



OFFICE *of*  
**INSPECTOR GENERAL**

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UNITED STATES DEPARTMENT OF  
HOUSING AND URBAN DEVELOPMENT

# The U.S. Department of Housing and Urban Development's Office of Departmental Equal Employment Opportunity Complaint Processing

2024-OE-0001

November 18, 2024

Date: November 18, 2024

To: Wayne Williams  
Director, Office of Departmental Equal Employment Opportunity, UEA

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GARCEAU  
Date: 2024.11.18 10:04:01 -05'00'

From: John Garceau  
Acting Assistant Inspector General for Evaluation, Office of Inspector General, G

Subject: Final Report – The U.S. Department of Housing and Urban Development’s Office of Departmental Equal Employment Opportunity Complaint Processing (2024-OE-0001)

Please see the attached final report on our evaluation of the U.S. Department of Housing and Urban Development’s Office of Departmental Equal Employment Opportunity (ODEEO) complaint processing. It contains one finding and no recommendations. Our evaluation’s objective was to determine factors affecting the timeliness of ODEEO’s equal employment opportunity formal complaint process.

In response to our draft report, we provided ODEEO with an opportunity to submit technical and formal comments. ODEEO did not submit technical or formal comments.

I greatly appreciate the assistance you and your staff provided throughout the evaluation. The report will be posted to our website within 3 days. Please contact John Garceau, Acting Assistant Inspector General for Evaluation, at (303) 672 5497 or [jgarceau@hudoig.gov](mailto:jgarceau@hudoig.gov) with any questions.

CC:  
Shannon Steinbauer, Audit Liaison Division Director, FMA  
Rodney Cox, Equal Employment Opportunity Division Director, UEE

## Executive Summary

### THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT'S OFFICE OF DEPARTMENTAL EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT PROCESSESING | 2024-OE-0001

#### Why We Did This Evaluation

We evaluated the U.S. Department of Housing and Urban Development's (HUD) handling of its equal employment opportunity (EEO) formal complaints process from fiscal years (FY) 2017 to 2023. Timeliness of the EEO complaints process is an essential element of an effective EEO program. HUD identified timeliness of its EEO complaints as a deficiency in multiple annual status reports on its EEO program. Additionally, HUD's FY 2024 Annual Performance Plan and FY 2022 Annual Performance Report identified improving the EEO process as a strategy to achieve its objective of enabling the HUD workforce. The results of this evaluation highlight HUD's actions to improve the timeliness of its EEO complaints.

#### Results of Evaluation

To promote equal opportunity and identify and eliminate discriminatory practices, Federal regulation mandates that agencies review and respond to all employment-related discrimination complaints.<sup>1</sup> At HUD, the Office of Departmental Equal Employment Opportunity (ODEEO) is responsible for the enforcement of Federal laws related to eliminating all forms of discrimination in HUD's employment practices and leading HUD's efforts to prevent unlawful discrimination.

During a formal complaint process, HUD conducts an investigation to gather information on the alleged discrimination. The investigation process concludes when HUD provides the complainant with a completed report of the investigation and notifies the complainant of their right to elect either a hearing or a final agency decision (FAD). A FAD is a report that evaluates the merits of each claim of discrimination and determines whether the complainant was or was not discriminated against.


The percentage of ODEEO's timely investigations that converted into formal EEO complaints improved from 51 percent in FY 2017 to 93 percent in FY 2023, an 84 percent increase.<sup>2</sup> However, ODEEO did not improve the timeliness of FADs. ODEEO issued all FADs in FY 2022 and FY 2023 beyond the regulated timeframe. Several factors impacted HUD's timeliness in processing formal EEO complaints. For example, ODEEO had an external EEO vendor that did not meet ODEEO's timeliness expectations. To address this issue, in October 2023, ODEEO contracted with a new vendor. The new contract included detailed provisions to ensure timely and quality services, such as criteria for contract deliverables, a performance requirement summary with clear quality standards and monetary incentives, a quality control plan, and a quality surveillance plan.

Other factors that affected timeliness were ODEEO's lack of internal milestones and an in-house FAD writer. In 2023, ODEEO created its own internal milestones for the EEO complaint process in an effort to

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<sup>1</sup> The EEO process that all Federal agencies must follow is outlined in 29 CFR (Code of Federal Regulations) part 1614.

<sup>2</sup> The numbers presented here are rounded to the nearest whole number.



improve monitoring and ensure timeliness. For the investigations, the internal milestones ensured that ODEEO staff acknowledged and accepted formal complaints quickly to allow investigators the maximum amount of time possible to conduct the investigation. ODEEO management monitored these milestones and discussed them with staff during one-on-one meetings to ensure that complaints remained on track. Before hiring a FAD writer, ODEEO relied exclusively on its external vendor to write its FADs. According to ODEEO staff, the previous vendor wrote FADs that were longer than necessary and often included errors, resulting in a lengthy editing process. In 2024, ODEEO hired an in-house FAD writer.

Additionally, ODEEO previously had a centralized case management system to track EEO complaints but lost access to the system in September 2019. To improve ODEEO's ability to track complaints throughout the EEO complaints process and report accurate data, ODEEO reacquired iComplaints—an EEO complaints case management system—in September 2021. According to an ODEEO staff member, only after ODEEO reacquired a case management system and began tracking all complaints in the system was it able to focus on improving timeliness. The centralized case management system also improved data accuracy.

