



Notification and Federal Employee Antidiscrimination
and Retaliation Act of 2002

No FEAR Act Annual Report

Department of Homeland Security
Office for Civil Rights and Civil Liberties
Fiscal Year 2013



**Homeland
Security**

**MESSAGE FROM THE
OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES,
U.S. DEPARTMENT OF HOMELAND SECURITY**



I am pleased to present the U.S. Department of Homeland Security's (DHS) *Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002* (No FEAR Act) Annual Report for Fiscal Year (FY) 2013.

The No FEAR Act, Public Law 107-174, requires that federal agencies be publicly accountable for violations of anti-discrimination and whistleblower protection laws. Federal agencies must post both quarterly and annual statistical data relating to federal sector Equal Employment Opportunity (EEO) complaints on its public website, reimburse the Judgment Fund for any payments made, and notify employees and applicants for employment about their rights under the federal anti-discrimination and whistleblower laws.

This report summarizes the most-significant accomplishments within the DHS EEO program, particularly focusing on the area of EEO complaint processing. It evidences the Department's strong commitment to abide by merit systems principles, provide protection from prohibited personnel practices, and promote accountability.

Pursuant to Congressional requirements, this report is being provided to the following Members of Congress:

The Honorable Patrick J. Leahy
President pro tempore, U.S. Senate
Chairman, U.S. Senate Committee on the Judiciary

The Honorable Thomas R. Carper
Chairman, U.S. Senate Committee on Homeland Security and Governmental Affairs

The Honorable Thomas Coburn
Ranking Member, U.S. Senate Committee on Homeland Security and Governmental Affairs

The Honorable Charles Grassley
Ranking Member, U.S. Senate Committee on the Judiciary

The Honorable John Boehner
Speaker of the House, U.S. House of Representatives

The Honorable Michael McCaul
Chairman, U.S. House of Representatives Committee on Homeland Security

The Honorable Bennie G. Thompson

Ranking Member, U.S. House of Representatives Committee on Homeland Security

The Honorable Bob Goodlatte

Chairman, U.S. House of Representatives Committee on the Judiciary

The Honorable John Conyers, Jr.

Ranking Member, U.S. House of Representatives Committee on the Judiciary

The Honorable Darrell Issa

Chairman, U.S. House of Representatives Committee on Oversight and Government Reform

The Honorable Elijah E. Cummings

Ranking Member, U.S. House of Representatives Committee on Oversight and Government Reform

Pursuant to the No FEAR Act, the report is also being provided to the Chair of the U.S. Equal Employment Opportunity Commission (EEOC), the Attorney General of the U.S. Department of Justice (USDOJ), and the Director of the U.S. Office of Personnel Management (OPM).

The DHS Office for Civil Rights and Civil Liberties (CRCL) supports the Department's mission to secure the Nation while preserving individual liberty, fairness, and equality under the law. CRCL's mission includes leading the Department's EEO programs and promoting workforce diversity. DHS succeeds in part by ensuring that our workplace decisions are equitable and based upon merit.

The DHS EEO program reflects a strong and collaborative partnership between CRCL and DHS Components, shown in part through the various improvements in the Department's EEO program during FY 2013. FY 2013 accomplishments contained in this report include:

- Completion of 608 timely investigations – a 2-percent increase over the 596 timely investigations completed in FY 2012.
- Completion of 81 percent of EEO counselings within the time frame specified by regulation.
- Issuance of 185 timely (41 percent) merit Final Agency Decisions (FADs).

The FY 2013 achievements have paved the way for continued measureable and valuable improvements in the DHS EEO program during FY 2014 and beyond. I look forward to continuing to provide information on the successes of this program in future reports.



Megan H. Mack
Officer for Civil Rights and Civil Liberties

EXECUTIVE SUMMARY

The *Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002* (No FEAR Act), Public Law 107-174, is intended to reduce the incidence of workplace discrimination within the Federal Government by making agencies and departments more accountable for violations of antidiscrimination and whistleblower protection laws. Section 203 of the No FEAR Act specifically requires that, not later than 180 days after the end of each fiscal year, each federal agency submit to certain Congressional committees and members an annual report with the following information: federal anti-discrimination and whistleblower protection laws, complaint activity (including Federal District Court cases), and resulting disciplinary actions; Judgment Fund reimbursements; adjustments to agency budgets to meet reimbursement requirements; and an analysis of trends, causation, and practical knowledge gained through experience. This No FEAR Act Annual Report covers FY 2013 (October 1, 2012 to September 30, 2013).

At the U.S. Department of Homeland Security (DHS), senior DHS leaders demonstrate a strong commitment to abide by merit systems principles, provide protection from prohibited personnel practices, and promote accountability. DHS's Office for Civil Rights and Civil Liberties (CRCL) provides policy and technical advice to senior DHS leadership on civil rights and civil liberties issues, and directs the Department's Equal Employment Opportunity (EEO) and diversity management programs.

During FY 2013, CRCL continued to partner with the DHS Undersecretary for Management, the DHS Office of the Chief Human Capital Officer (OCHCO), DHS Component EEO Offices, and other internal and external stakeholders to promote equality, fairness, workforce diversity, and efficiency. The CRCL Deputy Officer, who serves as the Department's Director for EEO and Diversity, is a member of the Secretary's Employee Engagement Council, which is co-chaired by the Undersecretary for Management and the Chief Human Capital Officer (CHCO), and its mission is to identify strategies that will lead to improvements in employee morale throughout the Department. Throughout FY 2013, CRCL also maintained close working relationships with all Components. The CRCL Deputy Officer chairs the EEO Council in which all Component EEO and Civil Rights Directors participate. Effective communication and collaboration have continued to strengthen partnerships with the Components throughout FY 2013.

During FY 2013, CRCL continued work that began in FY 2012 with the creation of the Joint Opportunities Initiative within the DHS EEO and Diversity community. This initiative provided a way to explore opportunities to leverage EEO and diversity resources within DHS, with the expected result of improving efficiencies and the quality of work. Two distinct committees were formed in FY 2012: the Diversity and Equal Employment Opportunity Professional Development Committee (DEOPDC) and the DHS Alternative Dispute Resolution (ADR) Committee. In FY 2013, the DHS ADR Committee, which is responsible for the development and implementation of a DHS-wide ADR program, completed a major milestone: completion of the white paper outlining the ADR program. The white paper serves two important purposes: first, it proposes a Department-wide Management Directive for ADR, thus creating a uniform standard within the Department; and second, it proposes the creation of a shared neutrals program by which DHS employees would be trained to serve as collateral duty neutrals for EEO-

related complaints originating from DHS Components. After Component review and approval by the Officer, the white paper will be presented to the Deputy Secretary.

During FY 2013, the DEOPDC completed Phase One of its multifaceted plan to improve professionalism within the DHS EEO community by collaborating with the Office of Personnel Management (OPM) to develop a skills assessment survey for the General Schedule (GS) 0260 EEO Specialist series. In developing this assessment, members throughout the DHS EEO community participated in a focus group to articulate the core competencies (both technical and general), and the proficiency levels for the GS-0260 series. Based on these competencies and proficiencies, OPM developed a survey that was deployed throughout the DHS EEO community. The survey had a 70 percent participation rate. OPM conducted a detailed review of the survey results and prepared a skills gap analysis that identified a number of competencies in which additional training and professional development is required. Currently, the DEOPDC is in Phase Two—conducting a further analysis of this survey, in order to determine where to most-effectively focus the combined DHS training and development resources.

DHS's uniform complaints management approach has allowed for opportunities to share best practices and has led to improvements in complaints processing. In the area of EEO pre-complaint processing, three Components, the Federal Law Enforcement Training Centers (FLETC), U.S. Customs and Border Protection (CBP), and U.S. Secret Service (USSS), achieved timely counseling for 100 percent of their cases. Overall, the percentage of timely counseling at DHS decreased slightly from FY 2012 to FY 2013. During FY 2013, 1,737 of the 2,134 requests (81 percent) for EEO counseling were timely completed, compared to 1,718 of 2,031 requests (85 percent) in FY 2012.

In the area of EEO formal complaint processing, the percentage of timely investigations increased—70 percent in FY 2013, compared to 57 percent in FY 2012. In FY 2013, there was a 17-percent decrease (871) in the total number of investigations DHS completed, compared to FY 2012 (1,046). There was an increase in the number of timely investigations completed between FY 2012 (596) and FY 2013 (608). Furthermore, DHS decreased the average number of processing days of investigations in FY 2013, in comparison to FY 2012. There was a three-day decrease in the average number of processing days for investigations between FY 2012 (230) and FY 2013 (227).

With regard to complaints adjudication, DHS issued 455 merit FADs during FY 2013, a 35-percent increase over the number issued in FY 2012 (337). Additionally, despite the increased volume, CRCL issued 41 percent (185 of 455) of merit FADs within the regulatory requirement of 60 days (for most cases), as set forth by the Equal Employment Opportunity Commission (EEOC), and exceeded the DHS Performance Measure requirement of 40 percent timely merit FADs. While the percentage of timely FADs decreased moderately from the 48 percent timeliness rate in FY 2012, this is attributed to the significant increase in FADs issued in FY 2013, compared with the prior year. Going forward, CRCL will continue to prioritize the timely issuance of merit FADs.

In FY 2013, DHS processed 24 findings of discrimination, which represents an increase from the 13 findings processed in both FY 2011 and FY 2012. The number of findings processed is,

however, similar to the number of findings processed in FY 2008 (21) and FY 2009 (23). The FY 2013 findings reflected only small shifts in the bases of discrimination and issues alleged (*i.e.*, race and color were the most frequently asserted bases, followed by reprisal and sex; the most frequently asserted issues were non-sexual harassment, terms/conditions of employment, and disciplinary action).

During FY 2013, DHS had 171 civil actions pending in Federal District Court involving the various laws covered in the No FEAR Act. During FY 2013, Federal Court judges disposed of 67 cases, 47 of which were decided in favor of the agency and 20 of which were settled by the parties.

In FY 2013, as reported by the Components, DHS's reimbursement to the Judgment Fund totaled \$1,441,361, while the amount reimbursed for attorney's fees in the same time period totaled \$85,000. During FY 2013, three employees were disciplined for discrimination, retaliation, harassment, or other infractions of provisions of law covered by the No FEAR Act.



DHS OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES FY 2013 NO FEAR ACT ANNUAL REPORT

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I. LEGISLATIVE REQUIREMENT

This document responds to the reporting requirements set forth in Section 203 of the No FEAR Act (Pub. L. No. 107-174), which states:

(a) Annual Report. — Subject to subsection (b), not later than 180 days after the end of each fiscal year, each Federal agency shall submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, each committee of Congress with jurisdiction relating to the agency, the Equal Employment Opportunity Commission, and the Attorney General an annual report which shall include, with respect to the fiscal year —

- (1) the number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged;
- (2) the status or disposition of cases described in paragraph (1);
- (3) the amount of money required to be reimbursed by such agency under section 201 in connection with each of such cases, separately identifying the aggregate amount of such reimbursements attributable to the payment of attorneys' fees, if any;
- (4) the number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law referred to in paragraph (1);
- (5) the final year-end data posted under section 301(c)(1)(B) for such fiscal year (without regard to section 301(c)(2));
- (6) a detailed description of —
 - (A) the policy implemented by that agency relating to appropriate disciplinary actions against a Federal employee who —
 - (i) discriminated against any individual in violation of any of the laws cited under section 201(a)(1) or (2); or
 - (ii) committed another prohibited personnel practice that was revealed in the investigation of a complaint alleging a violation of any of the laws cited under section 201(a)(1) or (2); and
 - (B) with respect to each of such laws, the number of employees who are disciplined in accordance with such policy and the specific nature of the disciplinary action taken;
- (7) an analysis of the information described under paragraphs (1) through (6) (in conjunction with data provided to the Equal Employment Opportunity

Commission in compliance with Part 1614 of Title 29 of the Code of Federal Regulations) including —

- (A) an examination of trends;
- (B) causal analysis;
- (C) practical knowledge gained through experience;
- (D) any actions planned or taken to improve complaint or civil rights programs of the agency; and

(8) any adjustment (to the extent the adjustment can be ascertained in the budget of the agency) to comply with the requirements under section 201.

Further guidance on each agency's reporting obligations is provided in 5 C.F.R. § 724.302, which also requires the submission of the annual report to the Director of the U.S. Office of Personnel Management (OPM) for the implementation of a best practices study and the issuance of advisory guidelines.

II. BACKGROUND

DHS's mission is to ensure a homeland that is safe, secure, and resilient against terrorism and other hazards where American interests, aspirations, and way of life can thrive. In order to maximize its effectiveness, DHS seeks to have an exemplary EEO program. DHS was established through the *Homeland Security Act of 2002*, Pub. L. No. 107–296, and Section 103(d)(5) of the Act provides for the presidential appointment of an Officer for Civil Rights and Civil Liberties (Officer). On October 26, 2012, the Secretary for DHS issued Delegation Number 19003, which delegated to CRCL the authority to render final decisions on behalf of the Secretary in EEO complaints pursuant to 29 C.F.R. § 1614.110, or pursuant to DHS Departmental EEO Complaint Procedures when that regulation is not applicable. Delegation Number 19003 superseded Delegation Numbers 3095 and 19002.

CRCL resides within the Office of the Secretary, and provides technical and policy advice to Department leadership on civil rights and civil liberties issues. The Officer, by statute, reports directly to the Secretary and assists senior leadership in shaping policy in ways that protect, rather than diminish, the personal liberties of all persons protected by our laws. In accordance with 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, CRCL's mission is to support DHS as the Department secures the Nation while preserving individual liberty, fairness, and equality under the law. CRCL performs four key functions to integrate civil rights and civil liberties into all of the Department's missions and activities:

1. Advising Department leadership, personnel, and partners about civil rights and civil liberties issues, ensuring respect for civil rights and civil liberties in policy decisions and implementation of those decisions.
2. Communicating with individuals and communities whose civil rights and civil liberties may be affected by Department activities, informing them about policies and avenues of redress, and promoting appropriate attention within the Department to their experiences and concerns.

3. Investigating and resolving civil rights and civil liberties complaints filed by the public regarding Department policies or activities, or actions taken by Department personnel.
4. Leading the Department's EEO programs and promoting workforce diversity and merit system principles.

CRCL provides departmental guidance and standards for establishing and maintaining effective programs for diversity management and EEO, as required under both Title VII of the *Civil Rights Act of 1964* (Title VII), as amended, 42 U.S.C. § 2000(e) *et seq.*, and Section 501 of the *Rehabilitation Act of 1973* (Rehabilitation Act), as amended, 29 U.S.C. § 791 *et seq.* CRCL also works to advance the protections set forth under the *Age Discrimination in Employment Act of 1967* (ADEA), as amended, 29 U.S.C. § 621 *et seq.*, the *Equal Pay Act of 1963* (EPA), 29 U.S.C. § 206 (d)(1) *et seq.*, and the *Genetic Information Nondiscrimination Act of 2008* (GINA), (Pub. L. No. 110-233). To meet these objectives, the Deputy Officer for CRCL and her staff develop policies and plans, deliver training, conduct oversight, adjudicate EEO complaints, and submit annual reports to stakeholders including Congress, the White House Initiatives Offices, the U.S. Department of Justice (DOJ), EEOC, and OPM.

