

The Library of Congress
Office of the Inspector General



Office of the Librarian
Office of Workforce Diversity

Review of the Office of Workforce Diversity

Review Report No. 2007-SP-103
September 2007





UNITED STATES GOVERNMENT

LIBRARY OF CONGRESS

Memorandum

Office of the Inspector General

TO: James H. Billington
Librarian of Congress

September 17, 2007

FROM: Karl W. Schornagel
Inspector General

A handwritten signature in black ink, appearing to read "Karl W. Schornagel".

SUBJECT: Review of the Office of Workforce Diversity

Review Report No. 2007-SP-103

This transmits our final review report on the Library's Office of Workforce Diversity (OWD). The Executive Summary begins on page *i* and complete findings appear on pages 4 to 12.

We performed this review as a "non-audit service." Accordingly, we did not report on internal control or compliance with laws and regulations. Likewise, we did not include specific recommendations.

We appreciate the cooperation and courtesies extended by the OWD Director and staff during the review. We also wish to thank the union officials and special interest group officers who assisted us in assessing the OWD's performance.

cc: Chief Operating Officer
Assistant Chief Operating Officer for Support Services
Director, Office of Workforce Diversity

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▶▶ EXECUTIVE SUMMARY

This report presents the results of our review of the Library's Office of Workforce Diversity (OWD). Organizationally, the OWD resides within the Office of the Librarian and includes the Dispute Resolution Center (DRC), the Affirmative Action and Special Programs Office (AASPO), and the Equal Employment Opportunity Complaints Office (EEOCO). We performed this review to determine if the OWD is properly organized and staffed, and functioning effectively.

We determined that Library spending for its diversity function is considerably more than the amounts other agencies spend on corresponding programs. Compared to our benchmark agencies, OWD has higher grade levels and nearly twice the staff resources per capita. Other agencies are using collateral duty staff, special interest groups, ad hoc committees, and "shared neutrals" programs to increase cost effectiveness.

Moreover, we found that, outside of the EEOCO, the OWD is overstaffed, over-graded, unable to reliably demonstrate results, not cost effectively aligning its staff resources, and not properly focusing its affirmative action program.

We also found that neither the DRC nor the AASPO collect reliable workload and staff utilization data and that the AASPO does not analyze its programs. Other agencies conduct regular systematic workforce and workload analyses, identify and define systemic barriers to equal opportunity, and develop concrete, practical solutions to these problems.

The recently appointed OWD Director¹ has made some positive changes to the office, but considerably more work needs to be done.

¹ The Librarian appointed Deborah Hayes Director of the OWD, effective September 18, 2006. Prior to this, Ms. Hayes had been Chief of the AASPO since May 29, 2005.

▶▶ INTRODUCTION

The Librarian established the Office of Workforce Diversity (OWD) to consolidate the Library’s principal workforce diversity activities. The office plays an important leadership and oversight role by ensuring a workplace exists that is free from discrimination and retaliation and values diversity, fairness, inclusiveness, and equality. Like other government agency workforce diversity programs, the OWD reports directly to the agency head, the Librarian in this case.

The OWD is comprised of three operating areas: the Affirmative Action and Special Programs Office (AASPO),

Office of the Director	Affirmative Action and Special Programs Office	Dispute Resolution Center	Equal Employment Opportunity Complaints Office
1 SL Director ²	1 GS-15 Manager (Vacant)		1 GS-15 Manager
1 GS-13 Special Assistant	5 GS-13 (3 Specialists/ 1 Special Asst./ 1 Statistician)	3 GS-14 Special Assistant/ Principal Convener	2 GS-13 Specialists
1 GS-11 Admin. Officer	1 GS-8 Sr. Assistant		1 GS-11 Admin. Officer
			2 GS-6 Program Assistants

Dispute Resolution Center (DRC), and Equal Employment Opportunity Complaints Office (EEOCO). In total, these organizations have 24 full-time equivalent positions, 18 of which are currently staffed.