Finally, between FY 2020 and FY 2022, ODEEO's high staff turnover affected the timeliness of the formal complaint process. During those years, ODEEO lost a total of 13 employees due to retirements or transfers to other Government agencies, including the Director and Deputy Director of ODEEO. Given that ODEEO's staffing ranged from 15 to 18 people during those years, this turnover significantly impacted the program office. In FY 2021, ODEEO began to make changes to address its turnover and improve its retention. Specifically, ODEEO hired new staff and started to focus on improving retention by prioritizing training and professional development.

While these changes had a varied impact on the timeliness of ODEEO's investigations and FADs thus far, they demonstrated ODEEO's continued commitment to process improvement. Due to ODEEO's demonstrated efforts to improve timeliness, we are not issuing a recommendation at this time.

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# Introduction

## OBJECTIVE

Our evaluation objective was to determine factors affecting the timeliness of the U.S. Department of Housing and Urban Development's (HUD) equal employment opportunity (EEO) formal complaint process.

## BACKGROUND

### Overview of the Federal EEO Complaint Process

The U.S. Government prohibits job discrimination in employment based on race; color; religion; sex; national origin; age; disability; genetic information; or pregnancy, childbirth, or related medical conditions, ensuring that all people have equal employment opportunity.<sup>3</sup> Additionally, the Government prohibits retaliation for anyone who asserts their rights to be free from employment discrimination. To promote equal opportunity and identify and eliminate discriminatory practices, Federal regulation mandates that executive agencies review and respond to all employment-related discrimination complaints.<sup>4</sup>

The EEO complaint process for those agencies begins during the pre-complaint phase when a person feels that they have experienced employment discrimination and chooses to contact their agency's EEO office to file a grievance. The EEO complaint process is divided into two phases: the pre-complaint phase and the formal complaint phase. During the pre-complaint phase, the complainant communicates with an EEO counselor, who works to resolve the dispute. If there is no resolution during the pre-complaint phase, the complainant may then choose to file a formal complaint. The agency then must either investigate the formal complaint or dismiss the complaint on procedural grounds.<sup>5</sup>

During a formal complaint investigation, the agency gathers factual information related to the alleged discrimination. EEO investigators may use a variety of methods, such as interviews, written questions, or fact-finding conferences, to gather information. The investigation process is considered complete when the agency provides the complainant with a completed report of the investigation and notifies the complainant of their right to elect either a hearing or a final agency decision (FAD). A FAD is a report, written by the agency, that evaluates the merits of each claim of discrimination, provides the rationale for dismissing any parts of the complaint (if appropriate), and if discrimination is found, determines appropriate remedies. An agency must issue a FAD under one of the following conditions: (1) the complainant chooses to have the agency issue a FAD (rather than opting for a hearing) at the conclusion of the investigation, (2) the complainant does not respond to the agency within 30 days of being notified of their right to request a hearing or FAD, or (3) the agency dismisses the complaint on procedural grounds.<sup>6</sup> For more information about HUD's EEO complaint process, see appendix C.

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<sup>3</sup> 29 CFR 1614.101

<sup>4</sup> The EEO process that all Federal agencies must follow is outlined in 29 CFR part 1614.

<sup>5</sup> An agency may dismiss all or some of a complaint for the reasons contained in 29 CFR 1614.107(a).

<sup>6</sup> 29 CFR 1614.110

## HUD EEO Roles and Responsibilities

As stated on HUD's public website, the Office of Departmental Equal Employment Opportunity (ODEEO) is responsible for ensuring EEO at HUD and enforcing Federal laws relating to the elimination of all forms of discrimination in HUD's employment practices. ODEEO is comprised of three divisions: the Administration Division, the Affirmative Employment Division, and the EEO Division. The EEO Division administers, manages, and ensures the compliance of HUD's EEO complaint process. ODEEO uses an external vendor for a variety of EEO services, including counseling, mediation, investigations, and FADs.

HUD's Office of General Counsel (OGC) provides legal support for the agency when complaints reach the formal phase of the EEO complaint process. For example, OGC may review FADs for legal sufficiency and provide guidance to HUD staff when responding to affidavits or investigators.

## EEO Oversight

The U.S. Equal Employment Opportunity Commission (EEOC), an independent Federal agency, provides governmentwide oversight and coordination of Federal EEO regulations, practices, and policies. The EEOC developed Management Directive 110 (MD-110) to provide Federal agencies with policies, procedures, and guidance on how to process employment discrimination complaints in accordance with Federal regulation.<sup>7</sup> To ensure timeliness, MD-110 reiterates the regulated timeframes for processing an EEO complaint.

The Federal regulation, as well as MD-110, defines a timely investigation as an investigation completed within 180 days of a complainant's filing of a formal complaint.<sup>8</sup> However, the agency may receive up to 30 additional days if the report of investigation needs to be sanitized because it contains classified information, up to 90 additional days if the agency and complainant agree to a written extension, or up to 180 additional days if the complainant files an amendment.<sup>9</sup> Any investigation that is completed beyond the regulated timeframe is considered untimely. Federal regulation defines a timely FAD as a FAD issued within 60 days for EEO complaints<sup>10</sup> and 45 days for mixed case complaints.<sup>11</sup> Unlike investigations, FAD deadlines may not be extended.