III. RESULTS AND DATA

A. EEO Cases in Federal District Court

During FY 2013, DHS had 183 civil actions in Federal District Court, pending or resolved under the laws covered in the No FEAR Act. The majority of those Federal District Court filings arose under Title VII (116), followed by filings under the ADEA (32), the Rehabilitation Act (26), the *Whistleblower Protection Act of 1989* (7), EPA (1), and GINA (1).

During FY 2013, Federal District Court judges disposed of 68 cases: 47 were decided in favor of the Department and 21 were resolved by settlement. For further information regarding FY 2013 employment discrimination and whistleblower cases filed in Federal District Court against DHS, see Appendix 1.

B. Reimbursements to Judgment Fund

During FY 2013, as reported by DHS Components, the Department reimbursed the Judgment Fund in the total amount of \$1,441,361. The bulk of the reimbursement to the Judgment Fund derived from cases filed under Title VII, in the amount of \$1,421,500. Cases arising under the EPA comprised a total of \$17,111 of the amount reimbursed, and cases arising under the Rehabilitation Act comprised the remaining \$2,750 of the amount reimbursed to the Judgment Fund. With respect to attorney's fees, Title VII cases totaled \$85,000 and EPA cases totaled \$57,000.000.

C. Disciplinary Actions

At DHS, the decision whether to impose disciplinary action on an employee is determined on a case-by-case basis by the relevant Component, depending on the specific facts or circumstances at issue. During FY 2013, three employees were disciplined (all were issued suspensions without pay) for discrimination, retaliation, harassment, or an infraction of a provision of law covered by the No FEAR Act.

D. EEO Complaint Data

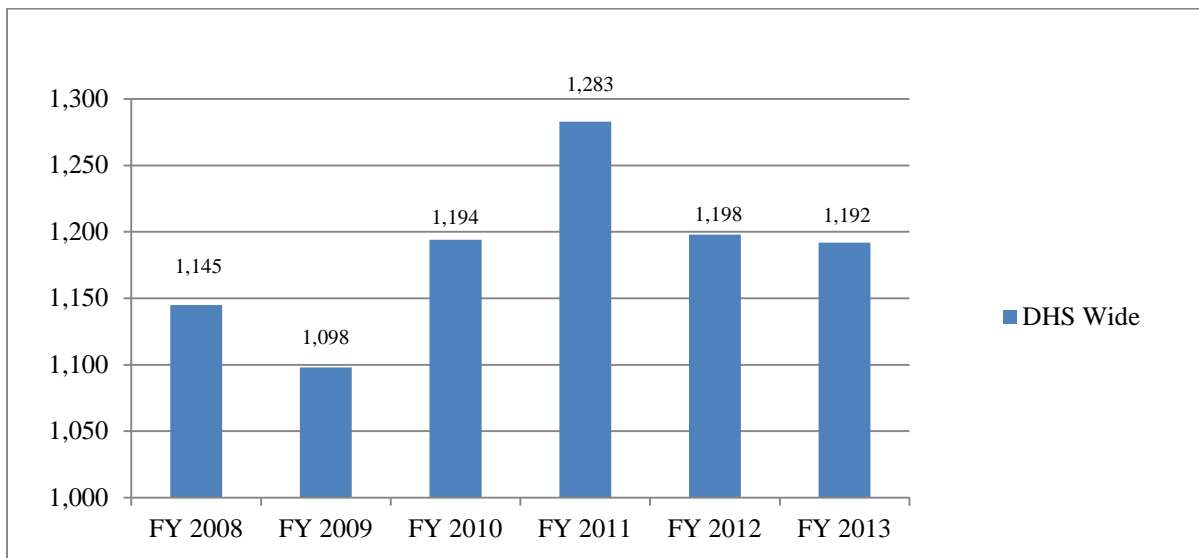
See Appendix 2 for DHS No FEAR Act data for FY 2013, which is also posted online (<http://www.dhs.gov/homeland-security-no-fear-act-reporting>).

IV. ANALYSIS OF TRENDS AND CAUSALITY

A. EEO Complaint Activity

Between FY 2008 and FY 2013, DHS experienced a four-percent increase in filings of new statutory and non-statutory EEO complaints. In FY 2013, the filing of 1,192 new statutory and non-statutory EEO complaints remained nearly identical to the filing in FY 2012 (1,198).

Figure 1: Complaints Filed, FY 2008 – FY 2013

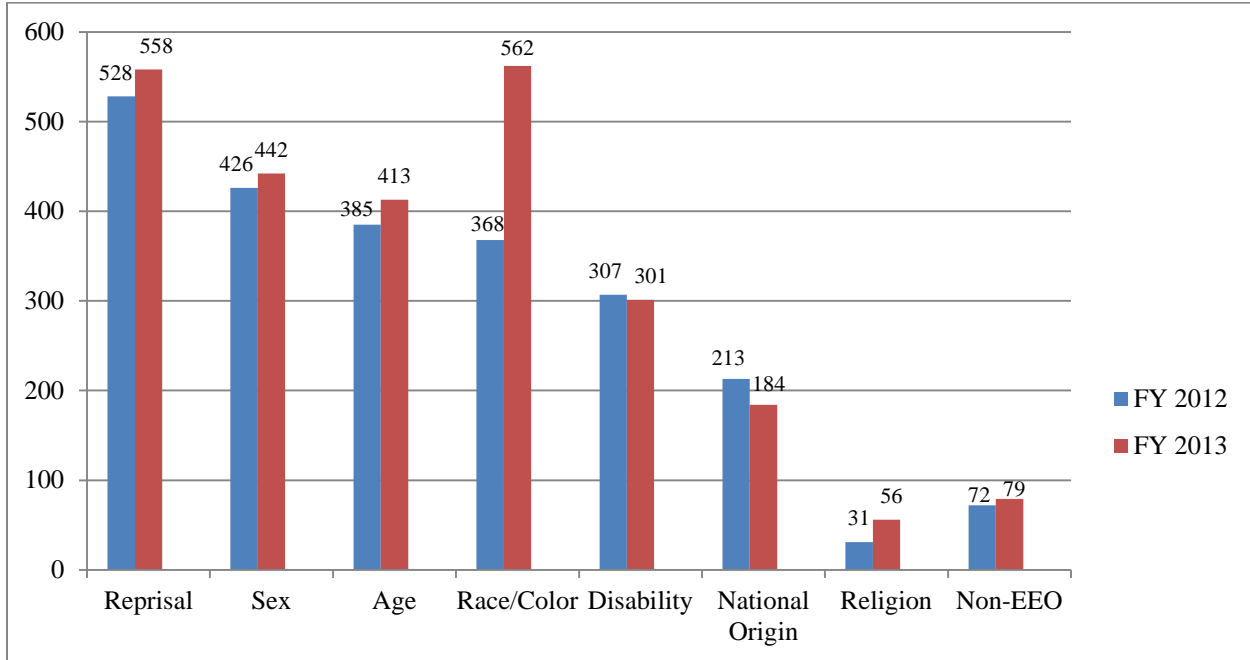


B. Bases of Discrimination in EEO Complaints

During FY 2013, DHS's most frequently alleged bases of discrimination in formal EEO complaints were, in order of frequency: race and color, reprisal, and sex. See Figure 2. In comparison, the most frequently alleged bases in FY 2012 were, in order of frequency: reprisal, sex, and age.

- *Race and Color:* DHS's FY 2013 race and color claims (562) were significantly higher than the number of such claims in FY 2012 (368).
- *Reprisal:* DHS's FY 2013 reprisal claims (558) were modestly higher than reprisal claims in FY 2012 (528). The frequency of reprisal claims is consistent with government-wide data for reprisal claims, which show that reprisal is the most frequently alleged basis of discrimination across the Federal Government from FY 2008 to FY 2011. At DHS, as elsewhere in the Federal Government, reprisal claims are nearly always joined with an underlying EEO complaint on another basis, such as race, national origin, sex, etc. See EEOC's *Annual Report on the Federal Workforce FY 2011* (<http://www.eeoc.gov/federal/reports/fsp2011/index.cfm>).
- *Sex:* During FY 2013, DHS received 442 complaints alleging discrimination on the basis of sex, which represents a four-percent increase over FY 2012 (426). Since FY 2008, sex discrimination claims have numbered among the three most frequently filed bases of discrimination.

Figure 2: Bases of Discrimination, FY 2012 and FY 2013



* Nearly all color complaints also reference race.

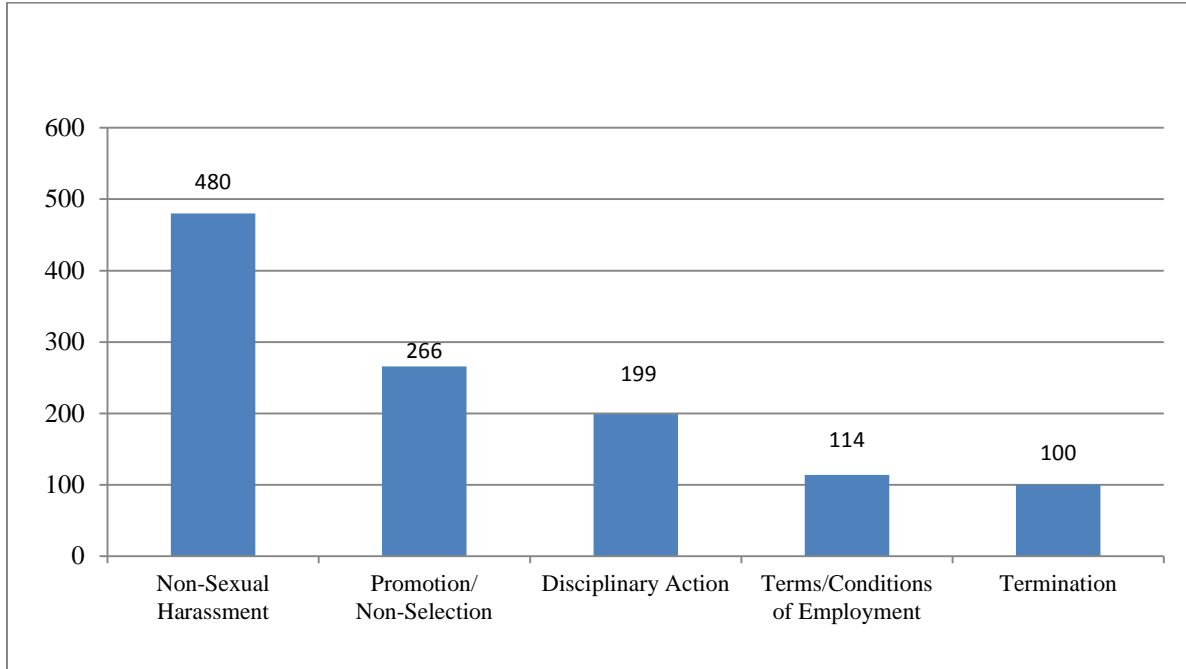
** Non-EEO includes parental status and sexual orientation.

C. Issues in EEO Complaints

The two most frequently raised issues in discrimination complaints during FY 2013 involved non-sexual harassment¹ (raised in 480 complaints) and promotion/non-selection (raised in 266 complaints). These two issues ranked among the three most-frequent issues in discrimination complaints at DHS in each of the past three fiscal years. The prevalence of these issues is consistent with government-wide trends (*i.e.*, these two issues ranked among the three most frequently raised issues in discrimination complaints across the Federal Government from FY 2007 to FY 2011, as reported in the EEOC's *Annual Report on the Federal Workplace FY 2011*). And as shown in Figure 3, disciplinary action was raised as an issue in 199 complaints, ranking third among the issues most frequently raised at DHS during FY 2013.

¹ The No FEAR Act requires reporting of complaints involving sexual harassment (*i.e.*, sex-based claims involving actionable unwelcome conduct of a sexual nature) as well as non-sexual harassment (*i.e.*, claims involving actionable unwelcome conduct not of a sexual nature, *e.g.*, race, sex, national origin, color, religion, age, disability, or reprisal).

Figure 3: Issues in Complaints, FY 2013



V. COMPLAINTS PROCESSING AND ADJUDICATION DATA

A. EEO Counseling

During FY 2013, DHS experienced an increase in the number of timely completed counselings; however, the percentage of timely completed counselings decreased slightly in comparison to FY 2012. In accordance with 29 C.F.R. § 1614.105(d), counseling must be completed within 30 calendar days, unless the aggrieved person agrees to extend the counseling period up to an additional 60 calendar days. In FY 2013, counseling was completed for 2,134 cases, and 81 percent (1,737) of these cases were timely completed. The overall number of cases counseled in a timely fashion increased to 1,737 in FY 2013, compared to 1,718 in FY 2012. While this represents a slight decrease in the overall percentage of timely cases counseled in comparison to the 85 percent timely counseled in FY 2012, there was a five-percent increase (103) in the total number of cases counseled in DHS in FY 2013. See Table 1.

Table 1: EEO Counseling at DHS, FY 2008 – FY 2013

	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>
Total Number	2,064	2,479	1,848	2,096	2,031	2,134
Timely Number	1,497	1,684	1,495	1,692	1,718	1,737
Percentage Timely	73	68	81	81	85	81

During FY 2013, five DHS Components provided timely counseling in 98 percent or more of their cases. In particular, for the fourth year in a row, U.S. Customs and Border Protection (CBP) completed 100 percent (443) of its cases within the regulatory time period. Similarly, the Federal Law Enforcement Training Centers (FLETC) timely completed 100 percent (10) of its cases for the second year in a row. Additionally, for the first time, the U.S. Secret Service (USSS) timely completed 100 percent (41) of its cases. Other Components that had a high percentage of timely cases counseled during FY 2013 include:

- U.S. Citizenship and Immigration Services (USCIS), timely completing 213 of 216 (99 percent); and
- U.S. Coast Guard (USCG), timely completing 90 of 91 (99 percent).

In FY 2013, the Federal Emergency Management Agency (FEMA) continued its progress in increasing the percentage of timely counseled cases, in spite of a 24-percent increase in the number of individuals counseled. Specifically, FEMA timely completed counseling in 230 of its 299 cases (77 percent), compared with FY 2012, when FEMA timely completed counseling in 182 of its 242 cases (75 percent).

B. EEO Investigations

In FY 2013, there was an overall decrease in the total number of investigations (871) DHS completed compared with the number completed in FY 2012 (1,046). In accordance with 29 C.F.R. § 1614.108(e), an investigation must be completed within 180 calendar days, unless the timeline is extended. DHS, however, experienced a 13-percent increase in the percentage of timely completed investigations—70 percent (608) in FY 2013 compared to 57 percent (596) in FY 2012. During FY 2013, DHS also decreased by three days its number of average processing days to 227, as compared with its average of 230 days in FY 2012. See Table 2.

Table 2: EEO Investigations at DHS, FY 2008 – FY 2013

	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>
Total Number	787	861	939	888	1046	871
Timely Number	448	561	566	531	596	608
Percentage Timely	57	65	60	60	57	70
Average Days	215	217	213	243	230	227

During FY 2013, four DHS Components timely completed EEO investigations in 98 percent or more of their cases. In particular, for the second year in a row, USCG timely completed 100 percent of its 42 investigations. Additionally, the FLETC timely completed 100 percent of its 2

investigations. Other Components that had a high percentage of timely completed investigations during FY 2013 include:

- USCIS timely completing 105 of 106 investigations (99 percent); and
- CBP timely completing 190 of 194 investigations (98 percent).

