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**DEPARTMENT OF DEFENSE
MISSILE DEFENSE AGENCY
5700 18TH STREET
FORT BELVOIR, VIRGINIA 22060-5573**

MAR 20 2015

**MEMORANDUM FOR DEPARTMENT OF DEFENSE OFFICE OF DIVERSITY
MANAGEMENT AND EQUAL OPPORTUNITY**

**SUBJECT: Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002
Report**

Please find attached the Missile Defense Agency's submission of the Notification and Federal Employee Anti-discrimination and Retaliation (No FEAR) Act of 2002 Report for FY 2014. This report specifies matters relating to the enforcement of certain antidiscrimination and whistleblower laws.

The point of contact for this report is Ms. Anita B. Boush, Director, Office of Equal Opportunity and Diversity Management. Ms. Boush may be reached at 571-231-8176 or email: anita.boush@mda.mil.


J. D. SYRING
Vice Admiral, USN
Director

Attachment:
As stated

Notification and Federal Employee
Antidiscrimination and Retaliation Act of 2002

Annual Report to Congress
Fiscal Year 2014
(October 1, 2013 – September 30, 2014)



Vice Admiral James D. Syring, USN
Director, Missile Defense Agency

ATTACHMENT

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I. Introduction

The Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act requires Federal agencies to submit annual reports not later than 180 days after the end of each fiscal year to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, each committee of Congress with jurisdiction relating to the agency, the Attorney General, and the EEOC. Additionally, the U.S. Office of Personnel Management's (OPM) final regulation, Title 5 U.S. Code of Federal Regulations (CFR) Part 724, Implementation of Title II of the Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act of 2002 – Reporting and Best Practices issued December 28, 2006, requires that OPM also receive a copy of the report.

The Act holds federal agencies accountable for violations of antidiscrimination and whistleblower protection law relating to federal employment. The report contains data and analysis concerning equal employment opportunity complaints filed with MDA during fiscal year 2014.

The Missile Defense Agency's FY 2014 submission is in accordance with these reporting requirements.

II. Executive Summary

The Missile Defense Agency (MDA) is a research, development, and acquisition agency within the U.S. Department of Defense (DoD). The MDA is responsible for managing, directing, and executing the Ballistic Missile Defense (BMD) program. The MDA's mission is to develop and deploy a layered BMD System to defend the United States, its deployed forces, allies, and friends from ballistic missile attacks of all ranges in all phases of flight. MDA coordinates with the Combatant Commanders, other DoD components and federal agencies, foreign governments, international organizations, and others as authorized.

It is the policy of MDA to stand with the nation to ensure that we prohibit unlawful discrimination in the workplace. MDA is committed to maintaining an environment which provides equal employment opportunity for its employees and applicants for employment.

MDA's total government workforce at the end of fiscal year 2014 included approximately 2,380 government civilian employees and 118 military service members located in 5 states and international locations. The workforce also includes approximately 875 Other Government Agency (OGA) government employees that support MDA.

The Office of Equal Opportunity and Diversity Management (EO) ensures Agency compliance with the laws, regulations, policies, and guidance that prohibit discrimination in the Federal workplace based on race, color, national origin, religion, sex (sexual orientation, gender identity, and pregnancy), age (40 and over), mental/physical disability, genetic information, and reprisal for participating in prior EEO activity. The EO Director monitors the complaint processing activities and issues guidance and leadership on EEO policy to MDA leadership and

supervisors implementing EEO law and higher level EEO directives, such as the annual EEOC Discrimination Complaint Status Report and the EEOC Management Directive 715 Report.

III. Data – Reporting Obligation

The following information is provided in accordance with OPM’s final regulation, Title 5 U.S. Code of Federal Regulations (CFR) Part 724, Implementation of Title II of the No FEAR Act of 2002 – Reporting and Best Practices.