The EEOC requires that Federal agencies produce multiple annual reports. For example, agencies must annually complete the Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints (EEOC Form 462), a report of the status of all pre-complaints and formal complaints processed under the agency's EEO complaints program. Agencies must also annually complete the MD-

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<sup>7</sup> [Management Directive 110 | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)

<sup>8</sup> 29 CFR 1614.108(e)-(f)

<sup>9</sup> If a complainant experiences additional discrimination during the investigation that is related to the pending complaint, the complainant may amend the formal complaint to include the new incident.

<sup>10</sup> According to 29 CFR part 1614, if the complainant elects to have the agency issue a FAD or the complainant does not respond to the agency within 30 days of being notified of their right to request a hearing or FAD, the agency must issue a FAD within 60 days.

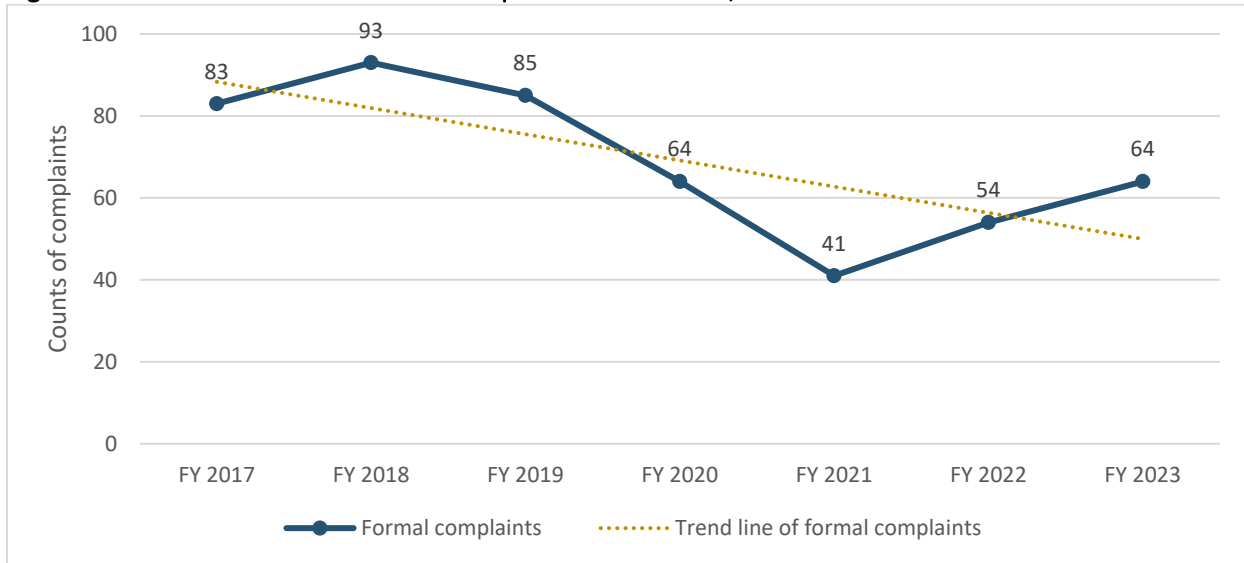
<sup>11</sup> According to 29 CFR 1614.302(d)(2), if a complainant chooses to file a mixed case complaint with the agency's EEO office, the agency must issue a FAD within 45 days of the conclusion of the investigation. A mixed case complaint occurs if a person feels that they experienced employment discrimination based on a federally protected class or reprisal, related to or stemming from an action that is appealable to the U.S. Merit Systems Protection Board. For more information on the types of actions appealable to the U.S. Merit Systems Protection Board, see 5 CFR 1201.3.

715 report, a summary report that highlights the agency’s accomplishments in establishing and maintaining a model EEO program. We relied on the EEOC Form 462 reports to determine ODEEO’s timeliness.

## Overview of Complaints Filed

From FY 2017 to FY 2023, ODEEO received 484 formal complaints. During that period, the total number of formal complaints filed each FY declined by 22 percent. In FY 2020, there was a noticeable decline in EEO complaint activity (figure 1). HUD attributed the decline to HUD’s mandatory telework policy during the coronavirus disease 2019 pandemic.

Figure 1. The total number of formal complaints ODEEO filed, FY 2017-2023



Source: HUD’s EEOC Form 462 reports, FY 2017-2023



## Finding

### ODEEO IMPLEMENTED CHANGES TO ADDRESS THE TIMELINESS OF HUD'S EEO COMPLAINT PROCESS

In HUD's FY 2020 through FY 2022 MD-715 reports, HUD identified that it had deficiencies with the timeliness of the EEO formal complaints process, specifically investigations and FADs. In our analysis of ODEEO's timeliness, we determined that while ODEEO improved the timeliness of its investigations of formal EEO complaints, the timeliness of its FADs did not improve. ODEEO implemented multiple changes intended to address the factors affecting the timeliness of the formal complaints process. Those changes included contracting with a new vendor for EEO services, hiring an in-house FAD writer, implementing internal milestones, reacquiring a case management system, and addressing high turnover.

### While ODEEO Improved the Timeliness of Investigations, it Did Not Improve the Timeliness of FADs

Between FY 2017 and FY 2023, ODEEO improved the timeliness of its investigations of formal EEO complaints. ODEEO's timely investigations into formal EEO complaints went from 51 percent in FY 2017 to 93 percent in FY 2023, an 84 percent increase.<sup>12</sup> However, ODEEO did not improve the timeliness of FADs. ODEEO issued all FADs in FY 2022 and FY 2023 beyond the regulated timeframe.

