

Equal Employment Opportunity Procedures

Federal Retirement Thrift Investment Board
Effective Date: November 30, 2016

Equal Employment Opportunity Procedures

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1. Overview

The Federal Employees' Retirement System Act of 1986 (FERSA) authorized the Federal Retirement Thrift Investment Board (FRTIB, Agency), an independent agency of the U.S. Executive Branch, to administer the Thrift Savings Plan (TSP), one of the three components of the Federal Employees' Retirement System (FERS). The TSP is a defined contribution plan for U.S. Federal employees (including those covered by the Civil Service Retirement System (CSRS)) and members of the uniformed services). FRTIB and TSP are collectively referred to as the Agency. The mission of FRTIB is to administer the TSP solely in the interest of its participants and beneficiaries.

The Office of Resource Management (ORM) is the FRTIB office that supports and manages human resources and administrative activities for the Agency in accordance with Office of Personnel Management (OPM) regulations and other applicable Federal regulations. ORM serves as a strategic partner to FRTIB leadership and drives the design of innovative, effective administrative services and human resource programs to support FRTIB employees and its overall mission. The Administrative Services Branch is a sub-office within ORM that manages the key business processes related to FRTIB's administrative programs and initiatives.

This document sets forth FRTIB's procedures related to implementation of its Equal Employment Opportunity (EEO) program. The objective of these procedures is to promote and achieve equal opportunity in employment and personnel practices within the FRTIB. These procedures govern FRTIB's EEO program and compliance activities. The FRTIB Office in charge of administering and implementing these procedures is ORM.

2. Roles and Responsibilities

Aggrieved Person – is an individual who believes he or she has been discriminated against based on their membership in a protected class or participation in a protected activity.

Chief Operating Officer (COO) - is the individual responsible for reviewing and approving the Report to Congress.

*Directors, Managers, and Supervisors*¹ – are the FRTIB individuals that are responsible for:

- Actively participating in the Agency's EEO program and ensuring performance plans include any general and/or specific EEO policy requirements;
- Attending required Agency EEO training;
- Cooperating with the EEO Program Manager and other EEO officials in processing EEO complaints;
- Cooperating with the Office of General Counsel and other parties representing the Agency in litigation involving EEO matters;
- Refraining from any reprisal action against any employee or applicant because he or she has filed an EEO complaint against the Agency or any Agency employee, has assisted in filing such a complaint, or has provided evidence (including giving testimony) during the processing or investigation of an EEO complaint;
- Ensuring that actions taken with respect to employees within their office are based on merit and free from discrimination;
- Managing the diversity of the work environment by improving communication and the acceptance of individual differences;
- Notifying the EEO Program Manager of potential EEO complaints and directing Aggrieved Persons to either the Agency EEO Program Manager or FRTIB EEO Counselor (Vendor) for assistance;
- Participating in Alternative Dispute Resolution (ADR) after the Agency has offered ADR and the Aggrieved Person has elected to participate in ADR; and
- Cooperating with the Agency representatives who develop and submit reports with respect to the Agency's EEO program (e.g., No FEAR Act Report to Congress and Management Directive 715).

¹ These roles are not included in the flows, but are provided here for informational purposes.

Executive Director - is the stakeholder responsible for:

- Exercising leadership and establishing, maintaining, and implementing a model EEO program to promote EEO in every aspect of the Agency's human capital policy and practice in the employment, development, advancement, and treatment of employees and applicants for employment, communicating this commitment to all Agency employees and ensuring EEO is an integral part of the Agency's strategic mission;
- Issuing a signed EEO and anti-harassment policy statement to all employees annually, which is prominently posted in common-area bulletin boards and on the Agency's internal website;
- Designating a principal EEO Official (i.e., EEO Program Manager) and providing sufficient staffing and resources to operate the EEO program in an effective manner;
- Ensuring all Agency employees cooperate with counselors, investigators, and applicable officials in processing and resolving EEO complaints;
- Certifying personally, or through a designee, to the Equal Employment Opportunity Commission (EEOC) that the Agency is in compliance with EEO laws, (EEOC) regulations, and policy guidance. This annual certification will be provided on EEOC Form 715-01 Part F; and
- Ensuring that managers, supervisors, employees, or offices demonstrating superior accomplishment in equal employment opportunity are recognized.

