-house development of a tracking system for ODEO. However, ODEO identified a COTS product called Visual Powerfiles that met ODEO's expectations. Visual Powerfiles was purchased in 2002 and was placed into production in 2003. Due to problems with the vendor, the product was taken off line, and DIT and ODEO began researching alternative solutions. In 2004, ODEO ultimately purchased EEONet from Human Resources Technologies, Inc. (HRT), which supports the product, as ODEO's official

discrimination complaint case tracking system. Figure 3 depicts events in ODEO's search for a discrimination complaints processing system.

Figure 3: ODEO Efforts to Implement a Replacement Case Processing System



Source: Office of Inspector General (OIG) Analysis of ODEO and DIT Information and Interviews.

System Development Life Cycle (SDLC) and Data Conversion

DIT's June 1, 2001 Project Plan that recommended a new case tracking system stated that the search for a new case management system was being performed using the FDIC's SDLC approach.⁸ The SDLC approach notes that an alternative to in-house development is the procurement of commercial software, but control is necessary to ensure that selected software meets the user's needs and that it is properly placed into operation.

DIT explained that its responsibility was to test the program's functionality and determine whether the program effectively operated on the FDIC's platform without impacting other FDIC programs. DIT indicated that the EEONet purchase agreement required HRT to install, customize, and provide annual technical support. DIT tested EEONet in the DIT test labs before approving EEONet for production and assisted HRT in developing user acceptance test plans for the initial version of EEONet. However, because EEONet was a COTS product, DIT was not involved in the actual conversion of data.

Data conversion started in May 2004, and EEONet was implemented in August 2004. The HRT contract required HRT to perform data analysis to ensure data reliability during the conversion and to provide the FDIC the test results. ODEO provided HRT a copy of the data files from EEOMAS for the conversion to EEONet and identified the data fields in EEOMAS that were customized for the FDIC in order for HRT to complete the conversion. However, it appears that

⁸ The purpose of the SDLC approach is to provide a repeatable, uniform process to develop new automated information systems and enhance or maintain existing systems, whether performed by the FDIC or through contract agreements. Use of the SDLC approach will help ensure that systems are developed efficiently and cost-effectively and meet user needs. The specific objectives of the FDIC's SDLC approach are to define the phases, activities, participants, and responsibilities in the project; standardize the activities and product formats; identify where standard controls enter into the project; and ensure that DIT and the user understand the SDLC process and communicate.

planning for the data conversion process, including mapping of data fields from EEOMAS to EEONet, was not adequate to ensure the reliability of data in EEONet.

We verified that DIT, HRT, and ODEO participated in user acceptance testing, but we concluded that testing focused on whether EEONet would operate in the FDIC's information technology environment and produce anticipated reports. Testing did not focus on whether the converted data and reports were accurate. Although data reliability testing was required by the HRT contract, neither DIT nor ODEO was able to provide documentation showing that HRT or ODEO had performed such testing.

In August 2004, ODEO accepted EEONet as the discrimination complaints processing system and operated the EEONet and EEOMAS applications in a parallel production environment. DIT again informed ODEO in November 2004 that it had to retire EEOMAS. ODEO obtained an extension to use EEOMAS through March 2005 when it was retired. ODEO indicated that it had retained a backup copy of historical complaints processing data on a CD Rom, but ODEO is unable to read the data without the EEOMAS software.

Data Reliability and ODEO Remediation Effort

ODEO characterized the data in EEONet as reliable but incomplete with respect to: (1) historical data fields that were unique to EEOMAS that did not properly convert to EEONet and (2) new data fields that were unique to EEONet for which EEOMAS did not contain corresponding data. ODEO maintained that reliable data could be extracted from EEONet to produce required reports and that reporting inaccuracies could be corrected in a matter of days.

According to guidelines published by the Government Accountability Office (GAO),⁹ data reliability refers to the accuracy and completeness of computer-processed data, given the intended purposes for use. Computer-processed data include data (1) entered into a computer system and (2) resulting from computer processing. Data are reliable when they are complete (they contain all of the data elements and records needed for the audit engagement) and accurate (they reflect the data entered at the source or in source documents). Reliability also means that for any computer processing of the data elements used, the results are reasonably complete and accurate, meet the user's intended purposes, and are not subject to inappropriate alteration. Accordingly, because the conversion of discrimination complaint data resulted in incomplete data fields and because EEONet cannot produce accurate reports without ODEO making corrections and alterations, we concluded that the data within EEONet were unreliable for our evaluation purposes.