The AASPO administers and coordinates annual awareness programs, detail and internship programs, and

recruitment efforts, especially in areas of under-representation. Additionally, the AASPO provides consultation, coordination, and training for persons with disabilities.

The DRC operates the alternative dispute resolution (ADR) process. Established by the Library almost 15 years ago, the DRC provides an informal forum for employees to settle workplace disputes. The DRC’s objective is to resolve disputes in a confidential and non-adversarial setting, thus

² The Librarian appointed Deborah Hayes Director of the OWD, effective September 18, 2006. Prior to this, Ms. Hayes had been Chief of the AASPO since May 29, 2005.

reducing costs and improving the workplace. Although most other agencies separate the dispute resolution programs from their affirmative action and Equal Employment Opportunity (EEO) organizations, we concluded that there is no inherent conflict in the Library's current organizational structure. Feedback we received from union officials indicates no dissatisfaction with the DRC's objectivity.

The EEOCO is designed to review and administer formal complaints of workplace discrimination. Although not subject to executive branch Equal Employment Opportunity Commission guidance, the Library has elected to follow the commission's Management Directive 715 as appropriate.³ The directive's principal objective is to ensure that all employees and applicants for employment enjoy equality of opportunity in the federal workplace. Moreover, the EEOCO generally uses the Office of Personnel Management's (OPM) Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 ("No FEAR Act") reporting format.

The OWD also oversees the Diversity Advisory Council, which consists of representatives of many of the Library's recognized employee organizations. The council's objectives are to heighten diversity awareness among Library staff, advise the Library on issues critical to diversity management, and conduct periodic assessments of diversity topics.

³ The purpose of this Directive is to provide policy guidance and standards for establishing and maintaining effective affirmative programs of equal employment opportunity under Section 717 of Title VII (PART A) and effective affirmative action programs under Section 501 of the Rehabilitation Act (PART B). The overriding objective of this Directive is to ensure that all employees and applicants for employment enjoy equality of opportunity in the federal workplace regardless of race, sex, national origin, color, religion, disability, or reprisal for engaging in prior protected activity.

►► OBJECTIVES, SCOPE, AND METHODOLOGY

Our objectives were to determine whether the OWD's:

- fundamental functions and organizational structure are appropriate for today's environment;
- staff and related resources are used effectively and efficiently;
- staffing levels and grade structure are appropriate; and
- management had established and communicated suitable measures to evaluate staff and program effectiveness.

We also followed up on recommendations we made in two prior audits: *Management of EEOCO Program Needs Strengthening*, Audit Report No. 2001-PA-104-EEOCO, issued February 10, 2003 and *Management of Dispute Resolution Center Needs Strengthening*, Audit Report No. 2002-PA-104-DRC, issued September 30, 2003.

To accomplish our objectives, we interviewed OWD supervisors and staff, Human Resources Services staff involved with recruitment, and Office of the General Counsel staff involved with EEO cases. To assess Library staff's perceptions, we interviewed union officials and special interest group officers. For benchmarking purposes, we spoke with management officials involved with affirmative action, EEO complaints, and alternative dispute resolution at the Government Accountability Office, the Government Printing Office, the Patent and Trademark Office, the National Archives and Records Administration, and the Small Business Administration. We selected these agencies based on their size, location in the legislative branch, and/or functional similarity to the Library.

We conducted our fieldwork during June and July 2007, as a "non-audit service,"⁴ as defined in Section 2.14 of Government Auditing Standards ("The Yellow Book") issued by the Comptroller General of the United States, and Library of Congress Regulation (LCR) 211-6, *Functions, Authority, and Responsibility of the Inspector General*.

⁴ Although considered a non-audit service, we conducted this review using the same stringent quality control and quality assurance procedures required for audits and attestations.