FRTIB EEO Counselor (Vendor) – is the party responsible for conducting counseling and advising aggrieved individuals during the pre-complaint process. The FRTIB EEO Counselor (Vendor) also serves as an independent and objective fact-finder (a neutral) and is not an advocate for employees, applicants, or FRTIB. The EEO Counselor's (Vendor) responsibility is to gather facts and make every effort to resolve the dispute at the earliest stage possible

FRTIB EEO Program Manager – is the individual that serves, as designated by the Executive Director, as the principal EEO Official for the Agency who manages the Agency's EEO program in accordance with 29 CFR 1614 and applicable EEO Directives; ensures that the EEO program information is distributed to all employees, using all media available, including the web; conducts

self-assessments of EEO program effectiveness, at least annually; serves as the Agency liaison to the EEO vendor; conducts and coordinates EEO training requirements; and ensures the Executive Director's applicable EEO policies are issued to each new hire at the beginning of her/his employment (included in Agency new-hire packet) and annually thereafter.

FRTIB Employee - is the stakeholder responsible for providing support to the overall EEO program as appropriate in the performance of their official duties, treating all individuals with whom they deal in a fair and equitable manner without discrimination or harassment; cooperating with supervisors and managers who are carrying out their responsibilities in the EEO program and keeping informed of all EEO policies and procedures that affect their job performance; reporting discrimination to his or her supervisor (unless the supervisor is the cause of discrimination), or anyone in his or her supervisory chain-of-command, the HR Officer, EEO Program Manager, or FRTIB EEO Counselor (Vendor); and completing the EEO training as required.

Office of General Counsel (OGC)—is the office responsible for reviewing reports sent to Congress and representing the Agency in all matters involving allegations of discrimination, retaliation, and harassment by FRTIB employees.

Office Technology Services—is the office responsible for developing a template for depicting EEO Form 462 data on the Agency external website and uploading the data to the website.

Office of External Affairs—is the office responsible for approving the uploading of quarterly data for the EEO 462 report to the Agency external website.

3. Applicable Policies

- EEO Policy

4. Procedures

FRTIB has contracted with a vendor to provide EEO complaint processing services to FRTIB employees and applicants for employment. An employee, former employee, or applicant for employment who believes discrimination has occurred on the basis of race, color, religion, sex (includes pregnancy, equal pay, gender identity/transgender status, and sexual orientation), national

origin, age, disability, genetic information or reprisal for prior EEO activities may initiate a discrimination complaint.

4.1 Informal/Pre-Complaint (IPC)

- IPC-1. The Aggrieved Person initiates the EEO process when s/he believes to have been aggrieved. The Aggrieved Person initiates contact with an EEO Counselor (Vendor) via phone, email, or in person. EEO Vendor contact information (name, phone number and email address) is posted on several Agency bulletin boards and on the Agency Resources web page.²
- IPC-2. The FRTIB EEO Counselor (Vendor), upon contact with the aggrieved individual, conducts fact finding activities to include determining the claim(s) and basis raised by the aggrieved individual and timeliness of the individual's EEO Counselor contact and obtaining information relating to the issue(s) in accordance with EEOC Management Directives and Federal law. The FRTIB EEO Counselor (Vendor) ensures all applicable information is recorded on an intake form.
- IPC-3. Upon receiving the initial complaint from the aggrieved, the FRTIB EEO Counselor (Vendor) submits a task order request to the FRTIB EEO Program Manager.
- IPC-4. The FRTIB EEO Program Manager receives the task order request and submits the task order for processing to the Agency's Contracting Officer, identifying the Contract Line Item Number (CLIN) for the appropriate EEO service requested. In addition, the EEO Program Manager initiates a file for the EEO complaint based on the information provided in the task order. The EEO Program Manager updates the EEO complaint file as actions are taken throughout the life of the complaint.
- IPC-5. The FRTIB EEO Counselor (Vendor) conducts counseling and limited inquiries which initiate the counseling process. During the initial counseling session, the