In late August 2005, ODEO informed us that it had contacted HRT for assistance and was pursuing a two-phased approach to remediate the data reliability issues within EEONet. Under Phase I, HRT will re-convert historical data from EEOMAS to EEONet, including data fields that were unique to EEOMAS. ODEO estimated that Phase I would take about 1 month to complete. Phase II will involve reviewing ODEO source complaint files for information pertaining to the new EEONet data fields (for which EEOMAS did not maintain corresponding data) and entering that data into EEONet. ODEO did not know the extent of effort Phase II would require or whether ODEO would require HRT's assistance. Additionally, ODEO has not developed a formal remediation plan, which establishes milestones and identifies sufficient resources to complete the remediation effort in a timely manner.

⁹ *Assessing the Reliability of Computer-Processed Data*, GAO-03-273G, dated October 2002.

Conclusion

ODEO's average discrimination complaints processing time frames are more than twice the federal sector case processing average. Further, we concluded that ODEO did not successfully manage the data conversion effort between EEOMAS and EEONet and is currently without reliable data in EEONet. We reported findings in both of these areas in our prior evaluations. As a result, the FDIC needs to devote renewed and sustained management attention to this program to ensure that ODEO's processing of discrimination complaints complies with EEOC requirements. In addition, the Corporation must ensure that a reliable case tracking system is in place that assists ODEO in managing its case load and complying with internal and external reporting requirements.

Recommendations

We recommend that the Director, ODEO:

1. Develop a formal remediation plan to address data reliability of the case tracking system that establishes milestones and identifies appropriate and sufficient resources to complete the remediation in a timely and effective manner.
2. Arrange for an independent follow-up review of ODEO's compliance with EEO case processing time frames, following remediation of the case tracking system data reliability issues.

Corporation Comments and OIG Evaluation

The Director, ODEO, provided a written response dated October 27, 2005. ODEO's response is presented in its entirety in Appendix III. Appendix IV presents a summary of ODEO's responses to our recommendations.

ODEO concurred with recommendation 1. ODEO stated that it has developed a remediation plan to address the data reliability of the case tracking system. For Phase I of the remediation plan, ODEO contracted with HRT to identify necessary data fields left unpopulated by the data transferal process from EEOMAS to EEONet. This phase was completed on September 30, 2005. Phase II is being completed in two parts, utilizing internal resources. The data input is being split based on the date that complaints were filed. Data input for complaints filed in FYs 2000 – 2005 was completed on October 19, 2005, and the targeted completion date for data input and verification for complaints filed in FYs 1995 – 1999 is January 31, 2006.

ODEO also concurred with recommendation 2. ODEO has requested that OERM conduct a follow-up review of ODEO compliance with case processing time frames, validate the quality of the data in EEONet, and review the accuracy and integrity of reports. This review is scheduled for mid-November 2005.

In addition, ODEO responded to our finding regarding increased case processing time frames. In its response, ODEO reiterated that class action complaints and subsumed cases have significantly impacted processing times. Nevertheless, ODEO stated that it has instituted several measures associated with complaint investigations to improve the overall timeliness of case processing. ODEO also noted that the EEOC had recently issued clarifying guidance for

reporting on the processing of class action and subsumed complaints which should improve case processing time frames.

The actions taken and planned by management are responsive to the recommendations. The recommendations are resolved but will remain open until we have determined that agreed-to-corrective actions have been completed and are effective.

Objective, Scope, and Methodology

The objective of this evaluation was to evaluate the FDIC's discrimination complaint resolution process and management of the FDIC's formal complaints case load. However, we were unable to accomplish our objective due to data reliability issues associated with ODEO's discrimination complaint tracking system. We focused, instead, on ODEO's conversion to a new complaint tracking system. We limited our scope to presenting, not validating, ODEO's case processing statistics and ODEO's perspective on the statistics.