Our analysis of timeliness is based on HUD's publicly available EEOC Form 462 reports. As discussed later in this report, ODEEO experienced data management issues during our analysis period, particularly from FY 2019 to FY 2021. The data presented relating to those years represent ODEEO's best available data but not necessarily precise numbers. For more information, see appendix B.

#### ODEEO Improved the Timeliness of its Investigations

The percentage of ODEEO's timely investigations into formal EEO complaints improved from 51 percent in FY 2017 to 93 percent in FY 2023, an 84 percent increase (figure 2). According to Federal regulations, investigations must be completed within 180 days of the complainant's filing of the formal complaint;<sup>13</sup> however, the agency may receive extensions if certain criteria are met.<sup>14</sup> Any investigation that is completed beyond the regulated timeframe is considered untimely. In the EEOC's 2023 Technical Assistance Feedback Letter, the EEOC commended HUD for demonstrating meaningful progress in correcting the timeliness of investigations.

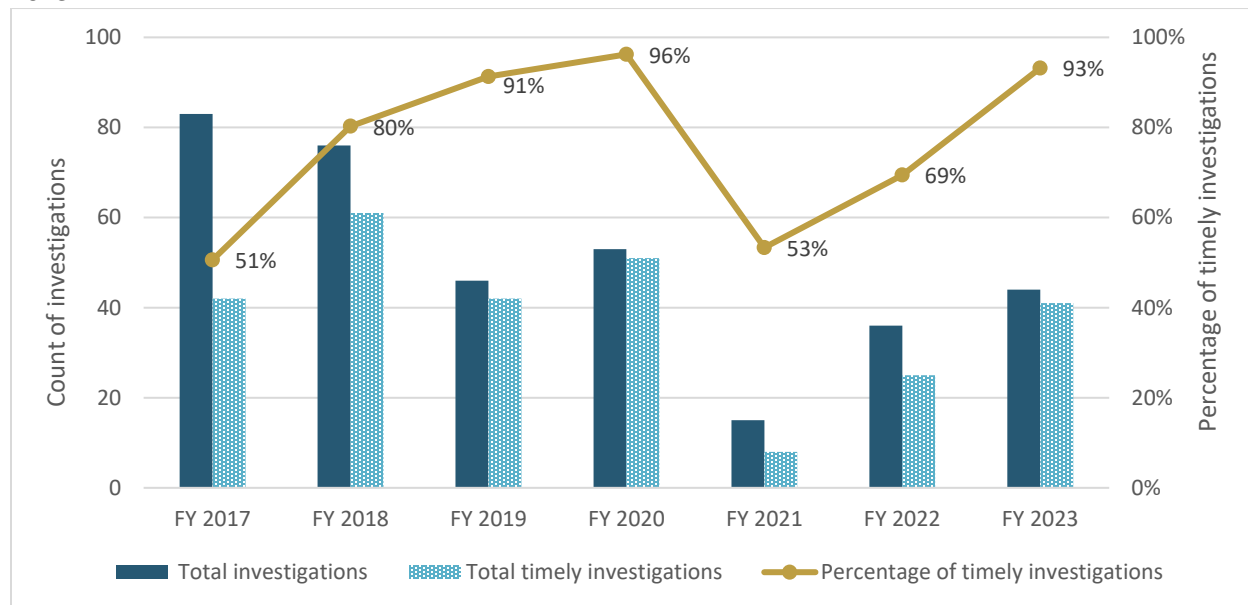
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<sup>12</sup> The numbers presented here are rounded to the nearest whole number.

<sup>13</sup> 29 CFR 1614.108(e)-(f)

<sup>14</sup> See the previous section on EEO Oversight.

**Figure 2. Total investigations compared to total and percentage of timely investigations, FY 2017-2023<sup>15</sup>**



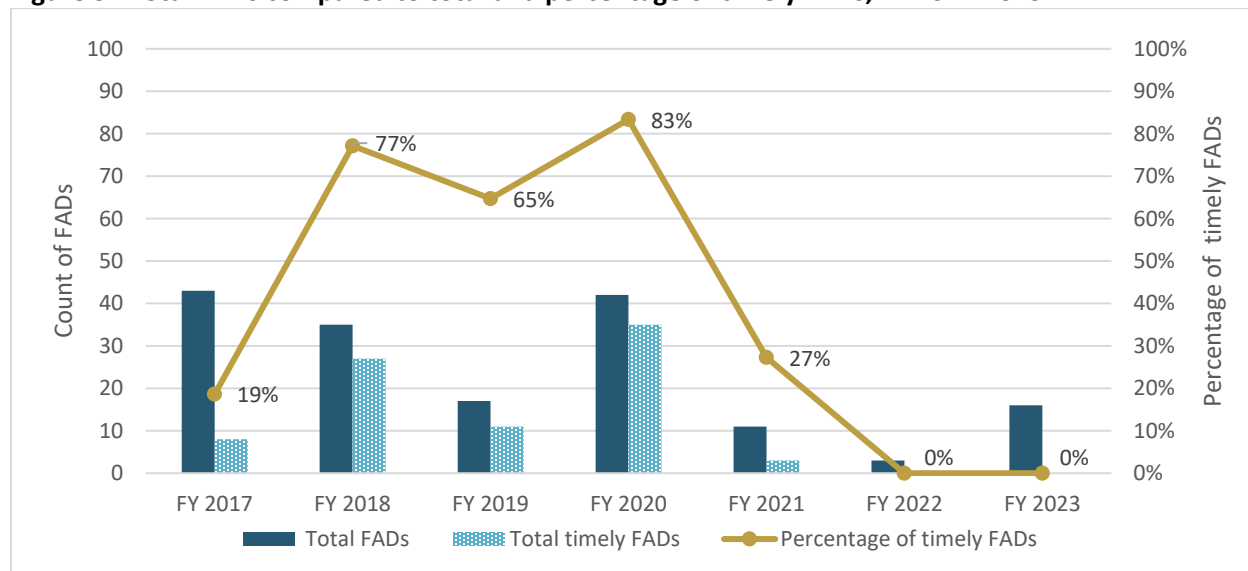
Source: HUD’s EEOC Form 462 reports, FY 2017-2023