² FRTIB's Internal EEO Website: <http://tibwebs.frtib/employee-info/EEOC/index.html>

FRTIB EEO Counselor (Vendor) advises the aggrieved individual, in writing, of his or her rights and responsibilities and the opportunity to pursue resolution through either counseling or participating in ADR, if the issue is appropriate for ADR. Counseling shall be completed within 30 calendar days of the individual's initial contact with the FRTIB EEO Counselor (Vendor) unless extended in accordance with EEOC directives. If ADR is chosen, the parties have 90 calendar days to attempt resolution. Confidentiality and anonymity remains a forefront concern throughout these proceedings. Prior to contacting the Responsible Management Official (RMO), the EEO Counselor (Vendor) and/or EEO Program Manager provides OGC with the name of the RMO and the basis of the complaint. If the complainant has waived confidentiality, the EEO Counselor (Vendor) may also share a copy of documents submitted as part of complainant's initial filing (e.g., intake form and supporting documents). The EEO Counselor (Vendor) contacts the RMO as part of the limited inquiry process. Refer to the following website for EEOC guidance on how to implement the informal complaint process defined in 29 CFR 1614: <http://www.eeoc.gov/eeoc/publications/fedprocess.cfm> or by contacting the EEO Program Manager.

IPC-6. The FRTIB EEO Program Manager, upon being informed that the matter is resolved informally, documents the resolution. If, during the course of the limited inquiry, the Agency and the Aggrieved Person agree to an informal resolution of the dispute, the terms of the resolution shall be documented in writing, clearly identify the claims resolved, and be signed by both parties to help ensure they have the same understanding of the terms of the resolution.³ OGC will coordinate with the EEO Counselor (Vendor), EEO Program Manager, and the complainant to develop the terms of this agreement. The letter should state clearly the terms of the informal resolution and should notify the aggrieved person of the procedures available under 29 C.F.R. § 1614.504, in the event that

³ See 29 C.F.R. § 1614.603

the agency fails to comply with the terms of the resolution. The FRTIB EEO Counselor (Vendor), EEO Program Manager and OGC collaborate to provide a written settlement agreement that will bind both the Agency and the complainant. The EEO Counselor (Vendor) transmits a signed and dated copy of the settlement to the EEO Program Manager. The EEO Program Manager retains the copy for four years or until s/he is certain that, the agreement has been fully implemented.

- IPC-7. The EEO Counselor holds a final interview with the Aggrieved Person and issues the Notice of Right to File (RTF) a Discrimination Complaint. This action occurs if the informal resolution is not possible as the Aggrieved Person may not be satisfied with the Agency's proposed resolution of the dispute, or the Agency officials may not agree to the Aggrieved Person's suggestions. No further counseling should occur. The final interview and the RTF notice shall be conducted within 30 days of the date the Aggrieved Person brought the dispute to the EEO Counselor (Vendor)'s attention. If, however, the Aggrieved Person consented to a written extension of time, the extension cannot exceed 60 days for counseling. If the Aggrieved Person agreed to participate in EEO ADR, the counseling period may not exceed 90 days.
- IPC-8. The EEO Counselor (Vendor) provides the Aggrieved Person with the names of persons authorized to receive complaints of discrimination. The EEO Counselor (Vendor) also informs the Aggrieved Person (or his/her representative) that the complaint shall be delivered to one of the authorized persons.
- IPC-9. The Aggrieved Person receives RTF notice and other pertinent information. If the Aggrieved Person decides to file a formal complaint, proceed to Formal Complaint Procedures (FCP-1)
- IPC-10. When advised that an Aggrieved Person has filed a formal complaint, the EEO Counselor (Vendors) submits a written report pursuant to 29 C.F.R. § 1614.105(c) to the FRTIB EEO Program Manager. The report contains relevant information about the Aggrieved Person, jurisdiction, claims, basis, requested