To accomplish our objective, we:

- Interviewed ODEO personnel responsible for the management of the FDIC's discrimination complaint resolution program to identify their case load, problem areas, and/or suggestions for improvements. In addition, we interviewed OERM personnel and reviewed various OERM documents and prior OIG reports to determine the status of earlier corrective actions.
- Assessed ODEO's efforts to procure a new case tracking system (EEONet) to replace EEOMAS.
- Interviewed DIT staff responsible for implementation of case tracking systems to replace EEOMAS regarding data from the EEOMAS legacy database, the process of implementing a new case tracking system, the timeline for the transition from EEOMAS to the implementation of EEONet, and the problems and costs associated with the transition from EEOMAS to a new discrimination complaint case tracking system.
- Reviewed applicable EEOC regulations, FDIC directives, and ODEO policies and procedures. Documented the discrimination complaints process for both informal and formal discrimination complaints resolution, including time frames for completing the process, staff involved, and documents produced.
- Reviewed EEOC federal sector reports on EEO complaints processing and appeals and EEOC's *Annual Report on the Federal Work Force* for FYs 1996 through 2004 to assess the FDIC's compliance with federal sector processing time frames in resolving discrimination complaints and to compare the FDIC's processing time frames with federal sector averages.

Prior Evaluations and Reviews

On May 4, 1998, the OIG issued Evaluation Report No. 98-001, *The Office of Diversity and Economic Opportunity's Discrimination Complaint Resolution Process and Caseload*. We reported noncompliance with EEOC complaint processing time frames and made several recommendations to improve the FDIC's discrimination complaint process.

On May 19, 2000, we issued Evaluation Memorandum No. 00-001, *FDIC's Equal Employment Opportunity Complaint Process*, jointly with the Office of Internal Control Management (now OERM). The evaluation provided updated complaint processing statistics and a status of ODEO's efforts to implement our recommendations in Evaluation Report No. 98-001.

Reliance on Computer-based Systems, Compliance with Laws and Regulations, Government Performance and Results Act, Fraud and Illegal Acts, and Internal Control

We relied on ODEO reports to the EEOC and on statistics provided by the EEOC on the FDIC's compliance with federal sector processing time frames in resolving discrimination complaints. We did not perform specific procedures to validate the reliability of data ODEO reported to the

EEOC. Further, due to the data reliability issues we identified, we did not evaluate ODEO's compliance with pertinent EEO laws and regulations associated with complaint resolution or reporting requirements.