» FINDINGS

Library spending for its diversity function is more than twice the amount that other agencies spend annually for their corresponding programs on a per capita basis. The Library spends \$445 per employee annually. Other agencies we consulted for this review spend \$200 on average per employee annually – less than half the amount the Library spends.

Reasons for lower spending in this area at other agencies include generally lower position classifications, use of staff who perform diversity function responsibilities as a collateral duty, greater use of the “shared neutrals” program,⁵ and affirmative action efforts focused on program analysis instead of implementation.

In the following sections, we examine staffing levels, grade structure, and controls for assessing staffing levels and program effectiveness for each of the OWD’s operational areas.

	LOC ⁶	GPO	GAO	USPTO	NARA	SBA
Agency Total Staff	3,978	2,800	3,200	8,550	2,800	3,600 ⁷
OWD Current Filled FTEs	18	6	7	14	5	14
OWD Total Salaries	\$1,769,396	\$494,272	\$646,251	\$1,184,073	\$404,653	\$1,221,052
Staff per OWD employee	221	467	457	611	560	257
Cost per Employee	\$445	\$177	\$202	\$138	\$145	\$339

⁵ The concept of a “shared neutrals” program is that agencies “share” employees who are qualified to serve as neutrals. For example, an employee of one agency may act as a mediator for a dispute at a second agency.

⁶ Acronyms: GPO: Government Printing Office, GAO: Government Accountability Office, USPTO: United States Patent and Trademark Office, NARA: National Archives and Records Administration, and SBA: Small Business Administration.

⁷ Staffing at the SBA fluctuates between 2,400 and 4,800. 3,600 represents an average.

I. The EEOCO is Staffed and Operating Similarly to Other Agencies

The EEOCO’s staffing is comparable to our benchmark agencies and the office is collecting the data necessary to properly assess its staffing needs. Furthermore, the EEOCO is following best practices by using contract investigators for its formal investigations and by passing on part of the cost to its client service units.

Although the EEOCO staff were unaware of the OWD’s Annual Program Performance Plan (AP³) goals, they were, for the most part, following OPM standards and using the OPM “No FEAR Act” reporting model for statistical categories. This is a good model to follow and applying it provides good measures of program results.

Our benchmark agencies have workloads⁸ similar to EEOCO. Staffing levels and grade structures are also similar. Although the EEOCO services less staff per capita than 4 of the 5 agencies, the overall differences were minimal. We found that the EEOCO Manager position was graded higher than 4 of the

EEOCO Position	LOC	GPO	GAO	USPTO	NARA	SBA
Manager	1 GS-15	1 GS-14	1 GS-15	1 GS-14	1 GS-13	1 GS-14
Specialist	2 GS-13	2 GS-9-12		7 GS-11-13	1 GS-13	5 GS-12-13
Admin Officer	1 GS-11			1 GS-8		1 GS-11
Project Assistant	2 GS-6			1 GS-7	1 GS-8	
Total EEO Staff	6	3	1	10	3	7
Total Agency Staff	3,978	2,800	3,200	8,550	2,800	3,600
Staff per EEO capita	663	933	3,200	855	933	514
2006 Complaints	48	n/a	35	50	36	38

5 other agencies. Similarly, the EEO Specialist position was graded the same or higher than other agencies.

The EEOCO manually tracked data pertaining to the “No FEAR Act” because the vendor for its automated system was not providing

technical support. However, at the time of our fieldwork, OWD was in the process of procuring a new automated system. Management must ensure that the system it is

⁸ No workload data was available for the GPO.

acquiring to process “No FEAR Act” data will meet the reporting requirements of each of the OWD sections, capture timekeeping data by assignment or case, and effectively interface with other databases including the National Finance Center system.

The “No FEAR Act” is intended to reduce the incidence of workplace discrimination within the Federal government by making agencies and departments more accountable. We note that Federal agencies generally place their “No FEAR Act” data on their web sites. Accordingly, the Library can improve its affirmative action and equal employment functions by making its statistical data available to all staff.