### ODEEO Faced Challenges Improving the Timeliness of FADs

From FY 2017 to FY 2023, ODEEO issued 50 percent of FADs within the regulated timeframe. Federal regulation defines timely FADs as those issued within 60 days for EEO complaints and 45 days for mixed case complaints. According to HUD’s EEOC Form 462 reports, ODEEO issued all FADs in FY 2022 and FY 2023 beyond the regulated timeframe (figure 3), averaging 205 days in FY 2022 and 242 days in FY 2023.

<sup>15</sup> We did not include investigations completed after 360 days in the total of timely investigations. Under certain circumstances, it is possible for investigations that go beyond 360 days to be considered timely. For more information, see MD-110, chapter 5-2.

**Figure 3. Total FADs compared to total and percentage of timely FADs, FY 2017-2023**



Source: HUD’s EEOC Form 462 reports, FY 2017-2023

## ODEEO Implemented Changes Intended To Address Factors Affecting the Timeliness of the Formal Complaint Process

Between FY 2017 and FY 2023, multiple factors affected the timeliness of HUD’s EEO formal complaint process. ODEEO’s external EEO vendor provided services that did not meet ODEEO’s expectation, ODEEO did not have an in-house FAD writer, ODEEO lacked internal milestones and a centralized case management system, and ODEEO experienced high staff turnover.

ODEEO implemented changes intended to address the timeliness of the EEO complaint process. ODEEO contracted with a new vendor for EEO services effective September 30, 2023, hired an in-house FAD writer in FY 2024, implemented internal milestones in FY 2023, reacquired a case management system in FY 2021, and addressed staff turnover. While these changes had a varied impact on the timeliness of ODEEO’s investigations and FADs thus far, they demonstrated that ODEEO took concrete steps toward process improvement.

### ODEEO Contracted With a New Vendor To Complete Investigations and Write FADs

In September 2023, ODEEO management contracted with a new vendor to help improve the timeliness and quality of EEO services. Between FY 2018 and FY 2023, ODEEO used one external vendor to complete all of its investigations and FADs. According to ODEEO staff, that vendor did not complete investigations and FADs within the timeliness standards established in its agreement. HUD staff also reported issues with the poor quality of the vendor’s investigations and FADs that required ODEEO staff to fix them. An attorney from OGC explained that the vendor’s reports of investigations often included improper data citations or excluded necessary information. Staff from both ODEEO and OGC confirmed that the vendor’s FADs were not always legally sufficient.

When contracting with a new vendor for EEO services, ODEEO’s Deputy Director and contracting officer’s representative ensured that the new contract allowed ODEEO staff to hold the new vendor accountable

for both timely and quality EEO services. The new contract included detailed provisions to ensure timely and quality services, such as criteria for contract deliverables, a performance requirement summary with clear quality standards and monetary incentives, a quality control plan, and a quality surveillance plan. ODEEO also instituted regular meetings with the vendor to address any issues. While at the time of this evaluation the new contract was not in place long enough to fully determine its impact on timeliness, ODEEO staff reported satisfaction thus far with the quality of the new vendor's services. ODEEO's Deputy Director indicated confidence that the new vendor would improve ODEEO's timeliness.

### **ODEEO Hired a FAD Writer To Help Improve Timeliness of FADs**

In FY 2024, ODEEO hired a FAD writer to improve the timeliness of FADs. According to an FY 2023 EEOC report, *Timeliness of Merit Final Agency Decisions in the Federal Sector*,<sup>16</sup> cabinet-level agencies that completed FADs within the regulated timeframe often had an in-house FAD writer with a legal background (although it did not guarantee timeliness). Before hiring a FAD writer, ODEEO relied exclusively on its external vendor to write its FADs. According to ODEEO staff, the previous vendor wrote FADs that were longer than necessary and often included errors, resulting in additional edits. ODEEO and OGC staff reported that the previous external vendors' FADs often needed to be rewritten to meet ODEEO's standards for issuance. However, at the time, ODEEO had only one person on staff who was qualified to review FADs to ensure legal sufficiency. Staff members expressed that they hoped that the new FAD writer would provide more control over the quality and timeliness of the FADs. ODEEO's FAD writer onboarded in July 2024.