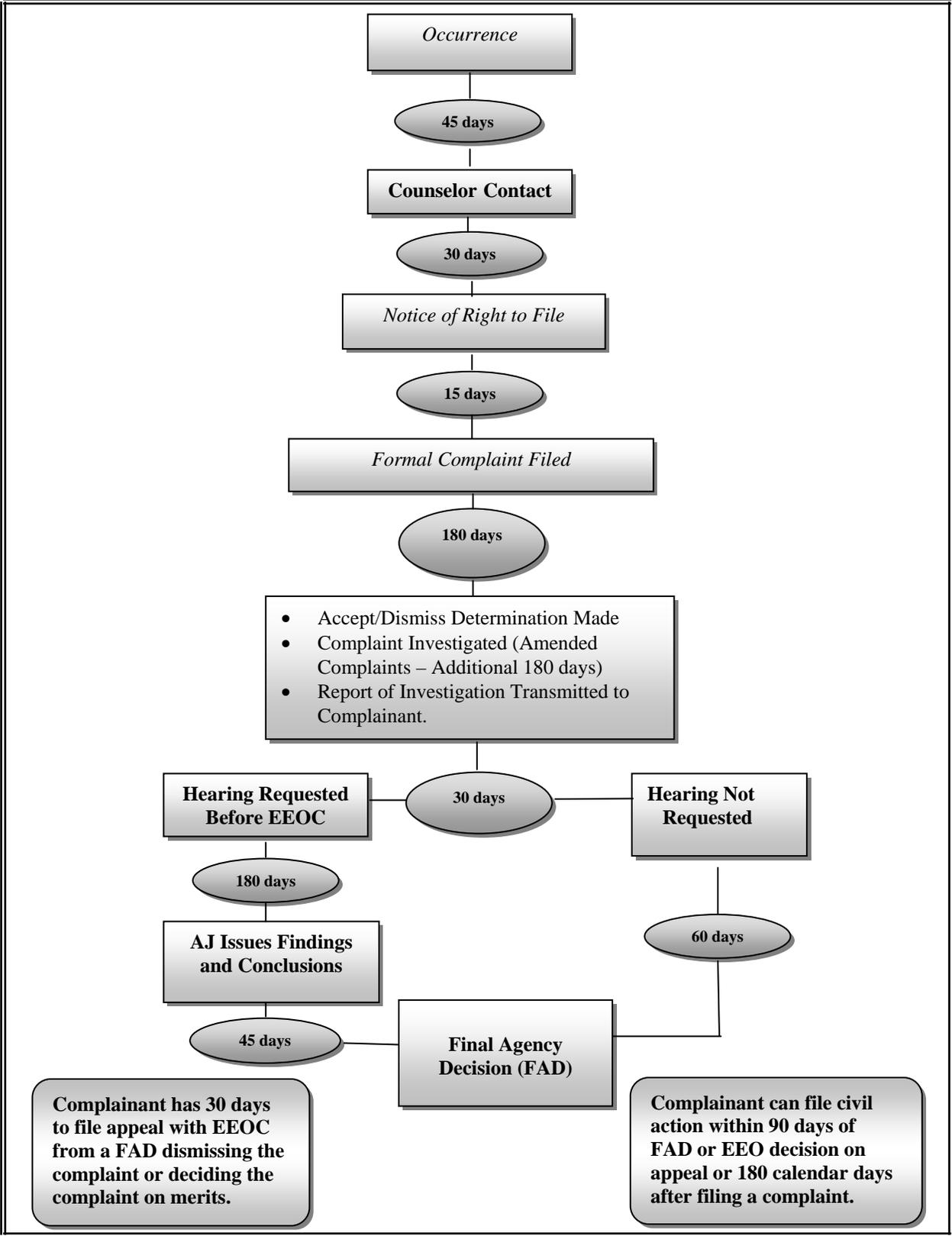
Consistent with the Government Performance and Results Act, ODEO has established goals and objectives to measure and improve performance. Because our evaluation was re-focused to address ODEO's conversion to a new complaint tracking system, we did not evaluate the adequacy or ODEO's use of those goals and objectives.

The nature of our evaluation objectives did not require that we assess the potential for fraud and illegal acts. However, throughout the evaluation, we were alert to the potential for fraud and illegal acts, and no instances came to our attention.

We evaluated the effectiveness of management controls by reviewing policies and procedures over the discrimination complaints process, organizational charts, and periodic OERM reviews of the complaints process. Our report includes findings and recommendations related to ensuring that ODEO has an effective case tracking system for managing the EEO complaint case load.

We conducted our evaluation field work from May through August 2005 in accordance with generally accepted government auditing standards.

Overview of the Federal Sector Discrimination Complaint Process



Corporation Comments



Federal Deposit Insurance Corporation
801 17th Street NW, Washington, DC 20429-9900

Office of Diversity and Economic Opportunity

October 27, 2005

MEMORANDUM TO: Stephen M. Beard
Deputy Assistant Inspector General for Audits
Office of Inspector General

FROM: D. Michael Collins
Director

SUBJECT: Draft Report Entitled, *FDIC's Equal Employment Opportunity
Discrimination Complaint Process (Assignment No. 05-026)*

Thank you for providing the Office of Diversity and Economic Opportunity (ODEO) with a copy of the draft report for comment. Our response is below.

BACKGROUND

As stated in my August 19, 2005 comments to your office's preliminary audit results, the primary purpose of the EEO complaint tracking system is to enable the FDIC to meet its external reporting requirements. Specifically, to report complaint processing activity as required by the U.S. Equal Employment and Opportunity Commission (EEOC) using the *Form 462, Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints (462 Report)* and now the No Fear Act. Both EEOMAS and its successor complaints tracking system, EEONet, were designed to meet the EEOC's reporting requirements. The FDIC has modified its off-the-shelf complaint tracking systems to enable more detailed tracking of complaints of discrimination and to meet its internal reporting requirements.