II. The DRC Lacks Reliable Operating Data Necessary to Assess its Staffing Levels and Cost Effectiveness

DRC operates its ADR program with more staff than our benchmark agencies and, instead of utilizing alternative ADR methods, it hears and mediates all disputes it receives, regardless of their complexity. Moreover, the DRC lacks the operating data it needs to effectively assess its workload.

a. Benchmarking

Generally, only one person is assigned to oversee the dispute resolution process at our benchmark agencies. That individual handles the complex disputes and assigns the remaining cases to collateral duty staff⁹ or to a “shared neutrals” program.

The DRC employs three full-time GS-14 “Principal Conveners” who hear and mediate all disputes that are brought to them without regard to their complexity.¹⁰ Using the time of these GS-14s in this manner does not maximize DRC efficiency. Principal conveners at that level should only be handling cases of moderate to high complexity, or those which are particularly sensitive. Less complex cases should be handled by shared neutrals, lower graded DRC staff, or staff who are responsible for DRC cases as a collateral duty. We previously recommended that DRC use collateral duty staff in

⁹ In a collateral duty situation, individuals from other offices throughout the agency volunteer their services as mediators. Given the large number of attorneys it employs, the Library is especially suited to this scenario.

¹⁰ The DRC was unable to provide us a breakdown of cases according to complexity.

our audit report titled *Management of Dispute Resolution Center Needs Strengthening*, Audit Report No. 2002-PA-104-DRC, issued September 30, 2003.

b. Analysis of Operating Data/Internal Control

The DRC has an inadequate internal control environment due to the absence of:

- reliable operating data, and
- quality monitoring and review practices.

During our review, we found that the DRC:

- is not able to account for its current cases,
- does not maintain adequate files, and
- does not consistently track and evaluate the reliability of data on office consultations. Instead, each convener tracks consultations using disparate definitions of activities.

As a result, we were unable to reliably assess the DRC's workload or staffing requirements.

At the beginning of FY 2007, the recently appointed Director required DRC staff to report the status of their activity to her weekly. This was an attempt to establish staff accountability, but the reporting requirement did not compensate for the internal control weaknesses we found.

The Library is not achieving full benefit from its investment in the DRC. The DRC should be able to provide the agency with periodic assessments of the complaints it is encountering. Management should use these assessments to identify the issues giving rise to employee dissatisfaction, and proactively implement initiatives to address these problems.

The DRC is not adequately collecting and analyzing its dispute case and office consultation activity, and therefore is unable to provide employee relation trends and analyses to its stakeholders. Moreover, the DRC is not measuring the results of its work through mechanisms such as customer surveys. As a result, management is unable to monitor the quality and usefulness of its services.

Another indication of the DRC's inadequate internal control environment is that it is not complying with the Collective Bargaining Agreements' (CBA) timeframes for ADR processes. Of the 29 FY 2007 cases which contained enough data for us to calculate aging, 20 exceeded the CBA timeframes,¹¹ taking an average of 76 business days to resolve or close, with the oldest at 131 days. Although there is no evidence that the unions have complained about this lack of compliance, this indicates a lack of urgency on the part of DRC staff and provides evidence of internal control deficiencies which prevent OWD from effectively monitoring DRC's operations.

Finally, we concluded that the DRC accomplishments reported to Congressional Appropriation Subcommittees in the Library's FY 2007 & 2006 budget justifications are, at best, questionable. For example, in the FY 2007 justification, the Library listed among its 2005 accomplishments that "... [m]ediators resolved 92% of all ... conflicts and successfully completed one thousand consultations ...¹²" We determined that data in the case files is not reliable. Therefore, we could not confirm the accuracy of the "92%" statistic.