### **ODEEO Implemented Internal Milestones To Improve Monitoring and Timeliness of EEO Complaint Processing**

In 2023, ODEEO created its own internal milestones for the EEO complaint process in an effort to improve monitoring and ensure timeliness. While Federal regulation established timeliness standards for the different parts of the EEO complaint process, a timeliness standard may consist of multiple steps. For example, during the 180 days allotted for the investigation following a formal complaint filing, the agency must send notification to the complainant acknowledging receipt of the formal complaint, send the complainant an acceptance letter, and conduct the investigation. The EEOC's 2004 report, *Attaining a Model Agency Program: Efficiency*,<sup>17</sup> highlighted how some Federal agencies established internal milestones to improve monitoring and reduce the EEO complaint processing time.

ODEEO staff reported that the internal milestones improved timeliness. For the investigations, the internal milestones ensured that ODEEO staff acknowledged and accepted formal complaints quickly to allow investigators the maximum amount of time possible to conduct the investigation.<sup>18</sup> ODEEO management monitored these milestones and discussed them with staff during one-on-one meetings to ensure that complaints remained on track. The performance metrics and internal milestones ensured that cases were processed in a timely manner and in accordance with Federal requirements.

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<sup>16</sup> [Timeliness of Merit Final Agency Decisions in the Federal Sector](#)

<sup>17</sup> [Attaining a Model Agency Program: Efficiency](#)

<sup>18</sup> In the 180-day investigation example, ODEEO's internal milestones required staff to acknowledge receipt of the complaint within 5 days of filing and send the complainant an acceptance letter within 30 days of filing, reserving the remaining 150 days for the investigation.

## **ODEEO Reacquired an EEO Complaints Case Management System To Improve Tracking and Reporting**

To improve ODEEO's ability to track complaints throughout the EEO complaints process and report accurate data to the EEOC, ODEEO reacquired iComplaints—an EEO complaints case management system—in September 2021. This centralized case management system also improved data accuracy, as it could export HUD's annual Form 462 reports. As stated in the EEOC's 2004 report, *Attaining a Model Agency Program: Efficiency*, it is important that Federal agencies have an effective system for tracking EEO complaints and accurately reporting data to the EEOC in their annual Form 462 reports.<sup>19</sup>

ODEEO previously had a centralized case management system to track EEO complaints but lost access to the system in September 2019. Staff then developed individual tracking methods using Excel spreadsheets. This process created challenges, as staff members did not save their cases in a centralized place, making it difficult for management to monitor the timeliness of complaints. According to an ODEEO staff member, only after ODEEO reacquired a case management system and began tracking all complaints in the system was it able to focus on improving timeliness.<sup>20</sup>

## **ODEEO Instituted Changes To Address Staff Turnover and Improve Retention of Staff Responsible for Processing EEO Complaints**

After experiencing high staff turnover between FY 2020 and FY 2022, ODEEO made efforts to improve recruitment and retention of its staff. During those years, ODEEO lost a total of 13 employees due to retirements or transfers to other Government agencies, including the Director and Deputy Director of ODEEO. Given that ODEEO's staffing ranged from 15 to 18 people during those years, this turnover significantly impacted the program office. Staff reported that vacancies due to turnover impacted ODEEO's ability to process complaints in a timely manner.

In FY 2021, ODEEO began to make changes to address its staffing turnover. Specifically, ODEEO hired new staff to fill vacancies and added several additional positions. ODEEO also built a staffing model designed to assist in strategically preparing for the program office's future staffing needs. ODEEO began hiring staff members at lower grade levels, providing them opportunities to grow.<sup>21</sup> ODEEO also focused on improving retention by prioritizing training and professional development. ODEEO management identified trainings that would benefit staff and encouraged staff members to take trainings on different aspects of the complaint process to better understand each other's roles.

ODEEO's latest Federal Employee Viewpoint Survey results indicated a significant improvement in employee job satisfaction. In 2018, 41 percent of ODEEO staff members responded to the survey that, considering everything, they were satisfied with their job. In comparison, in 2023, 87 percent of ODEEO staff members responded that they were satisfied.

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<sup>19</sup> According to 29 CFR 1614.602(a), Federal agencies must report to the EEOC information concerning counseling and the status, processing, and disposition of complaints.

<sup>20</sup> In June 2024, ODEEO upgraded its case management system to an updated and more use-friendly version of iComplaints.

<sup>21</sup> [EEOC's Tips on Employee Retention](#) include improving employee advancement opportunities.

## Conclusion

From FY 2017 to FY 2023, ODEEO improved the timeliness of its investigations of formal EEO complaints. ODEEO's timely investigations into formal EEO complaints went from 51 percent in FY 2017 to 93 percent in FY 2023, an 84 percent increase. However, ODEEO did not improve the timeliness of FADs. ODEEO issued all FADs in FY 2022 and FY 2023 beyond the regulated timeframe. Multiple factors affected the timeliness of HUD's investigations and FADs during this period. ODEEO's external EEO vendor provided services that did not meet ODEEO's expectations, ODEEO did not have an in-house FAD writer, ODEEO lacked internal milestones and a centralized case management system, and ODEEO experienced high staff turnover.

ODEEO implemented changes intended to address the timeliness of the EEO complaint process, specifically the investigations. ODEEO contracted with a new vendor for EEO services effective September 30, 2023, hired an in-house FAD writer in FY 2024, implemented internal milestones in FY 2023, adopted a new case management system in FY 2021, and instituted changes to reduce turnover.

While these changes had a varied impact on the timeliness of ODEEO's investigations and FADs thus far, they demonstrated that ODEEO took concrete steps toward process improvement. Due to ODEEO's demonstrated efforts to improve timeliness, we are not issuing a recommendation at this time.

