



OFFICE OF INSPECTOR GENERAL
EXPORT-IMPORT BANK
OF THE UNITED STATES

EQUAL EMPLOYMENT OPPORTUNITY

Special Report
August 17, 2010
OIG-SR-10-01



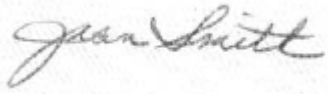
OFFICE OF INSPECTOR GENERAL

**Export-Import Bank
of the United States**

August 17, 2010

MEMORANDUM

TO: Fred Hochberg, Chairman and President
Michael Cushing, Senior Vice President, Resource Management
Patrease Jones-Brown, Director, Equal Opportunity and Diversity Programs

FROM: Jean Smith
Assistant Inspector General for Audit 

SUBJECT: Equal Employment Opportunity

This memorandum transmits Special Report OIG-SR-10-01, Equal Employment Opportunity. The review was initiated by the Office of Inspector General of the Export-Import Bank of the United States (Bank) to determine whether the Bank has policies in place to promote Equal Employment Opportunity and assess the degree to which the Equal Opportunity and Diversity Programs (EODP) Office is independent.

The report contains two suggestions to strengthen the Bank's efforts to support the government's goal to provide equal opportunity in employment for all persons and to prohibit discrimination in employment. The Senior Vice President and General Counsel concurred with both suggestions. Appendix A of this report is the Senior Vice President and General Counsel's formal response to this review.

We appreciate the courtesies and cooperation provided to the auditors during the review. If you have any questions, please call me at (202) 565-3944.

Attachment

cc: Audit Committee
Alice Albright, Senior Vice President, Chief Operations Officer
Jonathan Cordone, Senior Vice President and General Counsel
John Simonson, Chief Financial Officer and Audit Liaison

EXECUTIVE SUMMARY

The Office of Inspector General performed a limited review to address an inquiry from Senator Charles E. Grassley on the adequacy of Export-Import Bank of the United States (Ex-Im Bank) Equal Employment Opportunities (EEO) program. Our specific objectives were to determine whether Ex-Im Bank has policies in place to promote EEO and assess the degree to which the Equal Opportunity and Diversity Programs (EODP) Office is independent.

We found that Ex-Im Bank has policies to promote EEO. However, the EODP Director should schedule a technical assistance review to be performed by the U.S. Equal Employment Opportunity Commission. This review was originally scheduled for March 2010 but was cancelled by the Director.

Because the EODP Director does not report directly to the agency head, Ex-Im Bank is exposed to the appearance that the EODP Office is not independent. Currently, the EODP Director reports to the Director of Human Resources and Senior Vice President of Resource Management. To strengthen Ex-Im Bank's efforts in accomplishing its EEO mission, we suggest that the Chairman and President direct the EODP Director to report directly to the Chairman and President.

The Senior Vice President and General Counsel stated that Ex-Im Bank will implement the suggested actions.

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I. BACKGROUND

Title 29, subtitle B, chapter XIV, part 1614--Federal Sector Equal Employment Opportunity (EEO) applies to Ex-Im Bank and is presented below.

Section 1614.101 General policy.

(a) It is the policy of the government of the United States to provide equal opportunity in employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, national origin, age or handicap and to promote the full realization of equal employment opportunity through a continuing affirmative program in each agency.

(b) No person shall be subject to retaliation for opposing any practice made unlawful by title VII of the Civil Rights Act (title VII) (42 U.S.C. 2000e et seq.), the Age Discrimination in Employment Act (ADEA) (29 U.S.C. 621 et seq.), the Equal Pay Act (29 U.S.C. 206(d)) or the Rehabilitation Act (29 U.S.C. 791 et seq.) or for participating in any stage of administrative or judicial proceedings under those statutes.

Section 1614.102 Agency program.

