

January 07, 2014

Ms. Robinsue Frohboese, Deputy Director
Office for Civil Rights
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Room 515-F
Washington, DC 20201

Dear Ms. Frohboese:

Enclosed is the U.S. Nuclear Regulatory Commission's fiscal year 2013 annual report outlining steps taken by the agency to comply with Section 308(a) of the Age Discrimination Act of 1975, as amended. Per your request, an electronic copy of this report has been transmitted to Claudia Adams.

If you have questions regarding this report, please contact Jerome Murphy, Associate Director, Small Business and Outreach and Compliance Coordination Directorate at 301-415-7387 or by e-mail at Jerome.Murphy@nrc.gov, or you may contact Tuwanda M. Smith, Esq., Program Manager, Outreach and Compliance Program at 301-415-7394 or by e-mail at Tuwanda.Smith@nrc.gov.

Sincerely,

/RA/

Vonna L. Ordaz, Director
Office of Small Business and Civil Rights

Enclosures:

1. FY 2013 Age Act Report
2. Other attachments (as stated in report)

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Accession Number:ML13354B732 (Package)

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DATE	11/26/2013	11/12/2013	12/18/2013	12/19/2013	01/07/2014

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DATA REQUEST FORM
for
FY 2013 AGE ACT REPORT
DUE January 14, 2014

Reporting Agency: **U.S. Nuclear Regulatory Commission**

1. Status of Regulations Implementing the Age Act

Please provide the status of your agency's regulation implementing the Age Act. If your regulation has not been published, please provide the anticipated publication date, actions taken in FY 2013 to facilitate publication, and an explanation for any delay in publication.

Response: The U.S. Nuclear Regulatory Commission's (NRC's) regulation implementing the Age Discrimination Act of 1975, as amended, can be found in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 4, "Nondiscrimination in Federally Assisted Programs or Activities Receiving Federal Financial Assistance from the Commission," Subpart C, "Regulations Implementing the Age Discrimination Act of 1975, as Amended." This regulation is available for public access on the NRC Web site at: <http://www.nrc.gov/reading-rm/doc-collections/cfr/part004/>.

2. Complaint and Compliance Review Activity

A. Complaints

Please describe the most frequent issues investigated in Age Act complaints; discuss any pattern or practice of age discrimination evidenced in the complaint investigations; and provide an analysis of your complaint data that addresses the progress of your agency in reducing age discrimination.

Response: Not applicable (N/A). There were no complaints based on age discrimination filed in fiscal year (FY) 2013.

B. Compliance Reviews

1. Describe the most frequent issues investigated in Age Act compliance reviews;

Response: N/A. There were no issues investigated related to age discrimination during FY 2013.

2. Discuss any pattern or practice of age discrimination evidenced in the compliance reviews.

Response: The Office of Small Business and Civil Rights (SBCR) has not observed a pattern or practice related to age discrimination during pre-award reviews nor post-award compliance reviews in FY 2013.

3. Provide an analysis of your compliance review data that addresses the progress of your agency in reducing age discrimination.

Response: The NRC uses several techniques (including outreach and providing technical assistance to recipients) and instruments to promote Equal Opportunity (EO) and fair practice in the NRC's Federal Financial Assistance (FFA) programs and activities. These instruments are used to make stakeholders aware of NRC and Federal regulations and requirements. The instruments include, but are not limited to, the following:

- NRC Funding Opportunity Announcement (FOA) Section 4: Provides application and submission information and information on civil rights compliance requirements imposed as a condition of award of the NRC FFA. (Attachment 1)
- NRC FOA Section 6: Informs and educates potential applicants and recipients of NRC FFA of the civil rights laws, regulatory requirements, rules and regulations.