remedy, and the EEO Counselor (Vendor)'s checklist. If the Aggrieved Person attempted to resolve the dispute via counseling or EEO ADR, the report should state that the Aggrieved Person chose either traditional EEO counseling or the EEO ADR program and that the dispute was not resolved through either procedure. However, the report should not provide a summary of the resolution attempts, nor any opinion as to whether discrimination occurred. The EEO Counselor (Vendor) submits a copy of the report to the FRTIB EEO Program Manager and to the Aggrieved Person. The transmission shall be done within **fifteen (15) days** after notification by the EEO Program Manager that a formal complaint has been filed or upon the EEO Counselor (Vendor)'s receipt of the formal complaint.

- IPC-11. The FRTIB EEO Program Manager receives the written report and updates the EEO complaint file.

4.2 Formal Complaint (FCP)

- FCP-1. The Aggrieved Person files a formal written complaint on a form provided by the FRTIB EEO Counselor (Vendor) if the informal stage does not result in the resolution of the dispute. The formal complaint shall be submitted to the FRTIB EEO Counselor (Vendor) or EEO Program Manager within 15 calendar days of the Aggrieved Person's receipt of the RTF notice. Upon receiving notice of the formal complaint, either the EEO Program Manager or the EEO Counselor (Vendor) will inform OGC and will provide the complaint and supporting documents to OGC once they are available. Written complaints filed by facsimile, electronic communication, hand-delivery during business hours, U.S. mail (confirmation services recommended), or other third-party commercial carrier shall meet the regulatory time frames. The date of the postmark, facsimile, electronic communication, hand delivery, delivery to a third-party commercial carrier or in person filing at the agency's EEO office, is considered the date filed and shall be within the requisite 15 calendar days.

- FCP-2. The FRTIB EEO Counselor (Vendor) receives the Aggrieved Person's formal complaint and submits a written notification of receipt of the formal complaint to the Aggrieved Person and FRTIB EEO Program Manager. The acknowledgement letter shall inform the Aggrieved Person of the filed-on date (if mailed, the date of filing is the postmark date, not the date the Agency received the complaint). The EEO Counselor (Vendor) also advises the Aggrieved Person in the acknowledgment letter of the EEOC office and its address where a request for a hearing shall be sent. Such acknowledgment shall also advise the Aggrieved Person that: (1) the Aggrieved Person has the right to appeal the final action on or dismissal of a complaint; and (2) the Agency is required to conduct an impartial and appropriate investigation of the complaint within 180 days of the filing of the complaint unless the parties agree in writing to extend the time period. When a complaint has been amended, the Agency shall complete its investigation within the earlier of 180 days after the last amendment to the complaint or 360 days after the filing of the original complaint, except that the Aggrieved Person may request a hearing from an administrative judge on the consolidated complaints any time after 180 days from the date of the first filed complaint.
- FCP-3. The Aggrieved Person receives written confirmation of receipt of the formal complaint from the FRTIB EEO Counselor (Vendor).
- FCP-4. The FRTIB EEO Program Manager updates the complaint file, generates a new task order.
- FCP-5. The FRTIB EEO Counselor (Vendor) evaluates the complaint file in collaboration with the EEO Program Manager.
- FCP-6. The FRTIB EEO Counselor (Vendor) notifies the Aggrieved Person of acceptance or rejection of the complaint. Listed below are components that are included in letters sent to the Aggrieved Person:

- The Agency—via the FRTIB EEO Counselor (Vendor)—sends the Aggrieved Person a second letter stating the claim(s) asserted and to be investigated. If the second letter’s statement of the claim(s) asserted and claim(s) for investigation differs, the letter further shall explain the reasons for the difference, including whether the Agency is dismissing a portion of the complaint.
- The Agency shall advise the Aggrieved Person that s/he may submit a statement to the Agency concerning the Agency’s articulation of the claim, which shall become a part of the complaint file.
- The Agency shall notify the Aggrieved Person of a partial dismissal by letter and further inform the Aggrieved Person that there is no immediate right to appeal the partial dismissal.
- The Agency shall advise the Aggrieved Person that the partial dismissal shall be reviewed either by a Commission Administrative Judge, if the Aggrieved Person requests a hearing before an Administrative Judge, or by the Commission, if the Aggrieved Person files an appeal of a final agency action or final agency decision.
- Unless the Aggrieved Person states otherwise, copies of the acknowledgment and all subsequent actions on the complaint shall be mailed or delivered to the Aggrieved Person’s representative with a copy to the Aggrieved Person.

FCP-7. The Aggrieved Person receives decision details via a written letter.

FCP-8. The FRTIB EEO Counselor (Vendor) conducts an investigation on the accepted claim(s)⁴ documents findings, and provides the Report of Investigation (ROI) to the Aggrieved Person and EEO Program Manager.

FCP-9. The Aggrieved Person receives and reviews the investigation conclusion report. Depending on the outcome of the investigation, the employee may elect a

⁴ Process is completed in accordance with EEO MD-110 (Chapter 5)

hearing before an EEOC administrative judge, request a final decision from FRTIB, or cease the formal complaint process entirely.⁵

FCP-10. The FRTIB EEO Program Manager receives, reviews, and provides a copy of the ROI to OGC.

FCP-11. OGC receives a copy of the ROI.

Refer to 29 C.F.R. Part 1614 for any aspects of the complaint process not covered above.

4.3 Hearings, Appeals, and Civil Action

Aggrieved Persons and agency leadership will follow the EEOC hearing and appeals process (Refer to 29 C.F.R. Part 1614).

4.4 Developing the EEO 462 Quarterly/Annual Report (RPT)

RPT-1 The FRTIB EEO Counselor (Vendor) documents, tracks, and inputs data into the EEO 462 spreadsheet⁶ and submits to the EEO Program Manager.

RPT-2 The EEO Program Manager receives and reviews the spreadsheet and data from the FRTIB EEO Counselor (Vendor).

RPT-3 If there are issues with the data, the FRTIB EEO Program Manager works with the EEO Counselor (Vendor) to resolve any issues.

RPT-4 OEA reviews the quarterly data for the EEO 462 report to the Agency external website. If there are issues with the data, see step RPT-3.

RPT-5 OEA approves the quarterly data.

RPT-6 OTS develops a template to depict the EEO Form 462 data on the Agency external website and uploads the data to the website⁷ once it is approved.

RPT-7 The EEO Program Manager uploads data to the Federal Sector (FedSEP) EEO portal annually.

⁵ EEOC Hearing, civil action, and appeals processes please refer to 29 C.F.R Part 1614.

⁶ Data collection template for documenting EEO reported data

⁷ www.eeoc.gov

4.5 Report to Congress (RTC)

- RTC-1. The EEO Program Manager compiles relevant EEO data (i.e., statistics) for the year and drafts a report.
- RTC-2. The EEO Program Manager sends report to ORM Director for review.
- RTC-3. The ORM Director reviews the report to confirm completeness based on EEOC guidance, provides comments in writing and sends report for OGC review.
- RTC-4. OGC reviews the report based on compliance with EEOC guidance, provides comments in writing, as necessary, and sends report to OEA for review.
- RTC-5. OEA reviews the report to Congress based on policy guidelines and provides feedback.
- RTC-6. The EEO Program Manager incorporates feedback and changes from OGC, the ORM Director, and OEA and provides the report to OGC for final review.
- RTC-7. OGC conducts a final review on the report to confirm accuracy, provides approval in writing and submits the report to the Executive Director or COO.
- RTC-8. The Executive Director or COO reviews the report and determines if any revisions are required. If no revisions are required, the report is approved in writing.
- RTC-9. If revisions are required, the EEO Program Manager incorporates applicable changes based on feedback and submits the report to Congress via OEA.