(a) Each agency shall maintain a continuing affirmative program to promote equal opportunity and to identify and eliminate discriminatory practices and policies. In support of this program, the agency shall:

- (1) Provide sufficient resources to its equal employment opportunity program to ensure efficient and successful operation;
- (2) Provide for the prompt, fair and impartial processing of complaints in accordance with this part and the instructions contained in the Commission's Management Directives;
- (3) Conduct a continuing campaign to eradicate every form of prejudice or discrimination from the agency's personnel policies, practices and working conditions;
- (4) Communicate the agency's equal employment opportunity policy and program and its employment needs to all sources of job candidates without regard to race, color, religion, sex, national, origin, age or handicap, and solicit their recruitment assistance on a continuing basis;
- (5) Review, evaluate and control managerial and supervisory performance in such a manner as to insure a continuing affirmative application and vigorous enforcement of the policy of equal opportunity, and provide orientation, training and advice to managers and supervisors to assure their understanding and implementation of the equal employment opportunity policy and program;
- (6) Take appropriate disciplinary action against employees who engage in discriminatory practices;
- (7) Make reasonable accommodation to the religious needs of applicants and employees when those accommodations can be made without undue hardship on the business of the agency;

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- (8) Make reasonable accommodation to the known physical or mental limitations of qualified applicants and employees with handicaps unless the accommodation would impose an undue hardship on the operation of the agency's program;
- (9) Provide recognition to employees, supervisors, managers and units demonstrating superior accomplishment in equal employment opportunity;
- (10) Establish a system for periodically evaluating the effectiveness of the agency's overall equal employment opportunity effort;
- (11) Provide the maximum feasible opportunity to employees to enhance their skills through on-the-job training, work-study programs and other training measures so that they may perform at their highest potential and advance in accordance with their abilities;
- (12) Inform its employees and recognized labor organizations of the affirmative equal employment opportunity policy and program and enlist their cooperation; and
- (13) Participate at the community level with other employers, with schools and universities and with other public and private groups in cooperative action to improve employment opportunities and community conditions that affect employability.

(b) In order to implement its program, each agency shall:

- (1) Develop the plans, procedures and regulations necessary to carry out its program;
- (2) Appraise its personnel operations at regular intervals to assure their conformity with its program, this part 1614 and the instructions contained in the Commission's management directives;
- (3) Designate a Director of Equal Employment Opportunity (EEO Director), EEO Officer(s), and such Special Emphasis Program Managers (e.g., People With Disabilities Program, Federal Women's Program and Hispanic Employment Program), clerical and administrative support as may be necessary to carry out the functions described in this part in all organizational units of the agency and at all agency installations. The EEO Director shall be under the immediate supervision of the agency head;
- (4) Make written materials available to all employees and applicants informing them of the variety of equal employment opportunity programs and administrative and judicial remedial procedures available to them and prominently post such written materials in all personnel and EEO offices and throughout the workplace;
- (5) Ensure that full cooperation is provided by all agency employees to EEO Counselors and agency EEO personnel in the processing and resolution of pre-complaint matters and complaints within an agency and that full cooperation is provided to the Commission in the course of appeals, including granting the Commission routine access to personnel records of the agency when required in connection with an investigation; and
- (6) Publicize to all employees and post at all times the names, business telephone numbers and business addresses of the EEO Counselors (unless the counseling function is centralized, in which case only the telephone number and address need be publicized and posted), a notice of the time limits and necessity of contacting a Counselor before filing a complaint and the telephone numbers and addresses of the EEO Director, EEO Officer(s) and Special Emphasis Program Managers.

II. OBJECTIVES

The objectives of this review were to determine whether Export-Import Bank of the United States (Ex-Im Bank) has policies in place to promote EEO and assess the degree to which the Equal Opportunity and Diversity Programs (EODP) Office is independent.

III. SCOPE AND METHODOLOGY

We interviewed Ex-Im Bank's EODP Director and Senior Vice President of Resource Management. We also interviewed Ex-Im Bank's Equal Employment Specialist at the U.S. Equal Employment Opportunity Commission. Finally, we reviewed information available on the Ex-Im Bank's Equal Opportunity internal and external websites.

We conducted our fieldwork from July 28, 2010 to July 30, 2010.

We performed a limited review to address an inquiry from Senator Charles E. Grassley on the adequacy of Ex-Im Bank's EEO program.

IV. FINDINGS AND SUGGESTIONS

A. REVIEW OF THE EFFECTIVENESS OF THE EQUAL EMPLOYMENT OPPORTUNITY AND DIVERSITY PROGRAMS IS NEEDED

Ex-Im Bank's internal and external websites communicate its support of the government's goal to provide equal opportunity in employment for all persons and to prohibit discrimination in employment. The websites display EODP's mission and vision, and provides contact and other information to aid in ensuring equal opportunity to all employees, applicants and members of the public who seek to participate in Ex-Im Bank programs and services. Furthermore, internal policies address the mission and vision statements.