In FY 2013, two Components showed dramatic improvement in the percentage of timely investigations. In FY 2012, USSS timely completed 18 percent (5 of 28) of its investigations, but in FY 2013, it timely completed 73 percent (16 of 22) of its investigations—a 69-percent increase. Similarly, the Transportation Security Administration (TSA) had a 34-percent increase in its timely completion of investigations—44 percent (190 of 429) in FY 2012 compared to 90 percent (247 of 273) in FY 2013.

In FY 2013, Components showed continued progress in reducing the average number of processing days for EEO investigations. For the third year in a row, USCIS maintained the lowest average processing time for EEO investigations (160 days) of all DHS Components. Several Components made significant improvement in their average processing times for investigations from FY 2012 to FY 2013:

- USSS: 147-day decrease from 354 days to 207 days
- TSA: 51-day decrease from 225 days to 174 days
- USCG: 20-day decrease from 206 days to 186 days

C. Procedural Dismissals

An agency may dismiss an EEO complaint for several reasons, including: failure to state a claim; untimely initial contact with an EEO counselor; filing the identical claim in Federal District Court; and failure to provide necessary information to the agency, among other reasons. *See* 29 C.F.R. § 1614.107(a). DHS Components submit requests to CRCL for full dismissal of complaints that meet appropriate regulatory criteria. In FY 2013, CRCL issued 131 dismissals, which is fewer than the 164 dismissals that it issued in FY 2012. The 104 average processing days in FY 2013 represents a 19-percent decrease from the number of processing days in FY 2012 (129) and is the lowest number of days to process such cases in the history of DHS. See Table 3.

Table 3: Procedural Dismissals, FY 2008 – FY 2013

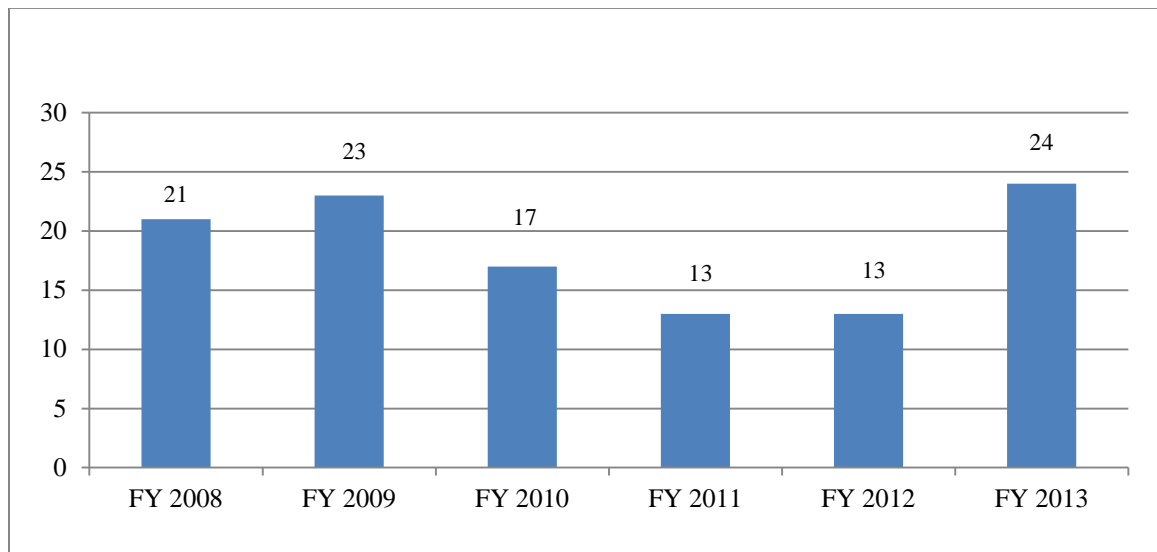
	2008	2009	2010	2011	2012	2013
Total Number	247	204	550	163	164	131
Average Number of Processing Days	220	241	385	153	129	104

D. Findings of Discrimination

Section 203(a)(7) of the No FEAR Act requires federal agencies to examine trends and causes behind the data in their reports over the past five years. The following tally of DHS's findings of discrimination from FY 2008 to FY 2013 illustrates DHS's EEO complaint trends and causes based on the overall number of findings at the Department, the protected bases upon which the findings were made, and the types of claims or issues involved in the findings during this period.

Overall, from FY 2008 to FY 2013, DHS has processed 111 findings of discrimination through the issuance of merit FADs or Final Orders following an EEOC Administrative Judge's (AJ) decision. In FY 2013, DHS processed 24 cases in which findings of discrimination were made. These cases included 15 merit FADs (without an EEOC AJ's decision); 4 decisions from an EEOC AJ finding discrimination that DHS fully implemented; and 5 EEOC AJ decisions finding of discrimination that DHS did not fully implement, but instead appealed to EEOC's Office of Federal Operations (OFO). The number of findings in FY 2013 marks a significant increase in the number of findings in comparison to the 13 findings in FY 2012, which included 1 merit FAD (without an EEOC AJ's decision); 9 decisions from an EEOC AJ finding of discrimination that DHS fully implemented; and 3 EEOC AJ decisions finding of discrimination that DHS did not fully implement, but instead appealed to OFO. While the number of findings in 2013 represents a 46-percent increase from FY 2011 and FY 2012, the number is similar to the number of findings in FY 2008 (21) and FY 2009 (23). Furthermore, the number of findings comprises a small portion of DHS's complaints overall. The 24 findings represent merely 3 percent of the 699 merit-based FADs and Final Orders DHS issued in FY 2013. No significant patterns or trends have been noted and no specific reasons have been found to account for the increase. Each case is adjudicated separately on its merits and therefore, it is difficult to make any across-the-board comparisons. See Figure 4.

Figure 4: Complaints with Findings, FY 2008 – FY 2013

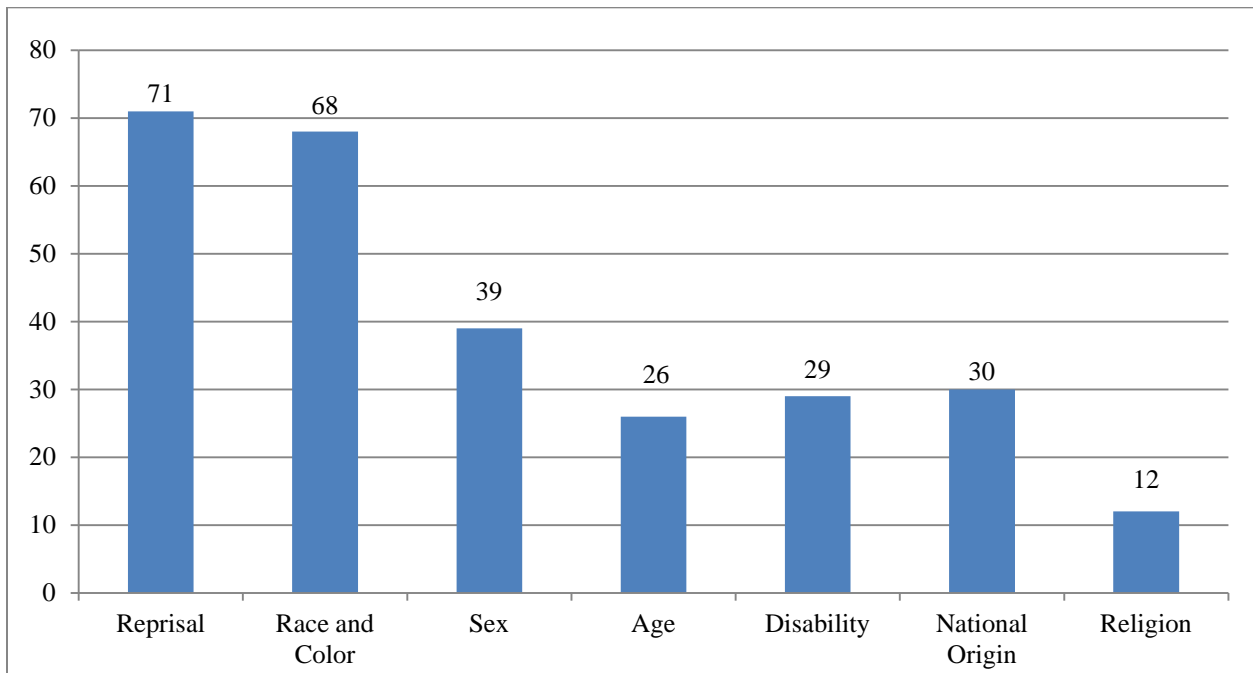


1. Protected Bases

In FY 2013, the majority of findings of discrimination were based on the protected bases of race and color (32), reprisal (30), and national origin (14). It is important to note that the total number of bases within findings of discrimination may exceed the total number of findings issued because one decision may find discrimination on more than one basis. Of the 24 complaints that resulted in findings of discrimination, there were 32 findings on the bases of race and color and 30 findings based on reprisal, which are significant increases from the number of findings of race/color (7) and reprisal (13) in FY 2012. In addition, these FY 2013 complaints also contained findings based on sex (13), disability (9), and age (3). The findings based on sex and disability represent a numerical increase from FY 2012 of seven and six, respectively. There was a decrease in the number of findings based on age—7 in FY 2012 compared to 13 in FY 2013. In addition, for the second year in a row, there were no findings based on religion. The increase in findings on many of the bases does not appear to signify any particular trend because, as discussed above, there was a significant increase in the overall number of decisions finding discrimination; therefore, it follows that the number of bases on which those findings were made would increase similarly.

The total number of findings by bases from FY 2008 to FY 2013 is shown in Figure 5.

Figure 5: Findings by Bases, FY 2008 – FY 2013



2. Issues

The FY 2013 findings of discrimination involved issues consistent with previous fiscal years, and do not suggest any particular pattern or trend. In FY 2013, DHS findings predominantly involved harassment (non-sexual) (18), terms/conditions of employment (7), and disciplinary action (5). Other issues in FY 2013 findings included: assignment of duties (3), appointment/hire (2), reasonable accommodation (2), termination (2), non-selection/non-promotion (1), and evaluation/appraisal (1). In contrast to FY 2012, there were no findings in FY 2013 in the areas of pay/overtime or training. These increases and decreases in numbers are too small to indicate a particular trend. Additionally, in FY 2013, there was a decrease in the number of findings relating to non-selection/non-promotion—one in FY 2013 compared to five in FY 2012. While there is a notable spike in the number of non-sexual harassment findings, there are no particular trends that appear to be producing this increase. As explained above, with protected bases, the total number of issues within findings of discrimination may exceed the total number of findings issued because one decision may find discrimination with regard to multiple issues. See Table 4.

The increase in findings on many of the bases do not appear to signify any particular trend because, as discussed above, there was a significant increase in the number of decisions issued finding discrimination; therefore, it follows that the number of bases on which those findings were made would increase similarly.

Table 4: Findings by Issue, FY 2008 – FY 2013

	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>Total</i>
Appointment/hire	2	0	1	1	0	2	6
Assignment of duties	0	0	0	0	3	3	6
Disciplinary action	2	4	4	1	3	5	19
Duty hours	0	0	0	2	1	0	3
Evaluation/appraisal	0	0	0	0	2	1	3
Harassment (non-sexual)	5	10	3	3	3	18	42
Non-selection/non-promotion	11	5	6	0	5	1	28
Pay/overtime	0	0	0	0	1	0	1
Reasonable accommodation	0	1	2	5	1	2	11
Termination	2	4	2	1	2	2	13
Terms/conditions of employment	2	2	1	2	0	7	14
Training	0	0	0	0	1	0	1

VI. PRACTICAL KNOWLEDGE GAINED THROUGH EXPERIENCE, AND ACTIONS PLANNED OR TAKEN TO IMPROVE THE COMPLAINTS OR CIVIL RIGHTS PROGRAM

A. Improvements in DHS CRCL EEO Program

During FY 2013, DHS produced significant program enhancements, as well as new initiatives. CRCL continued to work collaboratively with the DHS EEO Directors and Component EEO offices to prioritize timely movement and issuance of work products, including merit FADs. Efforts also continued toward improving the departmental EEO data and document management system to facilitate the timely flow of cases through the process.

1. Focusing on Timely Issuance of Merit FADs

During FY 2013, CRCL focused on timely adjudicating merit FADs and issuing them within regulatory deadlines. EEOC Regulations at 29 C.F.R. Part 1614 require merit FADs to be issued within 60 days of election or failure to elect a FAD. In FY 2013, CRCL's continued emphasis on timeliness led to a timely merit FAD issuance rate of 41 percent. The overall percentage of timely issuances between FY 2012 and FY 2013 decreased; however, both the volume of timely merit FAD issuances and the total number of FAD issuances increased. The number of timely merit FAD issuances increased by 13 percent (163 to 185) and the total number of FAD issuances increased by 35 percent (337 to 455). See Table 5.

Table 5: Timeliness for Merit FADs FY 2008 – FY 2012

	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>
Backlog at Year End	568	420	247	0	0	0
Total FADs Issued	86	303	527	457	337	455
Number Timely Issued	21	16	17	119	163	185
Percentage Timely	24	5	3	26	48	41
Average Processing Days	545	567	807	237	143	164

2. Advancing Joint Opportunity Initiatives

During FY 2012, CRCL created the Joint Opportunities Initiative as an effort to explore opportunities to leverage resources among the DHS EEO and diversity community, with the expected result of improving efficiencies and the quality of work. Two distinct committees were formed: the Diversity and Equal Employment Opportunity Professional Development Committee (DEOPDC) and the DHS Alternative Dispute Resolution (ADR) Committee. Both committees are headed by a Senior Executive within the DHS EEO and diversity community and composed of employees across this community.

In FY 2013, the DHS ADR Committee, which is responsible for the development and implementation of a DHS-wide Alternative Dispute Resolution (ADR) program, achieved a major milestone: completion of the white paper outlining the ADR program. The white paper was submitted to CRCL's Officer and Deputy Officer for final approval. The white paper provides a detailed description of a proposed DHS-wide ADR program, including:

- Draft Management Directive
- Draft Procedures/Instructions
- Business case analysis
- Overview of existing DHS ADR practices
- Guide on selecting potential mediators
- Identification of funding sources, and
- Marketing plan

After Component review and approval by the Officer, the white paper will be presented to the Deputy Secretary in FY 2014.

During FY 2013, the DEOPDC completed Phase One of its multifaceted plan to improve professionalism within the DHS EEO community. Specifically, the DEOPDC, in collaboration with OPM, developed a skills assessment survey for the General Schedule (GS) 0260 series. In developing this assessment, members throughout the DHS EEO community participated in a focus group to articulate the core competencies (both technical and general), and the proficiency levels for the GS-0260 series. Based on these competencies and proficiencies, OPM developed a survey that was deployed throughout the DHS EEO community. The survey had a 70 percent participation rate. OPM conducted a detailed review of the survey results and prepared a skills gap analysis. The analysis identified a number of competencies in which additional training or professional development, or both, is required. Currently, the DEOPDC is engaged in Phase Two—conducting a further analysis of this survey in order to determine where to effectively focus the combined DHS training and development resources.