This FOA provides information related to the requirements and obligations imposed on applicants and recipients as a condition of receipt of NRC FFA, including:

Section 6.1—Submission of Standard Form (SF) 424B Statement of Assurance
Section 6.2—Provide Public Notification
Section 6.3—Participation in mandatory NRC Compliance Reviews
Section 6.3.A—Pre-Award Review
Section 6.3.B—Post-Award Compliance On-site Audits (Definition)
Section 6.3.C—Post-Award Compliance On-site Audits (Processes)
Section 6.4—Designate Equal Opportunity (EO) Coordinators
Section 6.5—Submit Compliance Reports
Section 6.6—Civil Rights Training
Section 6.7—Establish Complaint Process
Section 6.8—Technical Assistance

- Nuclear Regulatory Commission's General Provisions for Grants and Cooperative Agreements (Standard Terms and Conditions for U.S. Nongovernmental Recipients): (Attachment 2)

Under this section, the Standard Terms and Conditions document provides information regarding NRC authority under the U.S. Code (USC) 42 USC 2051 (b) and Subsections 31 B and 141 B of the

Atomic Energy Act of 1954, as amended, grant program legislation and program regulation, restrictions on the expenditure of Federal funds in appropriation acts, *Code of Federal Regulations* and regulatory requirements under 2 CFR Part 215 (“Uniform Administration Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations”), and related information required by statute, executive orders, and regulations submitted with SF424B application through Grants.gov.

It also provides order of precedence, certification and representations, and lobbying restrictions, as well as the following:

Section I: Mandatory General Requirements:

Subpart 2—Award Package

- Nondiscrimination Clause

Section IV: Miscellaneous Requirements:

- Minority Serving Institutions (MSIs) Initiative
- EO Posters—“Know Your Civil Rights”: NRC recipients are required to prominently display EO posters throughout the institutions. **(Attachment 3)**
- Internal and External Web site: The NRC educates stakeholders and others on their roles, responsibilities, and rights under various antidiscrimination laws and provides other educational materials. This information can be accessed at the sites identified below:
(<http://www.internal.nrc.gov/SBCR/outreach.html>)
(<http://www.nrc.gov/about-nrc/civil-rights/outreach-coord-comp-program.html>)
- Office of Management and Budget (OMB) Approved, NRC Form 781, A,B and C: The NRC developed and uses the above referenced data collection instrument to collect information and data, educate applicants and recipients on their responsibilities and requirements, and require ongoing feedback regarding complaints filed, as well as investigations and findings of noncompliance issued. **(Attachment 4)**

The 781 A, B, and C Form requests information from the recipients pertaining to:

Part A: SBCR Compliance Review

1. program and contract services
2. program contract populations served
3. collection of EO data
4. limited English proficiency
5. facilities and locations

6. organizational membership
7. changes in location

Part B: SBCR Compliance Review (continued)

1. notification of lawsuits filed alleging discrimination against the applicant on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a parent
2. notification of complaints against the recipient alleging discrimination
3. submission of compliance reports
4. provision of comprehensive civil rights training
5. pending applications to other Federal agencies for assistance
6. civil rights reviews conducted during the 2-year period before the application
7. agreement to compile and maintain the records required under NRC guidelines and civil rights directives.

Part C: Additional Title IX Information—This section relates to data collections imposed under Title IX of the Educational Amendments of 1972 and the NRC Title IX implementing regulations set forth in 10 CFR Part 5, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.”

Specific information requested includes:

1. verification that recipient organization provides related educational programs or activities
 2. assurance of the “Designation of Responsible Employee and Adoption of Grievance Procedures” which fulfills the requirements of 10 CFR and Title IX
 3. designation of Title IX coordinator, notification to students and employees, and adoption of grievance procedures to fulfill requirements under 10 CFR 5.135 and Title IX
 4. dissemination of Title IX policy to fulfill requirements under 10 CFR 5.140, “Dissemination of Policy,” and Title IX
- Requirement that recipients submit an annual EO report. **(Attachment 5)**
 - Requirement to conduct pre-award reviews, during which recipients are informed of regulations, requirements, and compliance. Recipients are also required to submit SF424B Assurances. **(Attachment 6)**