While the above efforts promote equal opportunity and diversity, further action is needed to ensure the program is effective. U.S. Equal Employment Opportunity Commission's Equal Employment Specialist planned to conduct a technical assistance review at Ex-Im Bank in March 2010, but the EODP Director cancelled the review the day before it was to take place. The Equal Employment Specialist stated that the EODP Director has not contacted the U.S. Equal Employment Opportunity Commission to reschedule the review.

Suggestion 1

The EODP Director should promptly schedule a U.S. Equal Employment Opportunity Commission technical assistance review.

Management Response

The Senior Vice President and General Counsel stated that Ex-Im Bank will implement the suggested action.

B. INDEPENDENCE OF THE OFFICE OF EQUAL OPPORTUNITY AND DIVERSITY PROGRAMS NEEDS STRENGTHENING

Ex-Im Bank has no assurance that it is able to achieve EODP’s mission. Because EODP’s Director reports to the Director of Human Resources and Senior Vice President of Resource Management, the appearance that EODP may not be independent could impair its efforts. The EODP Director advised the auditors that the Office is independent since all EEO matters are directly reported to the Senior Vice President of Resource Management. However, we were informed that the Director of Human Resources provides input to the EODP Director’s performance appraisal.

Based on the above relationships between the EODP Office and the Director of Human Resources and Senior Vice President of Resource Management, it is reasonable to conclude that EODP’s independence could be in question. The appearance of non-independence may hinder Ex-Im Bank’s EEO efforts and discourage individuals from filing a complaint. According to the Ex-Im Bank’s *Notification and Federal Employee Anti-discrimination and Retaliation (NoFEAR) Act of 2002* report, a complaint has not been filed since 2007 (see below).

Complaint Activity	FY 2010				2009	2008	2007	2006	2005
	4th	3rd	2nd	1st					
Number of Complaints Filed			0	0	0	0	1	0	2
Number of Complainants			0	0	0	0	1	0	2
Repeat Filers			0	0	0	0	0	0	0

(Source: <http://www.exim.gov/about/jobs/nofear.cfm>)

Title 29, subtitle B, chapter XIV, part 1614.102 states “The EEO Director shall be under the immediate supervision of the agency head.” U.S. Equal Employment Opportunity Commission’s *Annual Report on the Federal Work Force Fiscal Year 2009* reported: “Of 93 agencies (with 100 or more employees), 69 (74.2%) reported that the EEO Director reports directly to the agency head.”

Ex-Im Bank's Equal Employment Specialist at the U.S. Equal Employment Opportunity Commission stated that several government agencies have been granted a waiver due to their small size. However, a waiver has not been granted to Ex-Im Bank. The Equal Employment Specialist planned to address this issue when conducting a technical assistance review at Ex-Im Bank, but did not believe that a waiver would be granted because Ex-Im Bank has almost 400 employees.

Suggestion 2

The Chairman and President should direct the EODP Director to report directly to the Chairman and President.

Management Response

The Senior Vice President and General Counsel stated that Ex-Im Bank will implement the suggested action.

APPENDIX A: MANAGEMENT RESPONSE

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EXPORT-IMPORT BANK
OF THE UNITED STATES

OFFICE OF THE GENERAL COUNSEL

August 16, 2010

Ms. Jean Smith
Assistant Inspector General for Audit
Office of Inspector General
Export-Import Bank of the United States

Re: Equal Employment Opportunity Special Report

Dear Jean:

Thank you for the opportunity to review and comment on the findings and suggestions presented in the draft Special Report on Equal Employment Opportunity (EEO). The Bank appreciates the suggestions and will implement the recommendations in full.


The Bank takes EEO issues seriously. As recently as June 2010, Chairman Hochberg issued statements emphasizing the Bank's commitment to EEO principles such as reasonable accommodation for qualified applicants and employees with a disability, as well as its policy of zero tolerance for harassment and retaliation. To ensure these policies are well-communicated, the Bank holds annual mandatory EEO training sessions.

As a result of its efforts to foster an environment free from unlawful discrimination, harassment, and retaliation, the Bank has had no EEO complaints filed against it since 2007 and currently has no employment-related complaints pending in any court, administrative tribunal, or other adjudicative body. Although the Bank is proud of its record, management continuously seeks to improve upon it and is grateful for your suggestions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan J. Cordone".

Jonathan J. Cordone
Senior Vice-President
and General Counsel



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