

February 11, 2009

Director
Office for Civil Rights
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Hubert Humphrey Building, Room 509F
Washington, DC 20201

Dear Director:

Enclosed is the copy of the U.S. Nuclear Regulatory Commission's Fiscal Year 2008 Annual Report on steps taken to comply with Section 308(a) of the Age Discrimination Act of 1975, as amended. An electronic copy of this report has been transmitted to you. If you have questions regarding this report, please contact me at 301-415-7380 (corenthis.kelley@nrc.gov), or Ms. Tuwanda Smith, Esq., Outreach and Compliance Program Manager, Office of Small Business and Civil Rights at 301-415-7394 (tuwanda.smith@nrc.gov).

Sincerely,

/RA/

Corenthis B. Kelley, Director
Office of Small Business and Civil Rights

Enclosure:
As stated

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ML09040140 Response

OFFICE	PM/OCCP	QA/SBCR	SA/SBCR	D/SBCR
NAME	TSmith	CCave	BWilliams	BWilliams for CKelley
DATE	02/03/09	02/03/09	02/10/09	02/11/09

OFFICIAL RECORD COPY

Data Request Form for Fiscal Year (FY) 2008 Age Act Report

1. Mediation Mechanisms

- a. **If your agency did not refer complaints to the Federal Mediation and Conciliation Service (FMCS) but attempted mediation through other efforts, please provide the following information.**

During FY 2008, the U.S. Nuclear Regulatory Commission (NRC) did not receive any complaints on age discrimination under the Age Discrimination Act of 1975. Therefore, NRC has no mediation data for this reporting period.

- **Please describe the mediation mechanism(s) that your agency took.**

N/A

- **Please identify the mediation entity used.**

N/A

- **Please identify the outcomes overall, including the numbers of successful and unsuccessful mediations.**

N/A

- b. **If your agency did not use mediation in some cases, please explain why for each case.**

N/A

2. Complaint Trend Analysis

Please provide a narrative analysis of your agency's complaint activities covering the period FY 2003 – FY 2008, which includes the following analysis:

- **increases or decreases in the number of complaints received;**

N/A

- **issues raised in the complaints;**

N/A

- **resolution of cases based on (a) findings of insufficient evidence of a violation, (b) findings of a violation and issuance of a Letter of Findings, or (c) agreements to implement corrective action or other change.**

N/A

Please explain any notable changes.

N/A

3. Compliance Review Trend Analysis

Please provide a narrative analysis of your agency's compliance review activities covering the period FY 2003 – FY 2008, which includes the following analysis:

- **increases or decreases in the number of compliance reviews conducted;**

There were no compliance review activities covering the period FY 2003 – FY 2006. NRC conducted 57 pre-award compliance reviews, and 17 periodic reviews in FY 2007. The Agency conducted 96 pre-award compliance reviews, 11 periodic compliance reviews, and 8 post reviews in FY 2008.

- **issues addressed in the compliance reviews;**

The issues addressed in the pre-award compliance review process are identified in NRC Form 781, Parts A and B (See Sample Attachment 1). The Office of Management and Budget approved the collection of information and data contained in NRC Form 781 in order to carry out the Agency's Federal obligations under applicable civil rights statutes and NRC regulations, which include the Age Discrimination Act of 1975 (See Attachment 2).

The issues addressed in those pre-award reviews placed in a periodic review status are focused on either addressing concerns raised during the review process, or allowing applicants/recipients to provide information or data to satisfy the Agency's request for information during the review process. In this instance, NRC is able to proceed with execution of procurement award conditioned on the determination of compliance by NRC's Office of Small Business and Civil Rights (SBCR) (See Sample Attachment 3).

- **resolution of compliance reviews based on (a) findings of insufficient evidence of a violation, (b) findings of a violation and issuance of a Letter of Findings, or (c) agreements to implement corrective action or other change.**

N/A

Please explain any notable changes.

During FY 2007, NRC established its Outreach and Compliance Coordination Program (OCCP), which provides regulatory oversight, compliance coordination and enforcement of

applicable civil rights statutes and Agency regulations. NRC's OCCP ensures that NRC conducted and financially assisted programs and activities comply with applicable Federal civil rights statutes, laws, Executive Orders, legal authorities, and NRC regulations.

4. Significant Cases

Please provide a short narrative of any case resolutions that your agency considers significant, based on the issues considered, the analysis conducted, or the result obtained.

N/A (There was no complaint activity).