Subpart C – Annual Report

§724.301 Purpose and Scope: This subpart implements Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act Of 2002 in regard to Federal agencies’ obligation to report on specific topics concerning Federal Antidiscrimination Laws and Whistleblower Protection Laws that are applicable to their employees, former employees, and applicants for employment.

§724.302 Reporting Obligations: Each Agency must report no later than 180 calendar days after the end of each fiscal year the following:

(a)(1) Number of Cases in Federal Court, Pending or Resolved during FY 2011, Arising under the Various Antidiscrimination Laws and Whistleblower Protection Laws Listed in the No FEAR Act.

- There were no cases filed in Federal court in FY 2014.

(a)(2)(i) Status or Disposition of Federal Court Cases

- There were no cases filed in Federal court in FY 2014.

(a)(2)(ii) Amount required to be reimbursed to the Judgment Fund by the Agency in Federal Court Cases

- There were no reimbursements to the Judgment Fund in FY 2014. Therefore, there is no adjustment needed or made to MDA’s budget to comply with its judgment Fund reimbursement obligations incurred under 5 CFR § 724.103.

(a)(2)(iii) Amount of Reimbursement to the Judgment Fund for Attorney’s fees in Federal Court Cases

- There was no reimbursement to the Judgment Fund for attorney’s fees.

(a)(3) Number of Employees Disciplined in Connection with Federal Court Cases and Specific Nature of the Disciplinary Actions Taken, Separated by the Provisions(s) of Law Involved.

- There were no findings of discrimination against any MDA employee during Fiscal Year 2014. There were no disciplinary actions taken against agency employees related to having unlawfully discriminated against another individual during Fiscal Year 2014.

(a)(4) Final Fiscal Year-End Data – Discrimination Complaints.

- See attached (Appendix A)

(a)(5) Whether or Not in Connection with Cases in Federal Court, the Number of Employees Disciplined as Defined in §724.102¹ of subpart A of this Part in Accordance with Any Agency Policy Described in Paragraph (a)(6) of this section:

- No disciplinary actions were taken in accordance with Agency policy as defined in § 724.102 of subpart A.

(a)(6) Description of Agency’s Policy for Taking Disciplinary Action:

- MDA is committed to maintaining a workplace which promotes productivity and professionalism and an environment that protects the dignity of all its employees. The MDA Director in his December 16, 2013 Anti-Harassment Policy Memo issued to the workforce states “when allegations are substantiated immediate and appropriate corrective action must be taken to eliminate the harassing activity. Violators of MDA policies will be subject to appropriate corrective or disciplinary action up to and including removal to ensure that no further harassing conduct occurs.”
- In addition to the Anti-Harassment Policy Memo issued to the workforce, Anti-Harassment Procedures have been drafted, are currently in the final stages of official coordination, and are expected to be approved and signed by the MDA Director prior to the end of FY 15. The Procedures will ensure that appropriate officials are notified of, and have the opportunity to take immediate and appropriate corrective action when it is determined that harassment has occurred.
- The MDA Director further states “unlawful discrimination has not been, and will not be, tolerated or condoned at MDA.” And “Living up to the principles of EEO is integral to our Agency’s mission, vision, and core values as we chart our course for the future. I expect each of you to share my commitment to the principle of EEO.” See the attached Washington Headquarters Service (WHS) Administrative Instruction – Disciplinary and Adverse Actions at Appendix B, MDA Policy Memoranda at Appendix C, and HR Management Handbook for New Supervisors at Appendix D.

¹In § 724.102 of subpart A, the definition of *discipline* is “any one or a combination of the following actions: reprimand, suspension without pay, reduction in grade or pay, or removal.