3. Collaborating and Leading DHS Components

CRCL led a number of collaborative initiatives in FY 2013, some of which provided leadership opportunities for individuals at DHS Components. First, CRCL conducted trainings on hostile work environment, which were open to all DHS EEO Offices. This training allowed CRCL to provide DHS-specific guidance on harassment theory and practice, and to improve consistency and uniformity of knowledge across the Department. Second, CRCL launched and distributed *Focus on EEO and Diversity*—a quarterly newsletter highlighting significant developments in EEO and diversity. Third, CRCL developed and deployed an initiative to benchmark Component investigations and identify best practices for conducting effective EEO investigations. CRCL launched a pilot with two Components, USCIS and the Headquarters EEO Office (HQ EEO), to identify the top criteria for conducting quality investigations at DHS. And fourth, CRCL remained active in FY 2013 in leading the Component Complaint Managers in quarterly meetings, during which department-wide guidance was shared, training on icomplaints—the enterprise EEO database and document management system—was offered, and

best practices were identified. CRCL also hosted an icomplaints user forum, which created an opportunity for users across the Department to discuss and recommend changes to the system.

4. Deploying Departmental EEO Directives, Policies, and Procedures

On October 3, 2012, CRCL and the DHS Office of General Counsel (OGC) issued the *Departmental EEO Complaint Procedures*—the DHS procedures for the administrative processing of statutory and non-statutory EEO complaints. These procedures help ensure that EEO complaints at DHS are processed with fairness, efficiency, and without unnecessary delay, all vital elements of an effective antidiscrimination program.

In addition, CRCL led the development and issuance of Departmental policies on reasonable accommodation and anti-harassment. On March 8, 2013, the Under Secretary for Management issued Directive 259-01, which establishes the DHS policy for providing reasonable accommodations for employees and applicants with disabilities. It also indicates that DHS is committed to providing reasonable accommodations for (i) applicants with disabilities during the hiring and application process; (ii) qualified employees with disabilities to perform the essential functions of their jobs; and (iii) qualified employees with disabilities to enjoy equal benefits and privileges of employment, unless accommodation would require altering the essential functions of the job, would be a direct threat to the individual him/herself or to others, or would pose an undue hardship because DHS would incur significant difficulty or expense, under the circumstances. On March 13, 2013, the Acting Officer for CRCL issued Instruction 295-01-001, which, building on the framework of the Directive, establishes the procedures for providing reasonable accommodations to qualified employees and applicants with disabilities at DHS.

Further, on April 25, 2013, the Under Secretary for Management issued Directive 256-01, which sets forth the anti-harassment policy at DHS; specifically, that it is DHS policy to maintain a work environment free from harassment on the basis of an individual's race, color, religion, sex (including pregnancy), national origin, age, disability, protected genetic information, sexual orientation, marital status, parental status, political affiliation, retaliation or any other basis protected by law. The policy prohibits harassment by or of any employee, supervisor, manager, contractor, vendor, applicant, or other individual with whom DHS employees come into contact by virtue of their work for DHS.

5. Leaning Forward with Technology

CRCL continued to partner with DHS Components in FY 2013 on optimizing digital efficiencies. All DHS Components shifted from a paper-based system of requesting Final Actions (e.g., merit FADs and Procedural Dismissals) to an email-based system. CRCL also continued to expand the usage of digital review, signature, and issuance of final actions, which has furthered opportunities for telework and continuity of operations.

CRCL also continued to engage in initiatives that lie at the intersection points of EEO and technology. Throughout FY 2013, CRCL coordinated with EEOC's Office of Federal Operations (OFO) in implementing and deploying the Commission's Electronic File Exchange (EFX), a web-based EEO case processing and document conveyance portal. Component EFX user enrollments increased steadily throughout FY 2013, including efforts to enroll attorneys in

the Component Offices of General Counsel. CRCL has continued to provide valuable input and feedback to EEOC on shaping the design features of updates to the EFX system.

CRCL was also active in FY 2013 in providing training and legal updates on developments regarding social media and its impact on EEO. Specifically, CRCL conducted internal briefings for ICE, CPB, and USCG's EEO offices and USCG's Women's Mentoring Group. In addition, CRCL also provided a number of external presentations on social media and EEO at national training events and conferences, including the EEOC's annual Examining Conflicts in Employment Laws (EXCEL) conference. These updates have allowed the EEO community at DHS and across the federal sector to remain aware of novel avenues for engaging in discrimination and learn methods of creatively advancing and applying EEO mandates in the digital age.

Lastly, during FY 2013, CRCL worked with EEOC on a pilot program designed to launch the Federal Sector EEO Portal (FedSEP)—a new, online method for submitting the annual EEOC 462 Report. In preparation, the Commission reached out to DHS, as one of the largest federal agencies, and requested the Department's participation. The pilot program allowed CRCL to test the FedSEP portal and provide feedback to EEOC on its functionality. CRCL successfully tested all nine Components' 462 Reports, by producing and uploading these reports into the FedSEP portal, thereby providing valuable feedback to EEOC.

6. Providing Developmental Opportunities

In addition to complaint processing, CRCL also engaged in several proactive initiatives to expand opportunities for training and development. During FY 2013, CRCL coordinated with the HQ EEO Office in sending several EEO Specialists to serve in the roles of Acting Formal Complaints Manager and collateral duty EEO Counselors. CRCL developed and launched a program to provide detail opportunities for Component EEO professionals to come to CRCL. CRCL also created opportunities for 60-to-90-day details to work with EEO complaint adjudication experts and learn to prepare a variety of final actions including, merit FADs, Procedural Dismissals, Breach Determinations, and Final Orders. A memorandum of agreement between CRCL and USCG was signed in FY 2013, which allowed for the first detailee to come on board in the beginning of FY 2014.

B. DHS Component EEO and Civil Rights Offices

DHS Components continued to move forward with process efficiency initiatives during a year of many staffing and resource challenges. As the centralization of EEO information and documents into the Department's icomplaints enterprise database system matured, Component offices have leveraged the benefits of consistency and reliability of having a robust enterprise data system.

1. Federal Emergency Management Agency

Infrastructure

FEMA had no significant changes to its infrastructure.

Complaint Processing

In FY 2013, 299 pre-complaints were initiated compared to 242 in the prior year. The timeliness rate for pre-complaint activity increased from 75 percent to 77 percent.

The number of formal complaints filed (134) decreased slightly from the prior fiscal year (137). Yet, FEMA continues to experience delays in conducting investigations in a timely manner due to the residual effect of a significant increase in the volume of complaints processed during FY 2009. FEMA experienced an increase in the average timeframe for conducting investigations from 361 days in FY 2012 to 375 days in FY 2013. The percentage of complaints investigated within a timely period decreased from 12 percent to 5 percent in FY 2013. Consequently, FEMA's focus going forward will be to streamline internal processes, while maintaining its staffing levels, to improve timeliness.

In FY 2013, FEMA held a meeting with its contract EEO investigators to discuss contract requirements and issues related to conducting thorough EEO investigations and providing timely, quality reports. In FY 2014, FEMA plans to conduct quarterly meetings with contract companies and develop evaluation tools to assess contractor and staff performance to ensure compliance with DHS and EEOC complaint processing timeframes. In addition, FEMA plans to reiterate the roles and responsibilities of Agency officials and employees in participating in the complaints process.

Diversity Management

In FY 2013, the Administrator, Deputy Administrator, and Director, Office of Equal Rights (OER) issued an EEO and Diversity Policy statement communicating their commitment to equal opportunity, diversity, and inclusion.

During FY 2013, FEMA held its Annual Diversity Management Advisory Council (DMAC) Conference. The DMAC members continue to serve as principal advisors to the Administrator and Deputy Administrator on diversity issues with the goal of ensuring that FEMA achieves its global diversity vision: "*An inclusive environment in which the Agency leverages diversity to achieve mission goals and business objectives and to maximize the potential of individuals and the organization.*" Through committed leadership, cross-Agency coordination, and proactive communication, the council guides FEMA's Diversity Management Program.

The conference focused on the vision above as well as the goals below:

Goal 1: Build a work environment that promotes diversity and inclusion.

Objectives

- Recruit qualified individuals at all levels whose diverse backgrounds, experience, education, and skills will advance the mission.
- Build a more diverse workforce through proactive, strategic recruitment practices.
- Issue annual diversity statement reflective of the Agency's diversity vision and progress.
- Create a diversity management infrastructure defining roles and responsibilities.
- Make diversity and inclusion focal points of Labor/Management relations and Labor Management Partnership Council (LMPC) activities.

Goal 2: Build, develop, retain and engage a diverse workforce.

Objectives

- Understand the composition of FEMA's workforce.
- Develop and implement programs to ensure career development of all FEMA workforce populations.
- Increase diversity and inclusion among FEMA's management and leadership ranks.
- Determine the extent to which employee engagement and retention affect workforce diversity.
- Determine the extent to which issues with work-life balance affect workforce diversity.

Goal 3: Build a sustained leadership commitment to an inclusive and diverse FEMA through education, accountability, and total workforce engagement.

Objectives

- Educate all FEMA employees on the benefits of diversity, inclusion, equity, and respect.
- Identify the appropriate metrics and outcomes to measure the effectiveness of diversity's impact on organizational performance.
- Encourage a proactive management approach to addressing employee issues and concerns and use fair and equitable criteria when making decisions that affect subordinate employees.
- Comply with all Federal laws, regulations, Executive Orders, management directives, and policies related to promoting diversity and inclusion in the Federal workforce.

Services and Proactive Engagement

FEMA's Reasonable Accommodation Program continues to contribute to and enhance the Agency's mission through the following initiatives and activities:

- During FY 2013, the FEMA OER renewed its contract to make available sign language interpreters to support FEMA Program Office meetings and events occurring in and around the National Capital Region. This 2012 initiative proved to be successful as requests for language services, such as sign language interpreters, increased during 2013.
- The number of accommodation requests increased significantly during FY 2013 in comparison to FY 2012. The Disability Employment Program Manager (DPM) processed over 1,200 requests for accommodations during FY 2013, compared to 488 in FY 2012. Workforce transformation initiatives, organizational changes to the Disaster Reserve Workforce, and disaster activity resulting from Hurricane Sandy were identified as primary reasons for the increase in requests for accommodations.
- In FY 2013, FEMA employees, supervisors, and managers continued to receive training on making and processing requests for reasonable accommodations. FY 2013 training was primarily delivered through the agency's independent study courses and from Equal Rights Advisors. Training included topics such as civil rights, EEO, supervisory responsibility for EEO, diversity, and making and processing reasonable accommodation requests. These training efforts resulted in an enhanced understanding of EEO rights and

responsibilities, benefits of diversity and the importance of providing effective and timely accommodation solutions.

2. Federal Law Enforcement Training Centers

Infrastructure

The FLETC EEO Division services 1,127 FLETC employees, and is composed of a Division Chief, a Complaints Manager, five EEO Specialists, one Staff Assistant, and one Visual Information Specialist. The EEO Division filled the Complaints Manager position and one of the EEO Specialist positions in FY 2013. Each EEO Specialist serves as a Special Emphasis Program Manager for at least one program, and two EEO Specialists coordinate the Disability Program with one of them also serving as Disability Program Manager.

Complaint Processing

During FY 2013, the FLETC completed formal EEO complaint investigations within the regulatory timeframe of 180 days or 270 days with an approved extension. The FLETC EEO Division also processed two “conflict cases” for another DHS Component. The FLETC EEO Division continues to manage the entire EEO investigative process. There has been consistent improvement in the percentage of investigations that have been completed within the regulatory timeframes. Each year over the past four fiscal years, the FLETC increased the percentage of timely investigated EEO complaints. The FLETC completed 43 percent (3 of 7) in FY 2010, 70 percent (7 of 10) in FY 2011, 86 percent (6 of 7) in FY 2012, and 100 percent (2 of 2) in FY 2013. The FLETC will remain committed to its goal of making sure all EEO investigations are completed in a timely manner. In an effort to maintain this goal, the FLETC EEO Division will continue to work closely with the EEO contract investigators, Responding Management Officials (RMO), Human Capital Division (HCD) and the Office of Chief Counsel (OCC).

Diversity Management

In furtherance of President Obama’s August 2011 Executive Order 13583, “*Establishing a Coordinated Government-wide Initiative to Promote Diversity and Inclusion in the Federal Workforce*,” the FLETC’s EEO Division and HCD continued to collaborate to develop, review and implement objectives in support of the FLETC Diversity & Inclusion (D&I) Strategic Plan, for Fiscal Years 2012 to 2015. The plan provides the framework for recruiting a diverse workforce, creating an inclusive workplace, and ensuring management accountability. It also serves as a dynamic road map to guide our efforts in making the FLETC a leader in creating and sustaining a high-performing workforce and the premier employer for anyone committed to serving and protecting our nation.

During FY 2013, the FLETC EEO Division and HCD established the FLETC D&I Council in support of the FLETC D&I Strategic Plan. The Strategic Plan stated that the FLETC D&I Council shall: 1) review and analyze corporate-wide recruitment challenges and diversity goals; monitor succession plan indicators, workforce demographics, and benchmarks; and develop effective and efficient budget plans for recommendations to the FLETC Executive Team; 2) represent the organizational interests of all the FLETC entities and stakeholders; 3) monitor the FLETC initiatives or trends affecting the workforce, in keeping abreast of organizational changes that warrant implementation of new initiatives and recommended action plans to address those changes; 4) develop resolution strategies, in conjunction with operational documents such as the

FLETC Strategic Plan, the FLETC Human Capital Strategic Plan, the FLETC D&I Operational Plan, measures and objectives of the EEO programs, and DHS's D&I and Human Capital Strategic Plan.

Additionally, during FY 2013, all SES-level managers at the FLETC completed OPM Diversity Training on "Unconscious Bias." The FLETC highlighted the importance of diversity and inclusion in the workforce by going beyond the requirement to deliver the diversity training to all SES-level managers, and required all managers at the FLETC to attend the diversity training, resulting in a total of 160 managers completing the training.

Services and Proactive Engagement

The FLETC No FEAR Act Training is provided on-line through the organization's Learning Management System (LMS). The FLETC requires all employees to complete No FEAR Act training on a biennial basis and that all new employees complete the No FEAR Act training within 30 calendar days of entering service. In FY 2013, 1,023 employees of the FLETC completed the No FEAR Act Training. During FY 2013, the FLETC EEO Division processed 105 reasonable accommodation requests made by or through employees, managers, and students; these requests included sign language interpreters², job restructuring, modified work schedules and assistive electronic devices. Mandatory training on *Employment of People with Disabilities: A Roadmap to Success* was also provided through the LMS to 155 managers and supervisors. The EEO Division Chief and Complaints Manager provided training to 19 new supervisors and managers who completed mandatory EEO and reasonable accommodation training through the FLETC's New Supervisor Training Program.

The FLETC EEO Division is committed to identifying cases which can be resolved through the mediation process early on. During FY 2013, six out of seven mediations successfully resolved the conflicts at the lowest level. The FLETC management's strong support for the process contributed to the successful mediations that were conducted. The FLETC EEO Division is currently reviewing and developing new training materials that will further enhance EEO services and goals.