5. Status of Regulations Implementing the Age Act.

Please provide the status of your agency's regulation implementing the Age Act. If your regulation has not been published, please provide specificity as to when your agency expects to publish proposed regulations. If your agency is experiencing a delay in publishing your regulation, please provide the reason for the delay.

NRC's regulation implementing the Age Discrimination Act of 1975, can be found in *10 CFR Part 4, subpart C, Non-Discrimination in Federally Assisted Programs or Activities Receiving Federal Financial Assistance from the Commission*. This regulation is available for public access on the NRC website at: <http://www.nrc.gov/reading-rm/doc-collections/cfr/part004/>.

6. Patterns or Practices of Age Discrimination

a. Please provide information on any patterns or practices of age discrimination identified in programs receiving financial assistance over which your agency has jurisdiction.

As of this report, NRC has not identified any patterns or practices of age discrimination in programs receiving NRC financial assistance.

b. Please describe the steps taken to eliminate the discrimination.

N/A

7. Activities Implementing the Age Act

Please describe the steps your agency has taken to carry out the requirements of the Age Act during FY 2008, including the scope and magnitude of each activity:

- **Outreach**

NRC provided the following outreach activities during FY 2008:

Conducted internal reviews of NRC's competitive grant announcements of solicitations (\$20M) to promote fairness and equity of participation based on a statutorily protected basis; notified eligible populations (institutions of higher education and other stakeholders) of these solicitations; recruited grant review panel members from different geographical areas to achieve diverse review panels;

monitored the grants awards process to ensure the review and award process were applied equitably; and performed a post evaluation of system processes and outcomes to identify the need for enhancements.

Posted the Agency's application to apply for its competitive grant solicitations on the Federal Grants.gov website, and included the application as part of the submission package OMB's Standard Form (SF) 424B, Assurances – Non-Construction Programs (See Sample Attachment 4). Provided follow-up with recipients to ensure that the SF 424B was signed by an authorized representative to ensure compliance with applicable civil rights statutes and NRC's regulatory requirements. Conducted interviews with designated applicant/recipient officials wherein NRC staff conducted outreach functions, including but not limited to providing the following:

- Overview of applicable Federal regulations, compliance mandates, and requirement for Federal agencies to conduct a pre-award compliance review prior to making an award of Federal financial assistance.
- Verbal notification of the pre-award compliance review process, and guidance in completing document requests.
- Verification that SF 424B, Assurances – Non-Construction Programs was submitted and the signature affixed is an authorized representative to ensure that the recipient's programs and activities comply with Federal civil rights statutes and NRC regulatory requirements.
- Assist applicants/recipients in understanding Federal regulations and their obligations as a condition of receiving Federal funding, compliance requirements, and how to complete NRC's requests for production of information and documents. Answered questions, and responded to issues and concerns raised by applicants/recipients.
- Emailed requests for information/document production (NRC Form 781, Parts A and B), and responded to follow-up inquiries from applicants/recipients on the development of their responses and the submittal of information and documents.

Conducted pre-award compliance reviews on each applicant/recipient that applied for NRC financial assistance prior to making a grant award.

Requested and obtained written confirmation from NRC applicants/recipients to provide the Agency notification of lawsuits/complaints filed against them alleging discrimination.

Monitored recipients' compliance with regulatory requirements such as, whether recipients make available to their participants, beneficiaries, and other interested persons the following:

- Information regarding recipients' equal opportunity (EO) policies and programs.

- Protections against discrimination assured to participants and beneficiaries (potential and actual) under law.
- Name(s) of recipients' designated EO coordinators and their contact information.
- Complaint and investigative process, and procedures for filing a complaint.

- **Technical Assistance**

NRC provided the following technical assistance during FY 2008:

- Informed applicants/recipients verbally and in writing of their obligations to comply with NRC regulations and Federal civil rights statutes including the Age Discrimination Act of 1975 as a condition of NRC funding.
- Provided assistance as needed to applicants, recipients, NRC staff, and others to help them understand applicable Federal civil rights statutes and NRC regulations; respond to information/document requests during the compliance review process, resolve issues regarding compliance obligations, and achieve voluntary compliance.

- **Staff Training**

NRC conducted the following training activities during FY 2008:

EO civil rights training (as determined necessary) for NRC management officials, regional counsel advisory board members, staff from program offices administering grants, and staff within SBCR. The training included, but was not limited to the following:

- Overview of Federal civil rights statutes; Presidential Executive Orders; Agency regulations; guidance received from Federal oversight agencies; NRC's Federal responsibilities (oversight, compliance coordination, enforcement) and compliance review processes related to pre-award, post-award, and periodic compliance reviews; and the duties imposed on NRC recipients under various antidiscrimination regulations and by legal authorities.
- SBCR's delegated authority to administer NRC's civil rights programs including the Agency's OCCP and the ten compliance sub-programs under this program area.
- NRC's staff responsibilities to ensure recipients comply with regulatory requirements.