We question the methodology used by DRC to track consultations. We were unable to verify the claim of "one thousand consultations." The DRC advised us that it handled only 44 new dispute cases in 2005 and the OGC informed us that it has approved no more than 10 agreements for DRC cases over the last three years. Furthermore, we found nothing to prevent a convener from counting repeated phone calls on the same issue as multiple consultations. As a result, the DRC accomplishments claimed in the budget justifications are misleading and appear to be inflated.

c. Performance Goals

LCR 1511, section 3, paragraph E3-g requires service unit heads to ensure that "the Service/Support Unit's performance objectives are documented and incorporated appropriately in the individual performance plans of responsible managers and staff."

¹¹ The CBA time frames for ADR are: 20 workdays for CREA and 30 workdays for Locals 2477 & 2910.

¹² *The Library of Congress Budget Justification, Fiscal Year 2007, Submitted for the Use of The Committees on Appropriation*, p. 99.

We were unable to find evidence of a performance management program within the DRC and the center’s staff members appeared to be unaware of AP³ Goals for the DRC and OWD. DRC staff members we interviewed told us that management had not discussed with them FY 2007 AP³s or performance goals in general.

III. The AASPO is Over-graded, Overstaffed, and Not Performing Necessary Analysis

Position	LOC	GPO	GAO	USPTO	NARA	SBA
Manager	1 GS-15	1 GS-13			1 GS-13	1 GS-15
Specialist/Special Asst./Statistician	4 GS-13					4 GS-12
Access Programs Manager	1 GS-13			1 GS-14		
Assistant	1 GS-8					
Management & Program Analyst			2 GS-14	1 GS-8		
Total AASPO Staff	7	1	2	2	1	5
Total Agency Staff	3,978	2,800	3,200	8,550	2,800	3,600
Staff per AA capita	568	2800	1600	4275	2800	720

The AASPO provides worthwhile programs which provide Library staff with upward mobility opportunities and forums to learn about and discuss diversity issues. However, the AASPO:

- is not succeeding in its efforts to positively affect diversity at the Library according to the Library’s unions and special interest groups;

- is overstuffed and its staff work does not conform to OPM’s work requirement standard; and
- does not assess its performance results in accordance with principles of the Government Performance and Results Act of 1993 (GPRA).

a. The AASPO’s Effect at the Library

The Library’s unions and special interest groups share the perception that the AASPO is not succeeding in its efforts to positively affect diversity at the Library. Although it is generally believed that management has developed an effective “Multi Year Affirmative Action Plan,” the consensus is that management has not committed the resources to implement affirmative action and special programs and therefore, is not committed to diversity. The AASPO is

dependent on the service units to support its internship programs and affirmative action details. However, due to budget constraints, service units have provided less support than needed for these programs.

b. The AASPO is Overstaffed and Staff are Not Performing According to OPM's Standard

Library spending on the AASPO is significantly higher than amounts other agencies spend for their affirmative action and special programs. As shown in the table on the preceding page, other agencies generally have one or two staff members who administer the affirmative action function compared to the AASPO which has seven. Other agencies operate with fewer staff because they substantially rely on special interest groups, ad hoc committees, and volunteers to implement their affirmative action and special programs. Additionally, except for the Access Programs Manager, GS-13 AASPO staff are not performing work at the level defined by OPM's work requirement standard. AASPO staff told us that they do little, if any, program analysis and instead, plan and run recruitment drives, "heritage months," and internship programs.

OPM evaluation factors for the Equal Employment Specialist (GS-0260-13) position¹³ state that "[p]ositions in this series involve fact finding, analysis, writing, and application of equal opportunity principles to identify and/or solve problems." Moreover, the position includes, "...regular efforts to identify and solve systemic problems through onsite organizational reviews by participation in agency management audits or personnel management evaluation reviews, by monitoring complaints, by regular and systemic workforce analyses, by special equal employment reviews, or by similar activities."

Clearly, AASPO's highly graded, professional staff would be more effectively employed in an analytical capacity – evaluating and reporting on the effects of the Library's affirmative action and special programs.