- OMB Approved, NRC Form 782 Complaint Form: The NRC developed and uses the above referenced data collection instrument to collect information and data, educate applicants and recipients on their responsibilities and requirements and their rights to file complaints against NRC-conducted and Federal financially assisted programs and activities that fall under one or more of the following Federal legislative mandates, including the Age Discrimination Act of 1975 (Age Act); and Executive Orders related to providing equal and meaningful access to programs and activities. Under these provisions, individuals in the protected classifications cannot be denied access to, participation in, or benefits from NRC-conducted or Federal financially assisted programs and activities, or otherwise be subjected to discrimination. (**Attachment 7**)

Based upon the use of aforementioned instruments, stakeholder feedback, internal reviews, and outcomes, the NRC concludes that the agency's methods reduce age discrimination.

C. Significant Cases

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

Response: N/A. There were no complaints based on age-discrimination filed in FY 2013.

D. Inventory Tables

Please complete corresponding Inventory Tables I and II on page 3.

3. **Mediation Mechanisms**

- A. Did your agency refer complaints to the Federal Mediation Conciliation Service (FMCS)?

Response: N/A. There were no complaints based on age discrimination filed in FY 2013.

- B. If your agency did not refer complaints to FMCS but attempted mediation through other efforts, please identify the mediation entity used.

Response: N/A. There were no complaints based on age-discrimination filed in FY 2013.

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

Response: N/A.

- D. Of those cases mediated by FMCS or other entities, please identify the number of successful and unsuccessful mediations or attempted mediations.

Response: N/A.

- E. Please complete the corresponding Inventory Table III on page 4.

4. Other Activities Implementing the Age Act

Please describe the other activities your agency has taken to carry out the requirements of the Age Act during Fiscal Year 2013. Where applicable, please provide the number of individuals who benefited from the activity and the positive outcomes.

- A. Technical Assistance (i.e., assistance provided directly to a specific recipient or small group of recipients regarding the Age Act and its application to specific policies, practices, procedures, or circumstances)

Response: The NRC provided the following technical assistance during FY 2013:

- Posted information and educational materials for stakeholders on its Web site.
- Informed applicants and recipients verbally and in writing of their obligations to comply with NRC regulations and Federal civil rights statutes including the Age Discrimination Act of 1975, as a condition of NRC funding.
- Provided assistance, as needed, to applicants and recipients, NRC staff, and responded to others to help them understand applicable Federal civil rights statutes and NRC regulations; responded to information and documents.
- Informed stakeholders of the compliance review process during the pre-award review phase and post-award phase of compliance review process; resolved issues regarding compliance obligations, and achieved voluntary compliance.
- Conducted an educational presentation at the agency's Equal Employment Opportunity Counselor Training on Equal Opportunity External Compliance Programs and associated process and procedures (e.g., laws, policies, procedures, regulations including pre- and post-compliance, disability, and age). Also distributed educational materials at the agency's Equal Employment Opportunity Counselor Training.
- Developed, implemented, and shared "NRC's Best Practices" for compliance programs (at the request of the representatives from the White House, Federal oversight, and other agencies, public-private sector, academic institutions, and other stakeholders).

- Conducted one-on-one “Best Practices on Compliance Programs, Requirements and Regulations” conferences and provided information regarding compliance programs including age (e.g., the U.S. Department of Homeland Security and the U.S. Small Business Administration).
- B. Outreach and Distribution of Information (e.g., presentations or materials provided to the public, including recipients, regarding the Age Act)

Response: The NRC provided the following outreach activities during FY 2013:

- Posted educational information on agency’s Web site.
- Continued the interagency agreement with the Federal Mediation Conciliation Services (FMCS) to mediate age complaints and provide conflict resolution services, including mediation and facilitation services or conflict management training or civil rights training programs.
- Incorporated into the NRC’s Federal Funding Opportunity Announcements the civil rights obligations imposed on all recipients receiving NRC Federal financial assistance. See: <http://webwork.nrc.gov:300/about-nrc/civil-rights/civil-rights-compliance-requirements-sec6.pdf>.
- Continued to post the agency’s grant application form on the Federal Grants.gov Web site. The package includes OMB’s Standard Form (SF) 424B, Assurances—Non-Construction Programs (See Sample Attachment 4).
- Worked collaboratively with White House leaders, Federal oversight agencies (e.g. U.S. Department of Justice (DOJ), U.S. Department of Health and Human Services (HHS), U.S. Department of Education, and the U.S. Environmental Protection Agency (EPA), and other key Federal departments and agencies, public-private sectors, institutions of higher education and minority serving institutions (MSIs), and other stakeholders to promote nationwide quality compliance and MSI programs and initiatives including compliance with the Age Act of 1975.
- Conducted interviews with applicants and recipients that covered the following:
 - Overview of applicable Federal regulations, compliance mandates, and requirement for Federal agencies to conduct a pre-award compliance review before making an award of Federal financial assistance.
 - Verbal notification of the pre-award compliance review process, and guidance in completing document requests.
 - Verification that signed SF 424B contains an authorized signature.

- Assistance for applicants and recipients in understanding Federal regulations and their obligations as a condition of receiving Federal funding, compliance requirements, and how to complete the NRC's requests for information and documents. Answered questions and responded to issues and concerns raised by applicants and recipients.
- Emailed requests for information and documents (NRC Form 781, Parts A, B and C), and responses to followup inquiries from applicants and recipients on the development of their responses and the submittal of information and documents.
- Pre-award reviews for each applicant for NRC FFA.
- Requested and obtained written agreement from applicants and recipients to provide NRC notification of lawsuits or discrimination complaints.
- Monitored recipients' compliance with regulatory requirements including the mandate to provide participants, beneficiaries, and other interested persons the following:
 - information regarding recipients' EO policies and programs
 - protections against discrimination assured to participants and beneficiaries (potential and actual) under law
 - contact information for designated EO coordinators
 - complaint and investigative process and procedures for filing a complaint

C. Agency Staff Training (i.e., training provided to your own agency's staff on the Age Act)

Response: The NRC conducted the following training activities during FY 2013:

- EO civil rights training (as determined necessary) for NRC management officials, regional counsel, advisory board members, staff from program offices administering grants, and SBCR staff. The training included, but was not limited to, the following:
 - Conducted training on compliance programs and practices, and the grants process to internal agency offices (e.g. the Office of the General Counsel and Division on Contracts).
 - Provided outreach, technical assistance, and training (one-on-one or group) to internal and external stakeholders, recipients, NRC staff and others that include an overview of NRC regulations and requirements imposed as a condition of receipt of FFA.

- Provided training related to the NRC's compliance review processes to Federal oversight agencies (e.g. pre-award, post-award, and periodic compliance reviews).
- D. Other Activities (e.g., training given to other Federal agencies on the Age Act, or other activities)

Response: The NRC shared its best practices for its compliance programs and activities with other Federal agencies. The educational forums included but were not limited to, the following:

- the NRC's complaint process
- funding opportunity announcements (e.g., what appropriate language is included to inform prospective applicants/recipients of terms and conditions)
- pre- and post-award instruments, including OMB Approved 781 A, B, and C form)
- guidance as to how the NRC collaborated with OMB to approved data collection instruments
- compliance enforcement methods, and regulations to demonstrate (e.g., DOJ, U.S. Immigration and Customs Enforcement, U.S. General Services Administration, U.S. Small Business Administration, U.S. Department of Education, Integrated University Education Program Committee, Nuclear Energy Industry Council Conference, White House Initiatives Office of HBCUs and Inter-Agency Sciences Education Committee, etc.)