# Appendixes

## APPENDIX A – AGENCY COMMENTS AND OIG RESPONSE

We provided ODEEO with an opportunity to submit technical and formal comments in response to our draft report. ODEEO did not submit technical or formal comments.

## APPENDIX B – SCOPE, METHODOLOGY, AND LIMITATIONS

We completed this evaluation under the authority of the Inspector General Act of 1978 as amended and in accordance with the Quality Standards for Inspection and Evaluation issued by the Council of the Inspectors General on Integrity and Efficiency (December 2020).

### Scope

The scope of this evaluation focused on the timeliness of HUD’s EEO investigations and FADs from FY 2017 to FY 2023.

### Methodology

We analyzed the timeliness of HUD’s EEO investigation and FADs using HUD’s EEOC Form 462 reports from FY 2017 to FY 2023.

We also interviewed 13 individuals within ODEEO and OGC across a variety of positions and grades. We reviewed and analyzed ODEEO’s agreement with both the previous and new EEO services vendor, reviewed HUD’s internal and external policies and procedures related to the EEO complaints process, and reviewed other internal documents. We did not evaluate the quality of the reports of investigations or FADs.

### Limitations

From FY 2018 to FY 2021, ODEEO did not use a case management system, resulting in its staff having to manually track the timeliness of EEO complaints using Excel spreadsheets. Manually entered data can be subject to human error and can lead to challenges in maintaining data integrity. For example, in the FY 2018 EEOC Form 462 report, ODEEO reported the total days and average days to complete several steps as negative numbers.<sup>22</sup> In the FY 2020 EEOC Form 462 report, ODEEO reported that it was unable to gather more accurate data due to case management challenges.

As part of our evaluation, ODEEO provided us with a spreadsheet of complaints processed between FY 2017 and FY 2023. However, the data contained errors and were incomplete. We were unable to analyze or validate the accuracy of the data provided. Therefore, we could not use the provided data in this report. We chose instead to use the data contained in HUD’s annual EEOC Form 462 reports. When ODEEO reacquired a case management system in FY 2021, ODEEO was able to improve its data reliability and use the case management system to export EEOC Form 462 reports. While data from previous years were less reliable, these data represented HUD’s best available data and the data it used to make decisions.

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<sup>22</sup> We did not use the reported negative numbers in our analysis. ODEEO staff reported that the negative calculation may have been due to data mismanagement by former staff members.



## APPENDIX C – HUD’S EEO COMPLAINT PROCESS

HUD’s EEO complaint process follows the applicable Federal regulation and MD-110. It is divided into two phases: the pre-complaint process<sup>23</sup> and the formal complaint process.

### Pre-complaint Process

If a person feels that they experienced employment discrimination based on a federally protected class<sup>24</sup> and elects to file a grievance, the aggrieved person—or complainant—must complete a form that outlines the grievance to the agency. The intake specialist receives the grievance, reviews it, emails the complainant to acknowledge receipt, and assigns the complainant to an EEO counselor. To preserve the right to file a formal complaint, the complainant must seek informal EEO counseling within 45 calendar days of the alleged discrimination. The agency and the complainant then have 30 days to reach a resolution.<sup>25</sup>

In addition to counseling, the complainant may elect to resolve a complaint through alternative dispute resolution (ADR). ADR is a voluntary process in which a Federal agency provides all parties involved the opportunity to meet with a neutral third party to work toward a mutual resolution. If the complainant requests ADR, the agency then has an additional 60 days (for a total of 90 days) to resolve the complaint during the pre-complaint phase.<sup>26</sup>

If there is no resolution during the pre-complaint phase either through EEO counseling or ADR, the EEO counselor notifies the complainant that they may file a formal complaint of discrimination. The complainant then has 15 days to file a formal complaint with the agency. If the complainant does not file the complaint within the 15-day period, it is dismissed.

### Formal Complaint Process

Once a complainant files the formal complaint, the formal complaint process begins, and the complaint is assigned to a case manager. The case manager reviews the formal complaint and the EEO counselor’s report and decides to either accept or dismiss the complaint based on procedural grounds. If accepted, the agency must conduct an investigation to gather information into the alleged discrimination.

An investigation should be completed within 180 days of when the complaint was filed. However, the agency may receive up to 30 additional days if the report of investigation needs to be sanitized because it contains classified information, up to 90 additional days if the complainant agrees to the extension in

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<sup>23</sup> HUD staff often referred to the pre-complaint process as the “informal process.”

<sup>24</sup> Federally protected classes are race; color; religion; sex; national origin; age; disability; genetic information; pregnancy, childbirth, or related medical conditions; and retaliation.

<sup>25</sup> The EEO office may extend the counseling period up to 60 days if both the EEO counselor and complainant agree that more time is needed to reach a resolution.

<sup>26</sup> When appropriate, the complainant may also choose to try ADR at any time during the formal phase of the EEO process.

writing, or up to 180 additional days if the complainant files an amendment.<sup>27</sup> Investigations may not extend beyond the regulated timeframe.

The investigation process concludes when the agency provides the complainant with a completed report of the investigation and notifies the complainant of their right to elect either a hearing with an administrative judge or a FAD. If the complainant elects a hearing, the administrative judge determines whether or not discrimination occurred and if discrimination is found, what the appropriate remedy is. The agency must then issue a final order within 40 days of the judge's decision. The final order notifies the complainant of whether or not the agency will fully implement the judge's decision and the complainant's right to appeal to the EEOC. If the agency decides not to implement the judge's decision, the agency must file an appeal with the EEOC.