DRAFT REPORT

Recommendation #1. Recommend that the Director, ODEO, develop a formal remediation plan to address data reliability of the case tracking system that establishes milestones and identifies appropriate and sufficient resources to complete the remediation in a timely and effective manner.

ODEO Response to Recommendation #1. We concur with the recommendation. We have developed a remediation plan that will address the data reliability of the case tracking system. The plan addresses:

- backfilling of the unique and new data fields, and
- validation of data entered into EEONet.

In order to expedite the data transferal and verification process required for full implementation of EEONet, we contracted with Human Resources Technologies (HRT), the software vendor, to complete an additional conversion for specific data elements from EEOMAS to EEONet. This additional data conversion was required for those data fields in EEOMAS that did not directly

Memorandum to Stephen M. Beard
RE: Draft Report Entitled, FDIC's Equal Employment
Opportunity Discrimination Complaint Process
(Assignment No. 05-026)
October 27, 2005
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correlate with the data fields in EEONet as a result of changes in EEOC regulations and the 462 Report requirements. This conversion was also required because of user customizations made to EEOMAS after it was installed. We have developed a two-phase Action Plan for the data transferal and verification process and established timeframes for completion of the plan:

- Phase I of the conversion was completed on September 30, 2005. We identified specific data fields to be added to EEONet's formal complaints report. HRT provided us with an analysis of the records in EEONet that have unpopulated data fields needed to generate reports. HRT has already populated some of the new data fields using information currently in EEONet.
- Phase II establishes data input and validation for the remaining unpopulated data fields. We reviewed the HRT analysis of the EEONet data fields to determine those that must be populated. Based on this review, we determined that we were able to input the unpopulated data fields internally, without contractor assistance in a timely manner. Phase II is being completed in two parts, based on the timelines below:
 - A. The data input for complaints filed in FY 2000 – 2005 was completed on October 19, 2005, to allow for timely completion of mandatory reports to EEOC, Congress, and internal FDIC statistical reports using specific Fiscal Year (FY) data.

My staff prepared case summary reports for each complaint of discrimination filed with ODEO from the beginning of FY 2000 to date. These reports identified all key data fields for each complaint in EEONet. The reports were attached to the appropriate administrative file, and the EEO Specialists compared the reports to the actual information on the source documents for those files. The Specialists filled in blank fields and corrected data where necessary. Upon completion of this step, the case summary reports were signed and dated by the assigned Specialist. Staff initially verified changes before the data input was completed, however, the Complaint Processing Branch managers determined they would serve as reviewers to ensure consistency of review. The managers verified by signing and dating the changes for each complaint before the data was entered into EEONet. New case summary reports were prepared and managers compared them to the prior case summary reports to validate the reliability of the data in EEONet. Upon completion of the validation, these final case summary reports were also signed and dated.

- B. The targeted completion date for data input and verification for complaints filed in FY 1995 – 1999 is January 31, 2006, to ensure historical records are up-to-date. This historical data is not necessary for us to meet our current reporting requirements; however, it may be necessary for future class action cases.

Additionally, HRT has been contracted to create additional customized reports, which will enable us to more quickly respond to internal and external reporting requests. A "*Master Complaint Tracking Report*," was created to allow us to efficiently measure the processing times for each stage of complaints of discrimination.

As new complaints are received, we will continue to validate data as it is entered into EEONet by reviewing the printed case summaries for individual complaints, as data is input for those

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complaints. The case summaries will be signed, dated, and attached to the administrative file. The EEO Specialist assigned to process a complaint will perform a weekly review of the final case summary for each assigned complaint to verify all new data entries that were made during the respective week.

We are confident of the reliability of the data in EEONet and that we can generate all required and requested statistical reports in a timely manner.

Recommendation #2. Recommend that the Director, ODEO, arrange for an independent, follow-up review of ODEO's compliance with EEO case processing timeframes following remediation of the case tracking data reliability issues.