EO civil rights training (on-going) is provided for OCCP staff including coverage of the Age Discrimination Act of 1975 to enhance performance of core responsibilities related to operation of the OCCP such as:

- Administrating OCCP subprograms,
- Providing outreach and technical assistance
- Conducting pre-award, post-award, and periodic compliance reviews
- Monitoring programs and activities
- Distributing information, educational materials, and required notifications
- Coordinating compliance
- Conducting or facilitating civil rights training
- Mediating and/or referring complaints for mediation
- Investigating complaints

- **Distribution of Information to the Public and to Recipients of Federal Financial Assistance**

NRC distributed the following information to the public during FY 2008:

- Posted notice in NRC's main lobby of recipients requirement for NRC Federal financial assistance to comply with EO provisions related to employment.
- Posted NRC's implementing regulations on the Agency's internal/external websites at <http://www.nrc.gov/reading-rm/doc-collections/cfr/part004/> and <http://www.nrc.gov/about-nrc/civil-rights/eo.html>.
- Posted NRC's OCCP on the Agency's internal/external websites at <http://www.nrc.gov/reading-rm/doc-collections/commission/secys/2007>.
- Distributed information and education materials during presentations and trainings.

- **Other Activities**

NRC coordinated efforts with the Department of Commerce, and the U.S. Agency for International Development to conduct a national level capacity building and technical assistance conference for Minority Serving Institutions. The conference is an annual event. The 2008 conference was attended by Federal, public and private sector agencies, affinity groups, special interest organizations and institutions of higher education. During this conference, NRC and the Department of Justice conducted a workshop on, "*Recipient Obligations under Federal Equal Opportunity Laws as a Condition of Funding.*" Approximately 43 attendees participated in the workshop. The workshop provided attendees with an overview and information on applicable

EO laws administered by Federal agencies including the Age Discrimination Act of 1975. Workshop participants were informed of their obligations to comply with Federal civil rights laws as a condition of the receipt of Federal financial assistance. In addition, a total of 33 attendees participated in a workshop conducted by the Department of Energy on “*Generational Diversity and How It Impacts Growth in STEM Fields.*”

8. Other Information on Reducing Age Discrimination

Please provide any other information which reflects your agency’s progress in reducing age discrimination in programs receiving Federal financial assistance from the agency.

NRC has developed and is in the process of finalizing Agency specific materials to further assist recipients to understand and comply with the Age Discrimination Act of 1975 (e.g., NRC Age Program manual, NRC EO regulatory reference guide, and toolbox kit).

**Table I: Inventory of Age Discrimination Act Complaints
(Carried Into and Received During FY 2008)**

	Number of Complaints
Complaints Carried Over from FY 2007	0
Complaints Received in FY 2008	0
Total Complaint Workload	0
Complaints Referred to FMCS in FY 2008	0
Complaints Not Referred to FMCS	0
(a) Not referred to FMCS because referred to another mediator	0
(b) Not referred to FMCS because referred to another agency	0
(c) Not referred to FMCS because referred in a previous fiscal year	0
(d) Not referred to FMCS because complaint resolved through other administrative closure	0
(e) Not referred to FMCS for other reason (please specify)	0
Complaints Resolved in FY 2008 (provide total number)	0
(a) Resolved based on insufficient evidence of a violation	0
(b) Resolved based on a finding of a violation and issuance of a Letter of Findings	0
(c) Resolved based on agreement to implement corrective action or other change	0
Cases Pending at the end of FY 2008	0

**Table II: Inventory of Age Discrimination Act Compliance Reviews
Including both Pre-Award and Post-Award Compliance Reviews
(Carried Into and Initiated During FY 2008)**

	Number of Compliance Reviews
Compliance Reviews Carried Over from FY 2007	57/17*
Compliance Reviews Initiated in FY 2008	96/11*/8**
Total Compliance Review Workload	153/28*/8**
Compliance Reviews Resolved in FY 2008 (provide total number)	0
(a) Resolved based on insufficient evidence of a violation	0
(b) Resolved based on a finding of a violation and issuance of a Letter of Findings	0
(c) Resolved based on agreement to implement corrective action or other change	0
Compliance Reviews Pending at the end of FY 2008	153/28*/8**

*Periodic reviews conducted

**Post-award reviews conducted

Attachments:
As stated