¹³ Of the 5 GS-13 AASPO staff, 2 are in the GS-260, 1 is in the GS-1430 (Statistician), and 2 are in the GS-301 job series. OPM indicated that the GS-301 category is used when no other series is appropriate. Since there are no prescribed titles for the GS-301 series, the position may be titled at the agency's discretion. There are also no published grade-level criteria for the GS-301 series. Absent these criteria, we used the GS-260 series to evaluate all positions except for the Access Programs Manager.

c. *The AASPO Is Not Analyzing Employee Relations Trends and Diversity Data*

The Library has committed to complying with the “spirit” of the GPRA. This act shifted the focus of federal managers to a more direct consideration of the measurable outcomes or results of their programs. Notwithstanding this commitment, AASPO does not conduct any form of qualitative analyses or the type of quantitative analyses that are performed by other agencies. Although they are aware of the OWD’s AP³ goals, AASPO gauges the success of its programs and the fairness of corresponding Library policies, regulations, and enforcement by the absence of complaints instead of methodically measuring results.

Other agencies gather qualitative data derived from interviews, focus groups, and surveys with various segments of the workforce to assess such areas as (1) supervisors and team leaders’ commitment to a diverse workforce, (2) effectiveness of current policies and programs in promoting diversity, and (3) working relations between Library managers/supervisors/team leaders and employees of different backgrounds. For example, GAO’s Office of Opportunity and Inclusiveness meets with a significant percentage of its interns to get their perspectives on the fairness of GAO’s work environment.

Moreover, other agencies’ affirmative action programs use analytical techniques to determine if there are statistically significant differences in employment actions by race, national origin, sex, disability, and age. Such quantitative analyses are not intended to determine if discrimination is occurring, but rather to identify areas which may require further study.

During our fieldwork, the OWD Director began a five-year study of the intern and detail programs to determine if these programs had resulted in a positive impact on their participants’ careers. The Director also initiated a study of the effectiveness of AASPO recruitment efforts and has cut back on the AASPO recruitment trips based on this study. These studies are steps in the right direction. AASPO needs to continue shifting its emphasis to a more proactive, analytical function. Increased program analysis will help OWD assess how its diversity initiatives are progressing over time in achieving organizational goals and objectives.

IV. The OWD's Annual Program Performance Goals (AP³s) Need Work

OWD's FY 2007 AP³ goals are not strongly outcome-based or clearly measurable, and in many cases, lack supporting performance metrics. For example, one strategy is to "[p]romote diversity and equal opportunity in all aspects of Library operations." However, the accompanying description does not indicate how the OWD plans to do this. Moreover, it is not clear how the associated performance targets relate to this strategy.

We discussed OWD's performance plan submission with the Strategic Planning Office (SPO) and were pleased to find that the OWD Director has sought SPO's assistance in changing the office's current AP³s.¹⁴

We also found that overall, OWD was not managed within the context of the AP³s. OWD staff members that we interviewed told us that management did not apprise the staffs of DRC and EEO of the FY 2007 AP³s nor did it periodically discuss the functions' progress in reaching their annual performance goals. AASPO management discussed its FY 2007 AP³s with its staff, but management did not discuss how it would measure progress in reaching the plans' goals.

We recognize that the former OWD Director developed the FY 2007 AP³s prior to the Library's transition to a new strategic planning process and the publication of LCR 1511, *Planning, Budgeting, and Program Performance Assessment*. Nevertheless, OWD's performance could be improved through the introduction of well crafted AP³s and emphasis on performance management.

¹⁴ Because the FY 2007 operating plan had already been submitted to Congress, no changes to the AP³s could be made.

» CONCLUSION

The Office of Workforce Diversity is not performing the functions it should be, given its size and staffing. Aside from the EEOCO, the office

- is overstaffed,
- is over-graded,
- does not perform the types of functions that should be present,
- has no clear performance management guidance, and
- costs far more than the same function at other agencies.

We believe that the newly appointed Director has begun making some positive changes to the office, but substantially more work remains to be done.

Major Contributors to This Report:

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