Lastly, during FY 2013, the FLETC's Operation War Fighter Program had a total of 21 participants, 2 of whom were hired into permanent positions with the FLETC. The Memorandum of Understanding (MOU) between the FLETC and Fort Stewart continues to advance a viable partnership that has produced a strong pipeline for veterans and created opportunities for wounded veterans to work and develop new skills.

3. Headquarters EEO Office

Infrastructure

HQ EEO's goals are to support DHS HQ in the following areas: compliance with the laws, regulations, policies, and guidance that prohibit discrimination in the Federal workplace; to prevent and address employment discrimination; and to ensure that the Department's Headquarters employees have a working environment that will support them in the fulfillment of

² During FY 2013, sign language interpreters were utilized in seventy (70) work communication situations and at ten (10) special events.

the mission to protect the homeland. HQ EEO achieved success during FY 2013 and strongly enhanced the efficiency and quality of services to customers, despite changes in personnel and the retirement of the Reasonable Accommodation Program Manager in early FY 2014.

HQ EEO experienced several infrastructure changes during FY 2013. With regard to staffing, a new EEO Director joined the Office during the first quarter of the fiscal year, and a full-time Investigator was hired during the fourth quarter. The hiring of the HQ EEO Director brought consistency in leadership and program management to the HQ EEO Office, while the hiring of the EEO Investigator allowed HQ EEO to increase the Office's investigation capacity while simultaneously effecting a reduction in the number of contract investigations. In addition, HQ EEO and CRCL continued its collaborative efforts by having several CRCL staff members serve in the Acting Formal Complaints Manager position, on a rotational basis. HQ EEO added five collateral-duty EEO Counselors to its workforce, thereby providing training, career development opportunities, and enhanced customer service. Lastly, with regard to office location, the HQ EEO Office moved in June 2013 from its prior location to CRCL's main offices in Washington, D.C.

HQ EEO built upon the prior year's movement forward with continued process efficiency. During FY 2013, the Office migrated towards an all-digital environment, which permits greater efficiency in case processing by eliminating a large volume of paperwork by centralizing all case information within the digital sphere. This move forward also allows for greater ease and mobility in case processing, as employees now have available a "virtual office" which makes working remotely possible. Moreover, HQ EEO has aligned itself with all DHS Components by deepening and broadening its use of the icomplaints enterprise database system to facilitate data integrity, reconciliation, and the timely updating of information and documents. This has allowed HQ EEO, during FY 2013, to continue to effect faster and more reliable conveyance of cases from the Components to CRCL and EEOC for adjudication and final action, along with efficient gathering of essential data for reporting purposes. Finally, HQ EEO Informal and Acting Formal Complaint Managers participated in quarterly DHS-wide Complaint Manager meetings (via conferencing software) in order to promote unity in problem-solving, and consistency of complaint processing across the DHS spectrum.

Complaint Processing

In FY 2013, HQ EEO completed EEO counseling for 62 cases. HQ EEO continues to focus on timely pre-complaint and formal complaint processing by: holding productive internal meetings and case discussions among HQ EEO staff members and the HQ EEO Director; conducting constant monitoring of workloads to ensure efficient case movement; timely updating the icomplaints database, and expanding staff knowledge and skillsets through holding "brown bag" information and training sessions. Additionally, HQ EEO routinely utilized ADR in order to resolve cases at the earliest possible opportunity.

Diversity Management

HQ EEO continued to develop EEO and diversity policies and procedures specific to DHS Headquarters offices, and provide EEO and diversity guidance to all Headquarters executives, managers, supervisors, and line employees. HQ EEO participated in promoting diversity management initiatives, including Special Emphasis Programs, to help Headquarters offices

recruit, hire, develop, and retain a diverse workforce, including veterans and persons with disabilities; managing the Headquarters reasonable accommodation process; and collaborating with other offices in providing training on EEO and diversity. Toward this end, HQ EEO staff participated in a mock interview session with disabled veterans in November 2012. In addition, HQ EEO's Reasonable Accommodation Program Manager co-authored a report regarding the hiring and recruitment of individuals with disabilities.

Services and Proactive Engagement

HQ EEO engaged in various training initiatives during FY 2013. First, HQ EEO continued its efforts to increase the retention and professional development of women. Specifically, on March 27, 2013, HQ EEO participated in the Federal Women's Program's first brown bag event for the Women's Leadership Program. The program highlighted women from the Science and Technology Directorate, with a focus on the topics of Science, Technology, Engineering, and Mathematics (STEM) and on recruiting future generations of leaders within STEM at DHS.

Second, during April and May 2013, the HQ EEO Director partnered with the Deputy Officer's Senior Advisor to provide Diversity Training for the Office of Operations Coordination and Planning. Additionally, the HQ EEO Director led the launch of the EEO Counselor's Monthly "Lunch and Learn" sessions on September 19, 2013, in order to provide training for collateral duty counselors.

HQ EEO continued to provide training and technical assistance to HQ employees. HQ EEO provided annual EEO training to the Office of Privacy and to the Office of Intelligence and Analysis. In addition, HQ EEO established a rotation schedule for additional trainers for the EEO briefings at new employee orientations. HQ EEO training also continued to be an integral part of the "HR Essentials for Managers" course, which instructs over 170 Headquarters managers and supervisors; the training was sponsored by the Office of the Chief Human Capital Officer. HQ EEO's presence in the training was one of the most highly praised sections of the training during FY 2013.

With regard to reasonable accommodations, HQ EEO processed 55 requests filed by Headquarters Offices' employees, applicants for employment, and employees seeking advice and guidance on the reasonable accommodation process and the types of available accommodations. Moreover, HQ EEO processed 124 requests for sign language interpreting services, which required coordination with program offices and contractors. Numerous consultations with both employees and managers throughout HQ EEO were needed to ensure that both understood the reasonable accommodation process.

Lastly, HQ EEO developed a tri-fold brochure on the EEO complaint process; an HQ EEO "Know Your Rights" poster; and an Exceptional Customer Service Pledge. HQ EEO also launched "HQ EEO Today"—a newsletter highlighting accomplishments and sharing information. HQ EEO continues to co-host and participate in lunchtime brown bag presentations that cover a range of topics, such as work-life balance and heritage of special focus groups.

4. Transportation Security Administration

Infrastructure

TSA experienced several significant staffing changes during FY 2013. In October 2012, the Civil Rights Division (CRD) Director left CRD, leaving a vacancy. From November 2012 through the end of the fiscal year, the Manager, EEO Management Branch, served as the Acting Director and continued his role as Manager over the EEO Management Branch. Efforts commenced for the hiring of a new CRD Director, and in November 2013, TSA hired a new CRD Director. In addition, during FY 2013, the position of Chief, Informal/ADR Section became vacant, and a new chief was hired in August 2013. The CRD EEO Management Branch also hired two new EEO Counselors and an EEO Assistant in the Informal/ADR Section, as well as four additional EEO Specialists (Case Managers) in the Formal Complaint Section. Lastly, the CRD Operations Analysis and Consultative Services Branch filled a vacant EEO trainer position, and added a Program Analyst position.

In FY 2013, TSA continued a program of effective records management in the CRD by purging more than 1,700 closed case file records that were destroyed internally, in accordance with The National Archive Records Administration General Record Schedule. No case file records were sent to the Federal Records Center for storage/disposition in FY 2013; however, 2,202 case files remain in storage and are eligible for destruction in FY 2014.

The CRD continues to take the lead in modifying and updating the icomplaints database to ensure the accuracy, timeliness, and completeness of case tracking data from FY 2002 through FY 2013. This enterprise-level product continues to produce more accurate data for the quarterly No FEAR Act Reports and the annual 462 report. Close monitoring of the icomplaints database and relevant business processes will continue on a monthly basis through FY 2014 and beyond to ensure accurate tracking of informal and formal complaints, conflict cases, as well as hearings and appeals, and investigative matters. TSA continues to tailor, refine, and enhance the e-File electronic complaint filing module to provide an additional avenue to initiate the complaint process for current employees and members of the Federal Air Marshal Service (FAMS). In an effort to broaden use of e-File, TSA is exploring ways to make it available on the internet to allow more employees, as well as applicants and former employees, to initiate EEO complaints electronically.

Complaint Processing

CRD's Informal/ADR Section advanced model workplace/human capital goals by helping managers, supervisors, and employees resolve EEO workplace conflicts and disputes through its ADR program. Initial contacts increased by 76 percent in FY 2013, compared to FY 2012, while case filings increased by almost 10 percent, compared to FY 2012. CRD responded to 738 informal complaints in FY 2013. Even as informal complaint filings have increased, the mediation participation rate was 57 percent, and remains above the TSA standard of 50 percent. CRD achieved a mediation offer rate of 97 percent. When parties participated in mediation, the cases were resolved 62 percent of the time.

In May 2012, CRD began using the e-File system, and in FY 2013, there were 124 e-File contacts, of which 102 became informal cases.

The establishment in FY 2012 of a call center (TCC) for all initial contacts with CRD has helped streamline and improve the efficiency of the informal or pre-complaint process in that calls are answered immediately. The trained TCC personnel take the pertinent information, open a record in iComplaints, send the complainant a request for counseling package, and refer the case to CRD for counseling and further processing. In FY 2013, TCC processed 2,051 calls regarding the EEO process.

In CRD's Formal Complaint Section, formal complaint filings increased by 22 complaints—a 6-percent increase—from 394 complaints filed in FY 2012, to 414 complaints filed in FY 2013. During FY 2013, the average number of days for completing an investigation was approximately 175 days, which is a 24-percent decrease from FY 2012. As a result of full staffing and streamlining and efficiency initiatives, the timely completion rate for FY 2013 increased to 86 percent, as compared to a timely completion rate of 53 percent in FY 2012. CRD completed investigations in 180 days or fewer a total of 71 percent of the time. In FY 2013, CRD continued to provide on-site training to in-house investigators and investigative vendors to optimize timeliness and quality of investigative efforts.

Diversity Management

The D&I Division drafted plans for the implementation of TSA's D&I Strategic Plan for 2012-2015. TSA's plan aligns with the President's August 2011 Executive Order on *Establishing a Coordinated Government-Wide Initiative to Promote Diversity and Inclusion in the Federal Workforce*, OPM's *Guidance for Agency-Specific Diversity and Inclusion Strategic Plans*, and the DHS's *Diversity and Inclusion Strategic Plan* that was issued in February 2012. The Division continued to track and monitor the FAMS D&I Action Plans.

The D&I Division led TSA's efforts in planning the sixth annual Diversity Celebration at both Headquarters and field locations. The celebration was designed to recognize the richness of diversity in the agency and to raise awareness and understanding of different cultures represented by TSA's diverse workforce. The 2013 Diversity Celebration theme for the month-long event was drafted by TSA's Diversity Advisory Council (DAC): "Change Your World-Embrace Differences." Because of time constraints caused by the 2013 "funding hiatus," several Headquarters offices partnered together and included their diversity celebrations with TSA's Combined Federal Campaign Cook-Off. The result was an outstanding celebration in the Town Hall.

The D&I Division scheduled, arranged, and staffed TSA's DAC FY 2012 quarterly meeting held at TSA Headquarters in December 2012. The March, June, and September 2013 quarterly meetings were conducted via telephone conference calls as virtual meetings. The December quarterly meeting was a combination of a virtual meeting and a meeting at TSA Headquarters for seven DAC members to work on the DAC Legacy Book project.

Members of the Division assisted several professional organizations that represent underrepresented populations in the Federal Government. The Division organized TSA workshops and panel discussions presented at conventions or training conferences of the organizations on various topics relating to TSA and diversity and inclusion issues.

Services and Proactive Engagement

In FY 2013, CRD staff and contract trainers provided live EEO training to approximately 3,800 managers, supervisors and employees. The training was provided at 24 airports and 6 Headquarters offices, including the Office of Intelligence Analysis and the Office of Inspections, and 4 FAMS field offices. The site visits delivered legally mandated EEO and civil rights training to TSA managers and employees and allowed TSA to comply with Federal mandates and EEOC Administrative Judges' orders. During the on-site activity, CRD also provided EEO counseling services and intervention support for Federal Security Directors and management teams on existing EEO-related disputes and conflicts.

The in person training is a supplement to the On-line Learning Center (OLC) No FEAR Act training required every other year for all TSA employees. TSA also requires all new employees to complete the No FEAR Act training within 90 calendar days of entering service. In addition, CRD instituted an annual certification program requiring all Federal Security Directors, FAMS Special Agents in Charge, and Headquarters Assistant Administrators to certify that each of their employees has completed the annual OLC Introduction to Civil Rights training. Beginning in FY 2014, annual certifications for the new combined No FEAR Act and TSA Civil Rights training will be required.

In FY 2013, CRD stood up an iShare site entitled *Know Your Rights and Responsibilities*, designed to give employees easy access to a full range of available avenues for resolving disputes and grievances, including direct links to such avenues of redress as CRD, Ombudsman, the DHS Office of Inspector General, U.S. Office of Special Counsel, and the Prevention and Elimination of Sexual Harassment in the Workplace Program. CRD has also produced a *Know Your Rights and Responsibilities* pamphlet for distribution to employees.

5. U.S. Citizenship and Immigration Services

Infrastructure

The U.S. Citizenship and Immigration Services (USCIS) Office of Equal Opportunity and Inclusion (OEOI) provides EEO and diversity management services to a workforce of approximately 12,588 employees. OEOI is organized into three divisions: the Complaints Resolution Division (CRD); the Disability Accommodations Program (DAP); and the Diversity and Inclusion Division (D&I). During FY 2013, OEOI hired a new D&I Division Chief and staffing levels were increased with the addition of a Special Emphasis Program Manager Team Lead and a second Equal Employment Specialist in the DAP. OEOI currently has 16 full-time employees and 3 student interns.

Complaint Processing

OEOI CRD made several improvements to address an increase in complaint activity during FY 2013. Formal complaint filings increased from 114 in FY 2012 to 131 in FY 2013. Despite this increased workload, OEOI was able to process 99 percent of its complaint investigations in compliance with regulatory processing timeframes. Additionally, although the number of informal complaints initiated during FY 2013 also increased from 186 in FY 2012 to 216 in FY 2013, OEOI was still able to timely process 99 percent of these cases within EEOC-mandated timeframes. During FY 2012, CRD staff received cross-training in the different functions performed by the division in order to improve CRD's capacity to process the increased informal

and formal complaint workload. This fiscal year, CRD also conducted an internal review of its internal complaint processes and implemented a number of improvements to increase its effectiveness and efficiency.

During FY 2013, USCIS continued to improve its pre-complaint ADR program. USCIS completed and distributed a video advertising the advantages of the ADR process, and during FY 2013, the agency's ADR participation increased to 52 percent, up from 51 percent in FY 2012. CRD also sponsored ADR training for designated management officials in collaboration with Federal Mediation and Conciliation Services. In FY 2013, the ADR resolution rate was 52 percent.

Furthermore, the agency issued a management directive entitled *Official Time During the Equal Employment Opportunity Administrative Complaint Process*, which became effective May 31, 2013. The directive provides guidance to USCIS employees and managers about the manner in which such requests should be made and processed and provides a better method for recording and tracking official time requests made during the EEO administrative complaint process.