(a)(7) Analysis of Information Provided in paragraph (a)(1) through (6) in conjunction with data provided to the EEOC in compliance with 29 CFR Part 1614 subpart F- matters of General Applicability:

- MDA had only two formal complaints filed against it in FY 2014; four less than the number of formal complaints filed in FY 2013. The top bases were disability, sex, and reprisal and the top issues are identified as harassment (non-sexual), discipline, and reassignment. Of the two cases filed in FY 2014 both were pending in investigation at the end of FY 2014. The two formal complaints were filed by different individuals. These individuals comprise less than one percent (0.08%) of the total civilian MDA workforce (2,379), which is not statistically significant to establish any causal relationship or to glean a discernible pattern from the filings.
- Actions taken to improve Complaint or Civil Rights Programs of the Agency with the Goal of Eliminating Discrimination and Retaliation in the Workplace:
 - Implemented and closely monitor complaints processing performance metrics to ensure efficiency and compliance.
 - Provided EO and diversity management training to supervisors and employees
 - Developed Anti-Harassment Procedures which are currently in final coordination.
 - Composed and widely publicize Policy memoranda on EEO, Anti-Harassment and Diversity Management.
 - Conducted monthly EO and diversity management training to MDA new hires.
 - Issued Reasonable Accommodations Procedures.
 - Provided developmental opportunities to EO staff to increase functional core competencies.
 - Conducted periodic workforce climate assessments to identify systemic EEO and other workplace concerns.
 - Collaborated with EEO program enforcement agencies (OSD, EEOC, MSPB, OPM) to remain current on emerging Diversity and EEO issues.

MDA continues to work to improve its EO Program. The following actions are planned for FY 2015:

1. Continue efforts to revitalize the MDA EO Alternative Dispute Resolution Program and aggressively market the benefits of early resolution of workplace disputes.
2. Continue basic EO and diversity management training for new employees and managers.
3. Continue to develop the junior EEO Specialist to assist with the Affirmative Employment reporting requirements.
4. Sponsor EEO and Diversity Management training for MDA Leadership and Supervisors to strengthen cultural competencies.
5. Finalize and issue to the MDA workforce the Anti-Harassment Procedures.

6. Conduct quarterly and Ad Hoc EEO/Diversity briefings to MDA Senior management.
7. Continue to foster an MDA culture which embraces the philosophy that Diversity is a business imperative.
8. Conduct periodic workforce climate surveys to identify systemic EEO and other workplace concerns.
9. Continue to collaborate with EEO program enforcement agencies (OSD, EEOC, MSPB, OPM) to remain current on emerging Diversity and EEO issues.

(a)(8) Adjustment to Agency Budget – Judgment Fund Reimbursement

MDA had no judgments against it with respect to unlawful discrimination or retaliation in FY 2014. Therefore, there is no adjustment needed or made to the budget of MDA to comply with its Judgment Fund reimbursement obligations incurred under 5 CFR § 724.103.

(a)(9) No FEAR Act Training Plan

In addition to the bi-annual No FEAR training provided to all MDA employees, all new employees are informed of the No FEAR Act training requirement during new employee orientation. Each employee is required to complete their initial No FEAR Act training within thirty (30) days of their arrival at MDA. During FY 2014, 95% of all MDA employees, supervisors, and managers completed on-line No FEAR Act training via the Agency's Learning Management System (eLMS). And, in accordance with OPM's rules, No FEAR Act training is conducted every two years.

APPENDICES:

Appendix A – End of FY 2014 Complaint Data Posting

Appendix B – WHS Instruction – Disciplinary and Adverse Actions

Appendix C – Policy Memos 11, 20, and 55

Appendix D - HR Management Handbook for New Supervisors

Equal Employment Opportunity Data Posted Pursuant to the No Fear Act:

Missile Defense Agency

For the period beginning October 1, 2013 and ending September 30, 2014

Mixed Cases are Included in this report.