The NRC also provided technical assistance associated with compliance programs and activities to the NRC's Federal oversight agency's Interagency Work Group Committee, LEP Enforcement Subcommittee, and USASpending.gov Subcommittee.

- The NRC is planning to collaborate with FMCS to provide age-related civil rights training to NRC recipients.
- The NRC has drafted Management Directive (MD) 10.164 and accompanying handbook and materials, which serve as regulatory guides for administering the Outreach and Compliance Coordination Program (OCCP). The MD provides specific guidance pertaining to NRC's compliance programs (e.g., Age Program) and serves as a toolkit to assist staff and stakeholders in understanding and complying with various anti-discrimination laws (e.g., Age Discrimination Act of 1975).

- The NRC has produced enhanced electronic versions of the compliance and complaint forms, which allow for efficiency and improved communications with NRC applicants and recipients, as well as members of the public seeking to file a complaint covered under the OCCP
- The NRC has developed and implemented the use of the OMB-approved NRC Form 782 complaint form to be used to file complaints against NRC-conducted and Federal financially assisted programs and activities that fall under one of more NRC regulations, Federal Executive Orders or Federal legislative mandates related to the Age Discrimination Act of 1975 (Age Act).

**TABLE I:
INVENTORY OF AGE DISCRIMINATION ACT COMPLAINTS
(Carried Into and Received During FY 2013)**

(1) Age Act Complaint Workload FY 2013			
	(a) Age Act Complaints Carried Over from FY 2011	0	
	(b) Age Act Complaints Received in FY 2013	0	
	(c) Total Workload FY 2013	SUM (a) plus (b)	
(2) Age Act Complaints Closed in FY 2013			
	(a) Resolved based on insufficient evidence of a violation or no violation	0	
	(b) Resolved based on agreement to implement corrective action or other change, without a specific finding of a violation	0	
	(c) Resolved based on a specific finding of a violation, issuance of a Letter of Findings, and agreement to take corrective action	0	
	(d) Resolved administratively (e.g. no jurisdiction, complaint withdrawn, etc.)	0	
	(e) Total Closures FY 2013	SUM (a) through (d)	0
(3) Age Act Cases Pending at the End of FY 2013		Line (1)(c) minus Line (2)(e)	0

**TABLE II:
INVENTORY OF AGE DISCRIMINATION ACT COMPLIANCE REVIEWS
(Carried Into and Initiated During FY 2013)**

(1) Age Act Compliance Review Workload FY 2013			
	(a) Compliance Reviews Carried Over from FY 2011	0	
	(b) Compliance Reviews Initiated in FY 2013	53	
	(c) Total Compliance Review Workload FY 2013	SUM (a) plus (b)	53
(2) Age Act Compliance Reviews Closed in FY 2013			
	(a) Resolved based on insufficient evidence of a violation or no violation	0	
	(b) Resolved based on agreement to implement corrective action or other change, without a specific finding of a violation	0	
	(c) Resolved based on a specific finding of a violation, issuance of a Letter of Findings, and agreement to take corrective action	0	
	(d) Resolved administratively or other closure (explain below)	0	
	(e) Total Closures FY 2013	SUM (a) through (d)	0
(3) Age Act Compliance Reviews Pending at the End of FY 2013		Line (1)(c) minus Line (2)(e)	0

**TABLE III:
INVENTORY OF AGE DISCRIMINATION ACT MEDIATION ACTIVITIES
(Carried Into and Initiated During FY 2013)**

(1) Age Act Complaints Referred to FMCS in FY 2013			
(2) Age Act Complaints Not Referred to FMCS in FY 2013			
	(a) ...because referred to another mediator	0	
	(b) ...because mediated in-house	0	
	(c) ...because referred in a previous year	0	
	(d) ...because complaint was resolved through administrative closure (e.g. no jurisdiction, etc.)	0	
	(e) ...for another reason; please explain below	0	
	(f) Total Complaints Not Referred in FY 2013	Sum (a) through (e)	0