Diversity Management

Executive Order 13583 established an OPM-coordinated government-wide initiative to promote diversity and inclusion. In support of that initiative, USCIS has worked to foster a workplace free of discrimination, offering every employee a fair and equal opportunity to succeed, encouraging employee engagement, and promoting integrity and respect as core values. Throughout FY 2013, OEOI engaged in many program efforts and activities designed to reinforce this commitment, including:

- Sponsoring programs in observance of National Hispanic Heritage Month; Native American/Alaska Native Heritage Month; the birthday of Martin Luther King, Jr.; African American History Month; Holocaust Remembrance Day; National Disability Employment Awareness Month; Asian American and Pacific Islander Heritage Month; and Women's Equity Day;
- Managing and assisting the program efforts of over 70 Special Emphasis Program Managers located throughout the country; and
- Enhancing its intranet site to provide more detailed program information for employees.

Services and Proactive Engagement

During FY 2013, OEOI coordinated numerous employee training sessions despite travel and training funding restrictions. CRD conducted two anti-harassment video training conference sessions. An anti-harassment webinar training module was developed to ensure that OEOI can continue to provide training requested by agency offices, despite expected continuing budget restrictions. DAP continued to host quarterly supervisory disability accommodation training webinars for new supervisors, with 382 attendees, and sponsored webinar trainings with the Job Accommodation Network on accommodating individuals who have been given the diagnostic label of "post-traumatic stress disorder," with 127 attendees. DAP provided guidance and support to managers and employees in connection with 752 disability accommodation requests.

In FY 2013, DAP began offering Video Remote Interpreting services to deaf employees, and piloted a new database to track and monitor accommodation requests more efficiently at USCIS. Finally, over 95 percent of the agency's employees completed mandatory No FEAR Act training in FY 2013.

6. U.S. Coast Guard

Infrastructure

The U.S. Coast Guard Civil Rights Directorate (CRD) continuously reviews and assesses its Equal Employment Opportunity offices throughout the United States to ensure that they support an environment conducive to privacy and that they have all necessary tools, supplies and equipment to operate. In FY 2013, CRD negotiated an agreement with the major Coast Guard facility in Baltimore, Maryland to move Civil Rights Service Providers (CRSPs) to a central location with discreet entry for employees and management officials engaged in resolution processes. Prior to this agreement, CRSPs were located in close proximity to the facility's command staff, making discreet entry, exit, and counseling nearly impossible. Also, all CRSPs stationed in Texas completed a move to a new Coast Guard facility that meets all privacy needs. Similar plans will also bolster privacy for CRSP workplaces in Honolulu, Hawaii and Cape May, New Jersey, and are top budgetary priorities for FY 2014.

CRD completed its first full fiscal year under its Strategic Plan of Action 2016. The centerpiece of the strategic plan is a 33-measure Strategic Dashboard, which provides EEO program leaders a set of program-centric, measurable performance elements. To support transparency and collaboration, the Director and management team obtained detailed input from the Plan of Action's nine process owners and thereby validated the utility of each of the 33 measures, and made changes based on their recommendations. After only a year of full employment, CRD's Strategic Dashboard is an integral component of its operations.

To build upon the successes of FY 2012, CRD continued to expand its use of ADR. The Coast Guard implemented a certification requirement for all CRSPs that included extensive training, observations, and co-mediation sessions. By reprogramming scarce resources to developing skills proven to resolve disputes, CRSPs are able to take actions to promptly act on miscommunications, resolve complaints, and confront potentially discriminatory behaviors.

Complaint Processing

This year, the Coast Guard continued its excellent complaint processing performance in FY 2013. Namely, maintaining a 100 percent timely investigation rate, a 99 percent timely pre-complaint processing rate, and a 28 percent pre-complaint and formal complaint settlement rate. The Coast Guard also achieved a 48 percent resolution rate for FY 2013, which exceeded the agency target of 43 percent.

CRSPs are extensively trained to support efforts to combat sexual assault in the Coast Guard. The Coast Guard established a Military Campaign Office and a Sexual Assault Prevention Committee, comprised of executive-level leadership, to provide strategic oversight to eliminate sexual assault from the Coast Guard. It became apparent that on occasion, an event that a complainant would characterize as "sexual harassment" in accordance with existing law and policy would be reported to a CRSP when, in actuality, this would constitute an alleged violation

of Article 120 of the Uniform Code of Military Justice (UCMJ). A violation of Article 120 of the UCMJ, which encompasses sexual assault, requires immediate and specific actions, including contacting Coast Guard Investigative Services. To support victims and enforcement, all CRSPs throughout the Coast Guard were required to complete training that clarified the fact that they are required by law and policy to act if they learn in the course of their duties of a suspected sexual assault.

Diversity Management

USCG strives to have a model EEO program as described in EEOC's Management Directive 715 (MD-715). In addition, in working toward the timely submission of an accurate FY 2013 report, USCG chartered a cross-Directorate integration team (I-team) composed of personnel from the EEO, Diversity, and Human Capital areas of the service for the purpose of institutionalizing the report preparation process. The team has met biweekly since May and confirmed the sources for valid data, clarified roles and responsibilities, and discussed the optimal way to complete obligations required by MD-715.

In the process of preparing the report for FY 2013, a Barrier Analysis Team was formed in January 2013. After intensive training, the members commenced the barrier analysis for triggers identified in the FY 2012 report. There were three triggers involving Individuals with Targeted Disabilities (IWTD), participation of Hispanics in the overall workforce, and women in senior General Schedule pay grades. These triggers were extensively analyzed and the results will be published in the FY 2013 MD-715 report.

Services and Proactive Engagement

USCG continues to provide face-to-face Civil Rights Awareness training to all personnel, military and civilian, using its network of full-time, professional CRSPs. Each military and civilian member is required to complete this training every three years. In 2013, CRD trained 17,880 military and civilian Coast Guard members worldwide, including personnel stationed in Alaska, Hawaii, Puerto Rico, and overseas. The requirement that this training occurs in person, along with the interactive nature of the training, likely contributes to the USCG's low complaint and high resolution rates.

USCG's Reasonable Accommodation program continued its expansion and improvement during FY 2013:

- The number of reasonable accommodations provided to Coast Guard civilian employees by the Disability Resource Center (DRC) increased from 35 in FY 2012 to 78 in FY 2013. The Coast Guard has a Memorandum of Understanding in place with the U.S. Department of Transportation to assist with reasonable accommodations. The average time to process a reasonable accommodation request in FY 2013 was only 16 days, which is a modest increase from the FY 2012 average.
- CRD also conducted an on-site assistance visit to the Coast Guard's shipbuilding and repair facility in Baltimore, Maryland to proactively address reasonable accommodations at the facility and to provide an overview of the program goals and objectives.

USCG uses three tools to consistently gauge the Equal Opportunity (EO), EEO, and civil rights climate at all units and among all employees: The Command Checklist, the Defense Equal Opportunity Climate Survey (DEOCS), and periodic on-demand EO reviews.

- The Command Checklist is a yearly requirement that serves as a tool for the commander to self-assess the unit's compliance with applicable EO/EEO laws and regulations.
- All commanders responsible for units consisting of more than 25 persons are required to complete the DEOCS annually or within four months of taking command. DEOCS is a survey tool in which participation is anonymous. The tool consists of multiple choice responses supplemented by narrative comments. The questions help to inform the commanders of climate and leadership strengths and areas of concern. During FY 2013, DEOCS participation rose to a record high of 26,264, with more than half of all Coast Guard personnel completing a survey.
- EO reviews are on-site visits available to commands for reasons including DEOCS follow-up, an incident or any concern by a unit's leadership. USCG met internal targets for timely response for all requests for EO reviews during FY 2013.

CRD produced 12 issues of the *Civil Rights on Deck* newsletter for the USCG workforce. While continuing articles on awards, best practices, activities, policies and solution, an emphasis was placed on articles which gave USCG military and civilian members practical suggestions on how to implement the Commandant's policies on EO, Anti-Harassment, and Anti-Discrimination policies.

CRD continued its robust awards program, both internal and external (involving affinity groups such as LATINA Style, BIG, and Image, Inc.), processing 12 awards from 44 nominations during 2013. Support for affinity organizations and Special Emphasis Program groups continued as well.

148 USCG units participated in the official Partnership in Education (PIE) program during FY 2013. Administered by the CRD and consistent with 29 C.F.R. § 1614.102(a)(13), this program reports school and community-based involvement by Coast Guard military and civilian members to help build awareness among the diverse workforce of the future. Coast Guard personnel participated by tutoring at schools, delivering presentations, and organizing field studies at various units, including those in underserved areas. PIE participants continue to be role models and education enhancers with innovative ideas and dedicated support to all participating schools.

7. U.S. Customs and Border Protection

Infrastructure

CBP is one of the Department of Homeland Security's largest and most complex Components, with a priority mission of keeping terrorists and their weapons out of the U.S. It is also responsible for securing the border and facilitating lawful international trade and travel while enforcing hundreds of U.S. laws and regulations, including immigration and drug laws. Within CBP's Office of the Commissioner, the Privacy and Diversity Office (PDO), is responsible for developing and administering all policies and directives related to ensuring full compliance with

the Privacy Act, Freedom of Information Act, EEO laws, civil rights and civil liberties laws, and Federal diversity and inclusion policies.

The various missions of CBP require that agency managers exercise continual oversight of operations and major programs. Effective internal controls—the policies, procedures, systems, and practices that help managers implement agency programs, processes, and functions as intended—are recognized as key factors in accomplishing CBP’s missions and ensuring desired program results are achieved effectively and efficiently. PDO’s Diversity Management Program provides EEO, diversity and inclusion, and civil rights/civil liberties services to over 60,000 CBP employees and the hundreds of millions of travelers and members of the travel community we interact with in the performance of our homeland security mission. The Diversity Management Program is composed of:

- The Director of Diversity Programs who is responsible for all EEO, diversity and inclusion and external civil rights and civil liberties matters and provides leadership and oversight for the effective establishment and management of internal policies and programs.
- The Field Director who is responsible for the Field Diversity and Inclusion Management Group activities, which includes the provision of informal EEO and counseling, pursuant to 29 C.F.R. Part 1614, as well as the collective bargaining agreement with the National Employees Treasury Union. Informal counseling is accomplished by implementing a series of standard operating procedures and interactions between staff and supervisors.
- The Assistant Field Directors who manage the work of the local Diversity and Civil Rights Officers, as well as the EEO Specialists who are responsible for providing programmatic leadership and support in their assigned areas. PDO provides field staff services to all CBP Offices.
- The Director of Complaints Management and Investigations Group who is responsible for all aspects of formal EEO complaint investigations and processing; Adverse Actions and Settlement Compliance; and the ADR program.
- PDO Headquarters, located in Washington, D.C., includes the Policy, Diversity and Compliance Programs, and the Mission Support Group. The Diversity and Inclusion Management Group, under the leadership and direction of an Assistant Field Director, is responsible for developing the policies required to implement the applicable Federal laws and DHS/CBP policies pertaining to civil rights and diversity. In addition, the group is responsible for assessing and evaluating CBP’s efforts to comply fully with all applicable regulatory requirements. The Mission Support Group, under the direction of PDO’s Chief of Staff, is responsible for a variety of administrative and policy driven actions necessary to insure the successful operation of the office. The Mission Support Group also responds to executive correspondence, maintains the office budget, provides technical support to the Field Directors and regional offices relating to reporting requirements, and maintains the PDO webpage.

Complaint Processing

During FY 2013, CBP counseled 443 complaints compared to 464 complaints in the previous fiscal year. Of the 443 cases counseled in FY 2013, 100 percent were counseled timely. In FY 2013, 245 formal complaints were filed, representing a 6-percent decrease from the previous fiscal year when 260 complaints were filed. The number of investigations completed decreased by 23 percent in FY 2013, when 194 investigations were completed, compared to 252 investigations in FY 2012.

In FY 2013, the Complaints Management and Investigations Group continued to experience staffing changes with the retirement and departure of Investigators. In FY 2013, the staff consisted of 13 full-time Investigators, compared to the 18 full-time Investigators employed in FY 2012, representing a 28-percent decrease in available Investigators. In FY 2012, seasoned/experienced staff decreased by 68 percent. In spite of the staff reductions in numbers and experience, CBP completed 98 percent of its investigations within the regulatory timeframe in FY 2013 compared to a 96-percent timely rate achieved during FY 2012.

The use of investigative plans was reconstituted in FY 2013. Resource guides for Investigators were created to provide assistance in preparing the investigative plans, conducting interviews, and determining the scope of the investigations. Resource guide topics covered discrimination in nonselection/promotion, performance evaluation, retaliation, disability, harassment/hostile work environment, and disciplinary action. In August 2013, CBP closed the office formerly known as the CBP Formal Complaint Processing Center. The Investigative staff located in Oakland, California transitioned to full-time telework, and mission support staff was eliminated.

In support of CBP's efficiency initiatives, the PDO established a green initiative that promotes a paperless environment. Features of this initiative include: an electronic mailing process to transmit all case-related correspondence and the Report(s) of Investigation via email to Complainants and their Representatives, CBP's Office of Chief Counsel, and to the EEOC utilizing the EEOC's EFX portal for hearing and appeal submissions. All electronic-Report of Investigations (eROI) are built using the Adobe Acrobat Professional X platform and formatted in accordance with the EEOC guidelines with Bates numbering, optical character recognition (OCR), and bookmarks. A new format for the e-administrative file was created for consolidating post investigation documents and including documents relied upon for dismissed complaints, which are utilized for e-file submissions to EEOC/OFO for hearing or appeal.

CBP implemented Judgment Fund Reimbursement guidance that outlines procedures for processing a request received from the Financial Management Service (FMS) to reimburse the Judgment Fund within 45 business days of receipt to ensure compliance with the reimbursement provisions of the No FEAR Act.

Diversity Management

It is CBP policy to treat all employees, members of the trade and traveling public, and individuals detained for law enforcement purposes with dignity and respect. As such, implementing diversity and inclusion management principles is a priority at CBP. CBP's mission of protecting the nation is global in nature. Therefore, it is imperative that CBP continue

to build and maintain a talented, diverse, and highly engaged workforce to protect and safeguard our nation effectively.

CBP's diversity and inclusion management principles value not only a workforce that includes individuals of varied races, religions, ages, national origins, genders, parental statuses, sexual orientations, and gender identities and expressions, but also a workforce that embraces differences in approaches, insights, ability, and experience.

Fundamentally, CBP strives to value, understand and incorporate the differences each employee brings to the workplace, to better fulfill our homeland security mission, in a society that is growing in cultural complexity. To ensure that executives, managers, supervisors, and employees have the tools they need to meet CBP's mission well into the future, CBP is continuously striving to translate equal employment opportunity into everyday practice and make diversity and inclusion principles a fundamental part of CBP's organizational culture.

By fostering an inclusive work environment based on diversity and inclusion management principles, CBP leverages the strengths afforded by the unique perspective of each person enhancing employee engagement to achieve CBP's homeland security mission.

To address diversity and inclusion policy, CBP developed its Diversity and Inclusion Management Implementation Plan (Plan) covering FY 2010 to FY 2013 supporting the letter and spirit of Executive Order 13583 *Establishing a Coordinated Government-Wide Initiative to Promote Diversity and Inclusion in the Federal Workforce*.