ODEO Response to Recommendation #2. We concur with the recommendation that we arrange for an independent follow-up review following the remediation of the case tracking data reliability issues of EEONet. We have completed Phase II - Part A and are in the process of completing Phase II - Part B of our Action Plan. We have requested that the Office of Enterprise Risk Management (OERM), conduct a follow-up review of our compliance with case processing timeframes. In addition to this, OERM will also validate the quality of the data and review the accuracy and integrity of reports. This review is scheduled for mid-November 2005.

EVALUATION RESULTS

Increase in Case Processing Time Frames

You noted that the average case processing times increased by 39 percent since 1996, from 707 days in 1996 to 986 days in 2004, despite a substantial decrease in the caseload and the number of complaints filed. Your office commented that "[l]engthy case processing time frames result in an FDIC process that is not efficient and effective in resolving employee discrimination complaints and potential FDIC noncompliance with EEOC policies."

ODEO Response

The increase in processing time for complaints must be viewed in context. We previously advised you of a number of reasons for the increase in processing times, most significantly the processing of Class Action complaints.

In September 2005, the EEOC issued clarifying guidance for reporting on the processing of class action and subsumed complaints. This guidance stated that Federal agencies were not required to report information on the processing of such complaints when the class complaint is certified. This is an indication that the EEOC recognized that many agencies were concerned about the class action complaints processing time. This reporting change will significantly improve our complaint processing times as it will provide a more accurate picture of actual processing.

The FDIC's class action complaints (one of which has been pending for over 10 years) and subsumed cases have significantly impacted processing times. As of September 30, 2005,

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excluding those class action and subsumed complaints, the average processing time for all open cases is 521 days. The average processing time excluding class action and subsumed cases, and cases pending an EEOC hearing is 182 days.

In spite of the fact that there are circumstances that have adversely affected our processing times, we have instituted the following measures to improve our processing times to the extent that they are within our control:

1. We streamlined our Investigative Plan review process and now routinely review the Plans in five business days or less.
2. Our Investigation Contract Oversight Manager and EEO Specialists take a more proactive role with investigators and witnesses to promote the timely completion of affidavits and the production of documents.
3. Our staff assists with the gathering of relevant documents earlier in the investigative process to prevent delays with completion of Reports of Investigation.

CONCLUSION

We have implemented an Action Plan to address our remediation efforts. Phase I was completed on September 30, 2005. Phase II - Part A was completed on October 19, 2005. Consequently as a result of these changes, we can efficiently and reliably generate all required reports.

Additionally, OERM will conduct the follow-up review of ODEO's compliance with EEO case processing timeframes, validate the quality of the data and review the accuracy and integrity of reports. This review is scheduled for mid-November 2005.

I trust this response clarifies the issues raised in your report. Please contact Deputy Director Vincent L. Johnson at (202) 416-2136, if you have questions.

cc: James H. Angel, Jr.

Management Response to Recommendations

This table presents the management response to the recommendations in our report and the status of the recommendations as of the date of report issuance.

Rec. Number	Corrective Action: Taken or Planned/Status	Expected Completion Date	Monetary Benefits	Resolved: ^a Yes or No	Open or Closed ^b
1	ODEO has developed a remediation plan to address the data reliability of the case tracking system. In Phase I of the remediation plan, ODEO contracted with HRT to identify necessary data fields left unpopulated by the data transferal process from EEOMAS to EEONet. Phase II is being completed in two parts based on the date that complaints were filed. Part A involved the input of data for complaints filed in FYs 2000 – 2005, and Part B will be the input and verification of data for complaints filed in FYs 1995 – 1999.	January 31, 2006	\$0	Yes	Open
2	ODEO has requested that OERM conduct a follow-up review of ODEO compliance with case processing time frames, validate the quality of the data in EEONet, and review the accuracy and integrity of reports.	Scheduled to begin mid-November 2005	\$0	Yes	Open

^a Resolved – (1) Management concurs with the recommendation, and the planned corrective action is consistent with the recommendation.

(2) Management does not concur with the recommendation, but planned alternative action is acceptable to the OIG.

(3) Management agrees to the OIG monetary benefits, or a different amount, or no (\$0) amount. Monetary benefits are considered resolved as long as management provides an amount.

^b Once the OIG determines that agreed-to corrective actions have been completed and are effective, the recommendation can be closed.