4.6 MD-715 Reporting (MDR)

- MDR-1. The EEO Program Manager completes the checklist from Management Directive (MD) -715 and sends to the ORM Director for review.
- MDR-2. The ORM Director reviews the checklist for completeness against MD-715. If there are no issues, the ORM Director approves the findings (in writing).
- MDR-3. If issues are identified during the review, the ORM Director works with the EEO Program Manager to resolve the issue(s).

- MDR-4. The EEO Program Manager collects relevant information (e.g., organization chart from the Human Resource Division, policy, procedures).
- MDR-5. The EEO Program Manager uploads the checklist to Federal Sector EEO Portal (FedSEP).
- MDR-6. The EEO Program Manager prints the report and provides a copy to the ORM Director and Executive Director and COO.
- MDR-7. The ORM Director receives the report and files in accordance with the applicable records management schedule.
- MDR-8. The Executive Director and COO receive report for awareness purposes.

5. Authorities and References

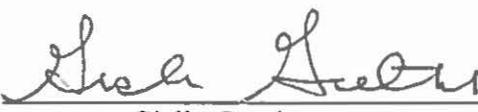
- Age Discrimination in Employment Act of 1967 (29 U.S.C. §621-634)
- Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.)
- The Civil Rights Act of 1964 (42 U.S.C. §2000e et seq.)
- Equal Pay Act of 1963 (29 U.S.C. §206(d))
- Notification and Federal Employee Antidiscrimination and Retaliation (No Fear) Act of 2002 (5 U.S.C. §2301)
- Rehabilitation Act of 1973 (29 U.S.C. §791, 793, 794(a))
- Civil Rights Act of 1991 (42 U.S.C. §1981a)
- Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. §2000ff et seq.)
- EEOC Management Directive 715 (MD-715)
- EEOC Management Directive 110 (MD-110)
- 5 CFR §213.3102
- 5 CFR §213.3202(11)
- 5 CFR §315.709
- 5 CFR §720, Subparts B and C
- 29 CFR Part 1603
- 29 CFR Part 1604
- 29 CFR Part 1606
- 29 CFR Part 1607
- 29 CFR Part 1614
- 29 CFR Part 1690
- EO 11478, Equal Employment Opportunity in the Federal Government
- EO 12067, Agency and EEOC Authority and Responsibility
- EO 13087, Sexual Orientation
- EO 13145, To Prohibit Discrimination in Federal Employment Based on Genetic Information

- FRTIB EEO Website: <http://tibwebs.frtib/employee-info/EEOC/index.html>

6. Revision History

Date	Version	FRTIB Author	Comments <i>(briefly summarize change)</i>
05/01/2016	0	Randy Berry	Initial Version

7. Approval

Name:  Date: NOV 30, 2016
Gisile Goethe

Title: Director, ORM

8. Appendices

Appendix A: Sample Documents

- MD-715 Reporting Instructions (www.egov.eeoc.gov)

Appendix B: Reference Material

- EEOC Management Directive 715 (MD-715)
- EEOC Management Directive 110 (MD-110)
- Government Accountability Office Report to Congressional Committees: Equal Opportunity Employment (August 2009)

Appendix C: Flowcharts

The Flowcharts in Appendix C are provided only as a reference and have no authoritative value. Any ambiguity or confusion between the Flowcharts and the Equal Employment Opportunity Policy and Procedures should be resolved in favor of the Policy and Procedures.

- Informal/Pre-Complaint (IPC)
- Formal Complaint (FCT)
- Developing the EEO 462 Quarterly/Annual Report (RPT)
- Report to Congress (RTC)
- MD-715 Reporting (MDR)