CBP's four-year Plan furthered the agency's efforts to promote the diversity that CBP employees bring to the workplace to inspire innovation, encourage respect, and stimulate unlimited success in achieving CBP's homeland security mission. The Plan fosters effective diversity and inclusion management across CBP and serves as a catalyst for sustained progress over time. The Plan enhances critical aspects of CBP's management practices, employee recruitment, and employee engagement and inclusion, by developing policies, training, and practices to improve diversity in all job categories.

During FY 2013, CBP drafted its Diversity and Inclusion Strategic Plan and Diversity and Inclusion Policy Statement including three goals consistent with those set by OPM, the executive agent on behalf of the White House.

The plan's goals include: Workforce Diversity—Recruit from a diverse, qualified group of potential applicants to secure a high-performing workforce drawn from all segments of American society; Workplace Inclusion—Cultivate a culture that encourages collaboration, flexibility, and fairness to enable individuals to contribute to their full potential and to feel valued and supported; and Sustainability—Institutionalize diversity and inclusion management as a key strategic priority, through continued leadership commitment, accountability, and total workforce engagement.

At the heart of CBP's Plan are practices and procedures that are reinforced through more than a decade of CBP's own experience, that a diverse workforce, in an inclusive environment, improves individual and organizational performance.

An example of this practice includes the launch of a robust agency-wide mentoring program. Further, the agency continued its executive-level support and participation through its Diversity and Inclusion Management Council. To advance CBP's Diversity and Inclusion Management Plan exponentially, CBP relies on "collateral duty staff members" to provide leadership, coordination, and direction as members of Diversity and Inclusion Program Committees (DIPCs) by establishing and maintaining a diverse, inclusive and highly engaged workforce at all CBP locations. All CBP field locations have Diversity and Inclusion Committees to assist local management in their efforts to achieve CBP's diversity and inclusion goals. DIPC's roles and responsibilities include developing and sponsoring local diversity and inclusion events and activities and planning and engaging in outreach to local colleges, universities and community organizations.

Through CBP's monthly observance activities, DIPC volunteers and employees around the nation continue to cultivate a culture where similarities and differences of individuals are respected and valued. CBP is using DIPC volunteers and designees across the country to help build diversity through increased cultural awareness, education, and appreciation of differences. During FY 2013, 917 DIPC volunteers sponsored 1,047 workplace diversity activities, with 56,404 in total attendance for the year. DIPC volunteers also collaborated with local community organizations at nearly 328 community outreach events to educate the public about CBP's mission and career opportunities that included high schools, colleges, churches, and community organizations throughout the Nation.

CBP is committed to investing in the leadership development of all its managers and supervisors. All new supervisors are required to complete EEO Awareness Training during mandatory Supervisory Leadership Training held at the CBP Leadership Academy. During FY 2012, 741 new supervisors completed this training on various dates throughout the year. Also a total of 2,310 CBP completed diversity and inclusion, affirmative employment, and reasonable accommodation related training in the CBP Virtual Learning Center.

Services and Proactive Engagement

During FY 2013, PDO used CBP's internal Self Inspection Program (SIP) to audit CBP's compliance with EEOC MD-715. The overriding objective of this Directive is to ensure that all employees and applicants for employment enjoy equality of opportunity in the Federal workplace regardless of race, sex, national origin, color, religion, disability, genetic information, or reprisal for engaging in prior protected activity.

During the 2013 cycle, PDO included a total of seven self-inspection worksheets, which were administered 845 times and included a total of 28 questions in the combined worksheets. The worksheets were implemented in 26 Headquarters and field office locations, which conducted self-assessment activities performing, certifying, and/or approving the results of the office self-inspections.

The 2013 SIP cycle diversity and civil rights self-inspection results reveal overall high levels of compliance in executing many functions supporting the CBP mission. As in previous self-inspection cycles, however, widely circulated worksheets revealed that the lowest level of compliance were in implementing requirements specific to No FEAR Act training.

8. U.S. Immigration and Customs Enforcement

Infrastructure

ICE is the largest investigative arm within DHS, and the second-largest investigative agency in the Federal government. ICE's primary mission is to promote homeland security and public safety through the criminal and civil enforcement of Federal laws governing border control, customs, trade, and immigration. Headquartered in Washington, D.C., ICE employs nearly 20,000 employees at more than 200 offices across the country and worldwide. The vast majority of the workforce is administratively aligned within three directorates: the Office of Homeland Security Investigations (HSI), the Office of Enforcement and Removal Operations (ERO), and the Office of Management and Administration (M&A), all of which are led by Executive Associate Directors and the remainder of staff are employed in Headquarters programs. The ICE workforce is serviced by the Office of Diversity and Civil Rights (ODCR), a centralized EEO office with 33 full-time employees primarily located in Washington, D.C. ODCR's major components are the Diversity Management Division (DMD), Complaints Resolution Division (CRD), and the newly-formed Civil Liberties Division, which is charged with safeguarding the civil liberties of all ICE external stakeholders.

During FY 2013, ODCR increased its staffing levels significantly to improve productivity and deliverables. Most notably, during FY 2013, ODCR's in-house attorney-adviser continued to provide legal services to the ICE assistant director, a Senior Executive Service appointee, and two operational divisions. Additionally, ODCR completed the following: hired a GS-14 Model Workplace program manager with supervisory responsibility to ensure the agency's compliance with the standards of the EEOC's MD-715, "Federal responsibilities under Section 717 of Title VII and Section 501 of the Rehabilitation Act," in an effort to achieve a model workplace; reassigned a GS-14 complaints manager to the role of disability program manager and as the agency's foremost subject matter expert on all areas of disability regarding employees, veterans, and applicants with disabilities; and hired a GS-13 special emphasis and outreach program manager to manage the agency's Special Emphasis programs.

ODCR also continued a redesign of the complaint program and ADR program from a compartmentalized design to a "cradle-to-grave" design. This redesigned process focuses on improved customer service by providing the same EEO specialist to an individual's complaint throughout the process.

Complaint Processing

In FY 2013, the CRD counseled 230 pre-complaints versus 242 pre-complaints in FY 2012, a reduction of 12 as compared to FY 2011, when 218 of its total 263 pre-complaints (83 percent) were timely counseled. The CRD timely completed 68 (30 percent) of the counseled pre-complaints during this reporting period. During the same period, ICE received 145 formal EEO complaints filed by individuals. This represents a decline of 6 percent in formal complaints filed this period as compared to the last fiscal year, when 154 formal complaints were filed. This is

the third consecutive year that overall EEO complaint activity declined. While overall complaints continued a downward trend, ICE continues to struggle with the requirement to timely counsel and timely process EEO complaints. Timely processing of both counseling and investigation of ICE EEO complaints were identified by agency leadership as the number one priority for ODCR in FY 2014.

The top three bases of discrimination complaints filed were age, reprisal, and sex. The top three issues were promotion/non-selection, non-sexual harassment, and assignment of duties. A review of the complaints filed during FY 2013 indicates no changes in the bases or issues raised, as compared to the FY 2012 complaints. The agency had no findings of discrimination in FY 2013.

During FY 2013, ICE continued to expand its collateral duty internal investigator cadre. ODCR provided an additional 9 internal investigators with the EEOC's Training for new investigators, increasing the total cadre to 13 internal investigators.

During this reporting cycle, ODCR successfully completed reconciliation of all complaint data housed in the DHS CRCL complaint database, icomplaints, to ensure 100 percent reporting accountability. Since transitioning to icomplaints, ODCR has conducted several training sessions for EEO staff to facilitate understanding and system knowledge. ODCR also conducted a LEAN Six-Sigma event to identify process gaps and develop improvement strategy. ODCR anticipates that benefits from these efforts will be realized in FY 2014.

During FY 2013, ICE continued participation in the EEOC's pilot EFX program, effecting electronic exchange of all federal-sector EEO complaints-related documents and providing two-way communication between EEOC and Federal agencies on hearings and appeals. Using EFX, ICE enhanced its transmittal of documents with greater efficiency.

Diversity Management

ICE is fully committed to diversity and inclusion; it is mission imperative and enhances the agency's ability to engage with the public it serves. A diverse workforce will allow ICE to recruit and retain the best and the brightest personnel, as well as improve equal employment opportunities. ICE's leaders understand that workplace inclusion fosters a fair, collaborative environment that respects, values, and empowers all employees. Full inclusion enables the agency to maximize the talents of its employees so that they may fully contribute to the agency's mission success.

The DMD's area of responsibility includes diversity outreach, strategic recruitment, the Model Workplace program, diversity consultants, and the disability program. During FY 2013, ICE successfully developed its internal D&I Strategic Plan in accordance with Executive Order 13583. ICE's D&I Strategic Plan is appropriately aligned with the DHS D&I Strategic Plan and its goals of diversity, inclusion and sustainment. ICE's D&I Strategic Plan was finalized and published during the 1st quarter of FY 2013. ODCR marketed the ICE D&I Strategic Plan during the 2nd quarter of FY 2013 to the agency's senior leaders. In the 3rd quarter of FY 2013, ICE provided component and program office points of contact instructions regarding complying with the D&I Strategic Plan's Implementation Plan action items. In the 4th quarter of FY 2013,

agency components and program offices provided ODCR with a report on their progress towards completion of the Implementation Plan action items. By the end of FY 2013, ICE completed 22 of 39 action items in the Implementation Plan. Finally, ODCR is currently developing a list of D&I best practices.

Services and Proactive Engagement

In FY 2013, ICE successfully developed and deployed a Directorate and Program Office Model Workplace (MWP) Checklist. As required by MD-715, ICE conducted its State of EEO briefing with the agency's Director and a MWP briefing with each of the agency Executive Associate Directors and Program Offices Assistant Directors. These briefings provided an overview of the agency's State of EEO and affirmative employment efforts. In addition, the briefing outlined barriers to EEO and identified specific strategies to overcome the identified barriers to the agency's Senior Executives.

During FY 2013, ICE continued its efforts to bring awareness, education, and training to its workforce regarding EEO, diversity management, inclusion, and civil rights and civil liberties. ICE EEO and diversity and inclusion training consisted of modules, including: Prevention of Sexual Harassment; No FEAR; Reasonable Accommodation; Religious Accommodation; ADR, Disability Awareness; Diversity Management; and Civil Rights and Civil Liberties. In addition, ICE conducted its annual Managers and Supervisors EEO and Diversity Management training and trained 94 percent of its managers and supervisors. Finally, as of November 25, 2013, ICE had 19,244 employees who completed the bi-annual No FEAR Act training requirement.

ODCR conducted 11 special emphasis program (SEP) observance programs in FY 2013. These activities are designed to celebrate the achievements of special emphasis groups, enhance cross-cultural awareness, and promote diversity and inclusion amongst the workforce. The SEP observance programs are extensions of the EEO and diversity and inclusion education and training objectives. ODCR received a 3.88 out of a 4.0 overall satisfaction rating by the employees who attended these events.

Also in FY 2013, ODCR continued efforts to deploy the ICE National Recruitment Strategy (NRS). The NRS assigns oversight of the recruitment program to the ODCR, streamlines the recruitment process, and ensures alignment with the agency's mission. It also requires proper workforce and planning analysis be conducted, establishes recruitment objectives, and maximizes the use of fiscal, human, and logistical resources. Finally, ICE participated in 72 events nationwide, consisting of job fairs, outreach, military recruiting, and college events.

ICE also published its first Operation Warfighter (OWF) Standard Operational Procedure (SOP). This SOP outlines the eligibility and process for service members on medical hold, including those assigned to the National Guard or a Reserve unit, to participate in the OWF program. Additionally, it provides guidance to managers regarding the process for requesting an OWF, making assignments, training, evaluation, program completion, and release or transition of OWFs. ICE was recognized for exceeding DHS's veterans hiring goals, in addition to converting the most OWF interns to full time employees of all DHS Components in FY 2013.

ICE continues a proactive posture in minimizing and eliminating potential workplace disputes and union grievances by use of the Organizational Climate Assessment (OCA) process. The OCA evaluates interpersonal relationships and workgroup effectiveness by using an integrated assessment process that consists of: an initial validated survey; series of follow-on interviews of both individuals and focus groups; a review of relevant files and records; and, personal on-site observations by OCA team members. ODCR completed two OCAs during FY 2013. As a result of the use of OCAs, program office policies, practices, and SOP were improved to allow greater transparency, consistency, and fairness. OCAs have been so highly valued at ICE that they are quickly becoming a part of normal ICE business operations; in fact, ODCR received an overwhelming amount of request for OCAs and now has a standing waiting list.

ICE's Reasonable Accommodation Program (RAP) successfully transitioned a GS-13 detailee to serve as the agency's RAP coordinator and report to the Disability Program Manager. ICE processed 107 reasonable accommodation requests during FY 2013 and is currently recognized as number one among DHS Components in the retention of individuals with disabilities. ICE drafted its first Reasonable Accommodation SOP, aligned with EEOC's and DHS' Reasonable Accommodation Guidance. ODCR expects the Reasonable Accommodation SOP to be finalized and published in FY 2014. ODCR also leads and conducts quarterly visits for ICE managers and supervisors to the U.S. Department of Defense Computer Electronic/Accommodation Program to allow them to see the assistive technology available to their employees.

9. U.S. Secret Service

Infrastructure

During FY 2013, USSS's EEO Office experienced three vacancies—an EEO Specialist, an EEO Assistant, and the Sign Language Interpreter positions. Recruit actions were initiated and all three positions have since been filled. The EEO Assistant is on board and the EEO Specialist and the Sign Language selectees are currently proceeding through the background investigation process.

Complaint Processing

During FY 2013, 37 individuals out of a workforce population of 6,501 employees (0.6 percent) initiated pre-complaints. 29 (0.4 percent) formal complaints were filed. Out of the total of 37 individuals who initiated pre-complaints during FY 2013, 14 (38 percent) either withdrew or did not file formal complaints. Two individuals' complaints were pending a decision to file a formal complaint at the close of the fiscal year.

After conducting an EEO Assessment of the Office of Equal Employment Opportunity's internal program operations in FY 2010, in which EEO program benchmarks and management controls were established and implemented, the Office made great strides in improving the processing of EEO complaints in all areas. Pre-complaint counselings improved in that of the 41 complaints initiated and concluded in FY 2013, traditional counseling was elected in 39 cases, and all 39 complaints (100 percent) were counseled within 30 days or less. While two complainants elected the ADR process, both complainants completed the ADR process within 31 to 90 days.

The backlog of all EEO investigations pending from prior years was completely eliminated. During the past year, 22 investigations were concluded. Ten of the 22 were current year

investigations, all of which were timely conducted within the required 180 day/360 day timeframes. Other successes included acknowledging complaints within one to five days of receipt, with most complaints being acknowledged within one day of receipt. Formal complaints were accepted within 30 days and where amendments were filed and deemed to be like or related to the original complaint, requisite actions were completed within 1 to 5 days of receipt. These efficiencies resulted in the agency's ability to improve other program operations in the complaints arena. All case files continued to be timely submitted to the EEOC either electronically or via EEOC's EFX portal. The Office of Equal Employment Opportunity has fully implemented the established EEO program benchmarks and the use of management controls to track and monitor EEO complaint information as required by the EEOC's MD-715.