| Complaint Activity | Comparative Data | | | | | |
|----------------------------|---------------------------|------|------|------|------|----------------|
| | Previous Fiscal Year Data | | | | | 2014Thru 09-30 |
| | 2009 | 2010 | 2011 | 2012 | 2013 | |
| Number of Complaints Filed | 1 | 2 | 3 | 5 | 6 | 2 |
| Number of Complainants | 1 | 2 | 3 | 5 | 6 | 2 |
| Repeat Filers | 0 | 0 | 0 | 0 | 0 | 1 |

| Complaints by Basis | Comparative Data | | | | | |
|--|---------------------------|------|------|------|------|----------------|
| | Previous Fiscal Year Data | | | | | 2014Thru 09-30 |
| <i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i> | 2009 | 2010 | 2011 | 2012 | 2013 | |
| Race | 1 | 1 | 1 | 1 | 1 | 0 |
| Color | 0 | 0 | 1 | 1 | 0 | 0 |
| Religion | 0 | 0 | 0 | 0 | 0 | 0 |
| Reprisal | 0 | 2 | 1 | 2 | 4 | 1 |
| Sex | 0 | 2 | 0 | 2 | 4 | 2 |
| PDA | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | |
|--|----------------------------------|-------------|-------------|-------------|-------------|----------------------|
| National Origin | 0 | 0 | 0 | 1 | 0 | 0 |
| Equal Pay Act | 0 | 0 | 0 | 0 | 0 | 0 |
| Age | 0 | 0 | 0 | 2 | 4 | 0 |
| Disability | 0 | 0 | 3 | 0 | 5 | 1 |
| Genetics | 0 | 0 | 0 | 0 | 0 | 0 |
| Non-EEO | 0 | 0 | 0 | 0 | 0 | 0 |
| Complaints by Issue | Comparative Data | | | | | |
| | Previous Fiscal Year Data | | | | | 2014Thru09-30 |
| <i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i> | 2009 | 2010 | 2011 | 2012 | 2013 | |
| Appointment/Hire | 0 | 0 | 0 | 0 | 0 | 0 |
| Assignment of Duties | 0 | 1 | 0 | 2 | 1 | 1 |
| Awards | 0 | 0 | 0 | 0 | 0 | 0 |
| Conversion to Full-time | 0 | 0 | 0 | 0 | 0 | 0 |
| Disciplinary Action | | | | | | |
| Demotion | 0 | 0 | 0 | 0 | 0 | 0 |
| Reprimand | 0 | 0 | 0 | 1 | 0 | 1 |
| Suspension | 1 | 0 | 0 | 1 | 1 | 1 |
| Removal | 0 | 0 | 1 | 0 | 1 | 1 |
| Other | 0 | 0 | 0 | 0 | 0 | 0 |
| Duty Hours | 0 | 0 | 0 | 0 | 0 | 0 |
| Evaluation Appraisal | 0 | 5 | 2 | 3 | 1 | 0 |
| Examination/Test | 0 | 0 | 0 | 0 | 0 | 0 |
| Harassment | | | | | | |
| Non-Sexual | 0 | 0 | 2 | 4 | 4 | 2 |