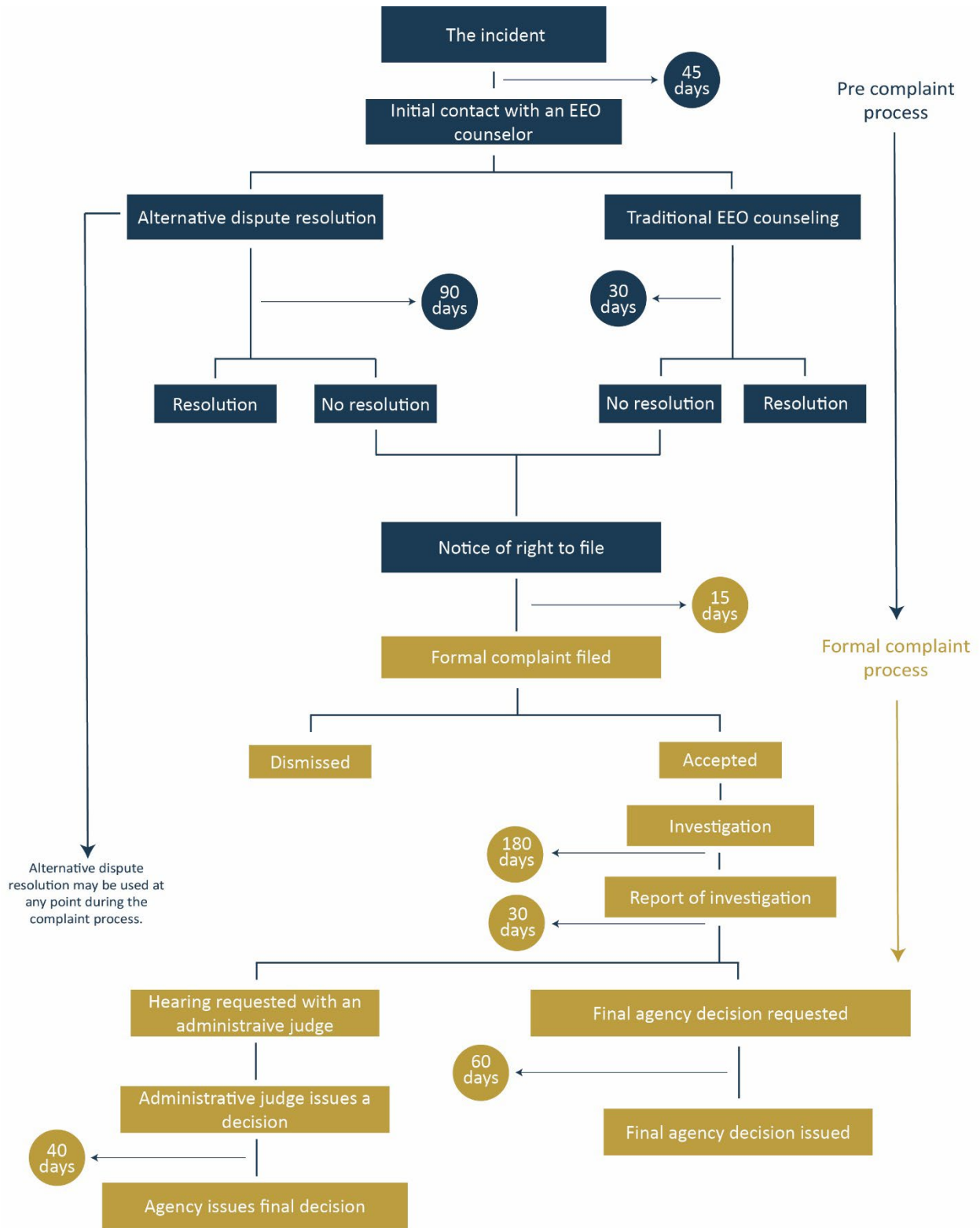
If the complainant elects to have the agency make an immediate decision or does not respond to the agency within 30 days of being notified of their right to request a hearing or FAD, the agency prepares a final decision that consists of the findings by the agency. If discrimination is determined to have taken place, the FAD provides a summary of appropriate remedies the agency will take.

Figure 4 illustrates the pre-complaint and formal complaint process.

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<sup>27</sup> According to 29 CFR 1614.106(d), if a complainant experiences additional discrimination during the investigation that is related to the pending complaint, the complainant may amend the formal complaint to include the new incident.

**Figure 4. Overview of the pre-complaint and formal complaint process**



## APPENDIX D – ABBREVIATIONS

Abbreviations	Definitions
ADR	alternative dispute resolution
CFR	Code of Federal Regulations
EEO	equal employment opportunity
EEOC	U.S. Equal Employment Opportunity Commission
EEOC Form 462	Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints
FAD	final agency decision
FY	fiscal year
HUD	U.S. Department of Housing and Urban Development
MD	management directive
ODEEO	Office of Departmental Equal Employment Opportunity
OGC	Office of General Counsel

## APPENDIX E – ACKNOWLEDGEMENTS

This report was prepared under the direction of John Garceau, Acting Assistant Inspector General for Evaluation, and Gabrielle Foster, Assistant Director. The Office of Evaluation staff members who contributed are recognized below.

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