Diversity Management

Early in FY 2013, the Diversity and Inclusion Program initiated the USSS Pilot Mentoring Program within USSS's administrative, professional, and technical (APT) occupational ranks. Following a year-long mentor/protégé commitment, a total of 33 employees have established mutual partnerships. The USSS Mentoring Program, which began within the APT ranks, will expand to USSS's Special Agent and Uniformed Division personnel in the near future. USSS continually seeks to improve Diversity and Inclusion within the workforce, and beginning in early FY 2014, the Diversity and Inclusion Program was realigned under the Office of Equal Employment Opportunity.

Regarding USSS's Diversity Council, in the initial development and implementation of the Diversity and Inclusion program, USSS relied on three Working Groups (Special Agent, Uniformed Division, and Administrative, Professional and Technical) in lieu of a Diversity Council. These groups were utilized to encourage open dialogue regarding workforce issues and factors that affect employee satisfaction, recruitment, and retention. The issues identified through these forums were considered by senior management throughout the year. However, in November 2013, the Diversity and Inclusion program was realigned under the jurisdiction of the Equal Employment Program, thereby creating the Office of Equal Employment Opportunity and Diversity. Since that realignment, among other initiatives, the establishment of the Diversity Council has been identified as a top priority to be established in FY 2014.

In July 2013, USSS held its Third Annual Unity Day Program. Established by the Office of Equal Opportunity, Unity Day is a period of time set aside to recognize and celebrate the unique diversities that make up the USSS workforce by combining federally recognized ethnic observances and other events under one umbrella. The theme for this year's event was "*Remembering Our Roots: Celebrating Our Heritage, History and Harmony.*" As part of the Unity Day program, static displays, workshops, and seminars were held throughout the USSS Headquarters building and various field office locations. This event allowed the USSS workforce to participate fully in a wide variety of planned events and activities. While this year's event was financially challenged due to sequestration and other budget constraints, it still had tremendous workforce participation and enhanced cross-cultural awareness by encouraging and promoting interaction, understanding, teamwork, harmony, pride, and mutual respect among the USSS workforce.

Services and Proactive Engagement

In March of FY 2013, Julia A. Pierson was appointed as the first female Director of USSS. Within four months of her appointment, she issued her EEO policy statement, encompassing both EEO policy and anti-harassment policy requirements, and reaffirmed her strong commitment to the principles of equal opportunity for all employees and applicants for employment. While the USSS has been characterized as a male-dominated service, Ms. Pierson's appointment marks a milestone in the advancement of women and minorities.

In support of Executive Order 13548, the USSS Director issued a policy statement on July 26, 2013 on Increasing Employment of Individuals with Disabilities and Targeted Disabilities. The policy was consistent with the Executive Order's requirement of a five-year hiring initiative to increase the employment of individuals with targeted disabilities to reach two percent over the next five years in the APT occupations. This objective has the potential to bring the representation of individuals with targeted disabilities into compliance with EEOC guidance.

During FY 2013, the Office of Equal Employment Opportunity continued to conduct numerous EEO briefings—in particular, training in areas of anti-harassment, Management Directive 715, reasonable accommodation, and disability awareness was provided to 102 managers, supervisors, and recruiters. Trainings included New Employee Orientation, the Emerging Leaders Seminar, and the Seminar for First-Line Supervisors. The Human Capital Division launched its Supervisor and Manager Seminar training to provide leadership and guidance in the development and delivery of innovative human capital programs and services that comply with merit principles. The Office of Equal Employment Opportunity provided training to 286 managers and supervisors. These training modules provided information on Management Directive 715, reasonable accommodation of religion and for individuals with disabilities, valuing and managing diversity, affirmative employment program initiatives, understanding EEO and non-discrimination, special emphasis programs, prevention of sexual harassment, hostile work environment, ADR, and the No FEAR Act. Information was also provided on the Department of Defense Computer Electronics/Accommodation Program. Lastly, the Office of Equal Employment Opportunity assisted in training newly promoted/reassigned managers and newly assigned sergeants. Currently, approximately 75 managers and sergeants have been trained.

During FY 2013, USSS continued to use the flexibilities of the Pathways Internship Programs and the recent graduate program to attract a diverse group of students. USSS employed 40 students through the Student Temporary Employment Program and 55 students through the Student Internship (Volunteer) Program. Eight students were converted to full-time permanent positions.

USSS developed several strategic activities and initiatives to improve the outreach, recruitment, hiring, career development, and/or retention of Hispanics. The USSS Recruitment Division participated in two conferences throughout the nation and seven Hispanic Recruitment Career Fairs/Conferences. During a Hispanic College Fund Career and Resources Fair held by the Greater Washington Hispanic Youth Institute, the USSS Recruitment Division participated in a weeklong education program by providing display tables with USSS literature and information to students and others requesting information regarding employment and the mission of USSS.

APPENDIX 1

FY13 Annual No FEAR Act Report – Federal Court Cases

DEPARTMENT OF HOMELAND SECURITY

*Number of Cases Filed in Federal Court,
Pending or Resolved Under Section 724.302(a)(1)*

	TITLE VII	ADEA	EPA	REHABILITATION ACT	GINA	WHISTLEBLOWER
Number of cases filed, pending, or resolved	116	32	1	26	1	7

*Number of Cases and Reimbursement by Status
Under Section 724.302(a)(1-2)*

	TITLE VII	ADEA	EPA	REHABILITATION ACT	GINA	WHISTLEBLOWER
Cases pending hearing	95	28	1	19	1	3
Cases heard/pending decision	5	2	0	0	0	0
Decision issued in favor of the Complainant (either in its entirety or partial)	0	0	0	0	0	0
Decision issued in favor of the Agency	26	13	0	7	0	1
Arbitration/Mediation	0	0	0	0	0	0
Settlement	17	1	1	2	0	0
Appeal	1	1	0	0	0	0
Remand	0	0	0	0	0	0
Amount of Reimbursement	\$1,421,500.00	0	\$17,111.00	\$2,750.00	0	0
Amount of Reimbursement for Attorney Fees	\$85,000.00	0	\$57,000.00	0	0	0

Number of Employees Disciplined in Cases Under Section 724.302(a)(3)

	TITLE VII	ADEA	EPA	REHABILITATION ACT	GINA	WHISTLEBLOWER
Reprimand	0	0	0	0	0	0
Suspension without pay	0	0	0	0	0	0
Reduction of grade or pay	0	0	0	0	0	0
Removal	0	0	0	0	0	0

***Number of Employees Disciplined, Whether or Not in Connection with Federal Cases Under
Section 724.302(a)(5) (i.e. Including EEO Administrative Cases)***

	TITLE VII	ADEA	EPA	REHABILITATION ACT	GINA	WHISTLEBLOWER
Reprimand	0	0	0	0	0	0
Suspension without pay	3	0	0	0	0	0
Reduction of grade or pay	0	0	0	0	0	0
Removal	0	0	0	0	0	0

APPENDIX 2

DHS - Equal Employment Opportunity Data Posted Pursuant to the No Fear Act:

For 4th Quarter 2013 for period ending September 30, 2013

Mixed Cases are Included in this report.

Complaint Activity	Comparative Data					
	Previous Fiscal Year Data					2013Thru09-30
	2008	2009	2010	2011	2012	
Number of Complaints Filed	1146	1454	1200	1296	1209	1198
Number of Complainants	266	254	293	294	245	1145
Repeat Filers	19	20	18	28	14	50
Complaints by Basis	Comparative Data					
	Previous Fiscal Year Data					2013Thru09-30
	2008	2009	2010	2011	2012	
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>						
Race	319	325	401	455	411	434
Color	128	92	130	135	147	145
Religion	36	44	55	63	53	56
Reprisal	405	718	538	599	558	556
Sex	349	319	397	471	450	434

* It is understood that the numbers in the previous year columns are inaccurate. In 2012, CRCL implemented the use of our enterprise database system, icomplaints. Despite its best efforts, DHS was unable to reconcile the previous years' data with the data being entered into the newly implement system. A corporate decision was made to "freeze" the data from the prior years, and to not expend considerable hours manually inputting this data into this new system. Therefore, the data from fiscal years 2008, 2009, 2010, 2011, and 2012 remains unchanged in the system. Notwithstanding this discrepancy, the numbers reported in the final column is the accurate total at DHS for fiscal year 2013.

PDA	0	0	0	2	7	7
National Origin	152	474	208	221	223	184
Equal Pay Act	0	1	0	4	2	3
Age	294	285	356	425	400	416
Disability	222	212	278	324	286	265
Genetics	0	0	3	4	2	6
Non-EEO	5	22	43	85	71	79
Complaints by Issue	Comparative Data					
	Previous Fiscal Year Data					2013Thru09-30
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	2008	2009	2010	2011	2012	
Appointment/Hire	64	46	56	80	65	65
Assignment of Duties	84	365	107	103	104	91
Awards	16	14	21	25	20	17
Conversion to Full-time	1	1	0	2	1	1
Disciplinary Action						
Demotion	10	6	9	12	18	8
Reprimand	54	49	58	88	73	71
Suspension	34	27	63	74	65	63
Removal	19	14	17	31	33	23
Other	12	15	30	49	22	28
Duty Hours	13	15	23	34	17	19
Evaluation Appraisal	59	60	93	98	93	75
Examination/Test	4	6	7	6	4	10
Harassment						

Non-Sexual	296	588	408	476	474	476
Sexual	42	46	52	40	36	45
Medical Examination	14	4	10	8	12	7
Pay (Including Overtime)	18	17	16	39	25	33
Promotion/Non-Selection	250	223	232	245	262	266
Reassignment						
Denied	23	25	24	30	24	30
Directed	26	41	36	55	38	32
Reasonable Accommodation	38	38	52	65	64	58
Reinstatement	4	7	6	7	11	3
Retirement	2	4	8	8	9	3
Termination	122	137	187	163	87	97
Terms/Conditions of Employment	100	348	164	220	118	102
Time and Attendance	41	30	47	52	54	44
Training	25	23	35	33	36	27
Other	97	80	89	64	30	30
Processing Time	Comparative Data					
	Previous Fiscal Year Data					2013Thru09-30
	2008	2009	2010	2011	2012	
Complaints pending during fiscal year						
Average number of days in investigation	226.89	234.00	214.51	238.58	232.23	228.29
Average number of days in final action	625.90	417.27	517.07	185.15	106.41	127.58
Complaint pending during fiscal year where hearing was requested						
Average number of days in	222.05	221.24	209.86	236.08	230.00	219.50

investigation												
Average number of days in final action	42.45	21.30	58.54	25.43	28.34	24.99						
Complaint pending during fiscal year where hearing was not requested												
Average number of days in investigation	238.29	249.10	223.07	245.48	236.82	242.20						
Average number of days in final action	1,349.27	850.89	667.47	286.75	180.98	200.29						
Complaints Dismissed by Agency	Comparative Data											
	Previous Fiscal Year Data										2013Thru09-30	
	2008	2009	2010	2011	2012							
Total Complaints Dismissed by Agency	252	192	222	157	167	135						
Average days pending prior to dismissal	313	344	382	200	162	161						
Complaints Withdrawn by Complainants												
Total Complaints Withdrawn by Complainants	94	71	110	105	134	95						
Total Final Agency Actions Finding Discrimination	Comparative Data											
	Previous Fiscal Year Data										2013Thru09-30	
	2008	2009	2010	2011	2012							
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	9		13		11		12		13		24	
Without Hearing	0	0	0	0	3	27	3	25	1	8	15	63
With Hearing	9	100	13	100	8	73	9	75	12	92	9	38
Findings of Discrimination Rendered by Basis	Comparative Data											
	Previous Fiscal Year Data										2013Thru09-	

National Origin	7	50	1	5	2	13	1	11	1	8	2	22
Equal Pay Act	1	7	0	0	0	0	0	0	0	0	0	0
Age	3	21	4	20	2	13	1	11	4	33	1	11
Disability	2	14	3	15	3	20	2	22	2	17	2	22
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	1	8	0	0
Findings Without Hearing	0		1		3		3		1		15	
Race	0	0	0	0	0	0	0	0	0	0	3	20
Color	0	0	0	0	0	0	0	0	1	100	1	7
Religion	0	0	0	0	1	33	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	2	67	0	0	6	40
Sex	0	0	0	0	2	67	0	0	0	0	5	33
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	1	100	1	7
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	1	33	0	0	0	0	0	0
Disability	0	0	1	100	0	0	1	33	0	0	6	40
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
Findings of Discrimination Rendered by Issue	Comparative Data											
	Previous Fiscal Year Data										2013Thru09-30	
	2008		2009		2010		2011		2012			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	14		20		18		11		13		24	

Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	1	7	0	0	1	8	0	0
Promotion/Non-Selection	9	64	6	32	6	40	0	0	3	25	0	0
Reassignment												
Denied	1	7	0	0	1	7	0	0	0	0	0	0
Directed	0	0	0	0	2	13	0	0	0	0	2	22
Reasonable Accommodation	0	0	2	11	0	0	3	38	1	8	1	11
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	2	14	1	5	1	7	1	13	2	17	1	11
Terms/Conditions of Employment	0	0	1	5	1	7	2	25	0	0	1	11
Time and Attendance	0	0	0	0	1	7	0	0	0	0	0	0
Training	0	0	0	0	2	13	0	0	1	8	0	0
Other - User Defined	0	0	0	0	2	13	0	0	1	8	0	0
Findings Without Hearing	0		1		3		3		1		15	
Appointment/Hire	0	0	0	0	0	0	1	33	0	0	1	7
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	1	7
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	1	33	0	0	1	7

Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0	0	0	0	0	0	1	7
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	0	0	0	0	1	100	8	53
Sexual	0	0	0	0	1	33	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	1	100	0	0	0	0	0	0	1	7
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	1	33	0	0	0	0	1	7
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	1	33	1	33	0	0	1	7
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	3	20
Time and Attendance	0	0	0	0	0	0	0	0	0	0	1	7
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other - User Defined	0	0	0	0	0	0	0	0	0	0	1	7
Pending Complaints Filed in				Comparative Data								

Previous Fiscal Years by Status	Previous Fiscal Year Data					2013Thru09-30
	2008	2009	2010	2011	2012	
Total complaints from previous Fiscal Years	2095	1976	2290	1760	1821	1928
Total Complainants	1963	1826	2127	1628	1671	1765
Number complaints pending						
Investigation	97	80	50	37	60	74
ROI issued, pending Complainant's action	6	8	12	6	6	8
Hearing	374	481	414	560	694	727
Final Agency Action	247	230	218	95	142	91
Appeal with EEOC Office of Federal Operations	51	73	132	240	267	350
Complaint Investigations	Comparative Data					
	Previous Fiscal Year Data					2013Thru09-30
	2008	2009	2010	2011	2012	
Pending Complaints Where Investigations Exceed Required Time Frames	268	198	155	202	185	242

*it is understood that the numbers in the previous year columns are inaccurate. In 2012, CRCL implemented the use of our enterprise database system, icomplaints. Despite its best efforts, DHS was unable to reconcile the previous years' data with the data being entered into the newly implement system. A corporate decision was made to "freeze" the data from the prior years, and to not expend considerable hours manually inputting this data into this new system. Therefore, the data from fiscal years 2008, 2009, 2010, 2011, and 2012 remains unchanged in the system. Notwithstanding this discrepancy, the numbers reported in the final column is the accurate total at DHS for fiscal year 2013