| | | | | | | |
|--|----------------------------------|-------------|-------------|-------------|-------------|------------------------|
| Sexual | 0 | 1 | 0 | 0 | 0 | 0 |
| Medical Examination | 0 | 0 | 0 | 0 | 0 | 0 |
| Pay (Including Overtime) | 0 | 0 | 0 | 0 | 0 | 0 |
| Promotion/Non-Selection | 0 | 1 | 1 | 0 | 0 | 0 |
| Reassignment | | | | | | |
| Denied | 0 | 0 | 0 | 0 | 0 | 0 |
| Directed | 0 | 1 | 1 | 3 | 1 | 1 |
| Reasonable Accommodation | 0 | 0 | 2 | 0 | 4 | 0 |
| Reinstatement | 0 | 0 | 0 | 0 | 0 | 0 |
| Retirement | 0 | 0 | 1 | 0 | 0 | 0 |
| Terms/Conditions of Employment | 0 | 0 | 1 | 0 | 2 | 0 |
| Time and Attendance | 0 | 0 | 0 | 0 | 0 | 0 |
| Training | 0 | 0 | 0 | 0 | 0 | 0 |
| Other Denial Deployment | 0 | 0 | 0 | 1 | 0 | 0 |
| Other Denial Admin Leave | 0 | 0 | 0 | 1 | 0 | 0 |
| Processing Time | Comparative Data | | | | | |
| | Previous Fiscal Year Data | | | | | 2014 Thru 09-30 |
| | 2009 | 2010 | 2011 | 2012 | 2013 | |
| Complaints pending during fiscal year | | | | | | |
| Average number of days in investigation | 8 | 0 | 224 | 0 | 343 | 109 |
| Average number of days in final action | 0 | 0 | 0 | 0 | 0 | 0 |
| Complaint pending during fiscal year where hearing was requested | | | | | | |
| Average number of days in investigation | 0 | 0 | 0 | 0 | 315.3 | 0 |
| Average number of days in final action | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | | | | | | | |
|---|----------------------------------|-------------|-------------|-------------|-------------|---|---|---|---|---|-----------------------|---|
| Complaint pending during fiscal year where hearing was not requested | | | | | | | | | | | | |
| Average number of days in investigation | 0 | 0 | 0 | 0 | 0 | 0 | | | | | | |
| Average number of days in final action | 0 | 0 | 0 | 0 | 0 | 0 | | | | | | |
| Complaints Dismissed by Agency | Comparative Data | | | | | | | | | | | |
| | Previous Fiscal Year Data | | | | | | | | | | 2014Thru 09-30 | |
| | 2009 | 2010 | 2011 | 2012 | 2013 | | | | | | | |
| Total Complaints Dismissed by Agency | 0 | 1 | 1 | 0 | 2 | | | | | | | |
| Average days pending prior to dismissal | 0 | 31 | 30 | 0 | 121 | | | | | | | |
| Complaints Withdrawn by Complainants | | | | | | | | | | | | |
| Total Complaints Withdrawn by Complainants | 0 | 0 | 0 | 0 | 0 | | | | | | | |
| Total Final Agency Actions Finding Discrimination | Comparative Data | | | | | | | | | | | |
| | Previous Fiscal Year Data | | | | | | | | | | 2014Thru 09-30 | |
| | 2009 | 2010 | 2011 | 2012 | 2013 | | | | | | | |
| | # | % | # | % | # | % | # | % | # | % | # | % |
| Findings of Discrimination Rendered by Basis | Comparative Data | | | | | | | | | | | |
| | Previous Fiscal Year Data | | | | | | | | | | 2014Thru 09-30 | |
| | 2009 | 2010 | 2011 | 2012 | 2013 | | | | | | | |
| <i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i> | # | % | # | % | # | % | # | % | # | % | # | % |
| Total Number Findings | 0 | | 0 | | 0 | | 0 | | 0 | | 0 | |
| Findings of Discrimination Rendered by Issue | Comparative Data | | | | | | | | | | | |
| | Previous Fiscal Year Data | | | | | | | | | | 2014Thru 09-30 | |
| | 2009 | 2010 | 2011 | 2012 | 2013 | | | | | | | |

| | # | % | # | % | # | % | # | % | # | % | # | % |
|---|----------------------------------|-------------|-------------|-------------|-------------|----|---|---|---|---|---------------------------|---|
| Total Number Findings | 0 | | 0 | | 0 | | 0 | | 0 | | 0 | |
| Pending Complaints Filed in Previous Fiscal Years by Status | Comparative Data | | | | | | | | | | | |
| | Previous Fiscal Year Data | | | | | | | | | | 2014Thru 09-30 | |
| | 2009 | 2010 | 2011 | 2012 | 2013 | | | | | | | |
| Total complaints from previous Fiscal Years | 0 | 1 | 2 | 9 | 9 | 11 | | | | | | |
| Total Complainants | 0 | 1 | 2 | 9 | 9 | 9 | | | | | | |
| Number complaints pending | | | | | | | | | | | | |
| Investigation | 0 | 1 | 0 | 3 | 3 | 1 | | | | | | |
| ROI issued, pending Complainant's action | 0 | 0 | 0 | 0 | 0 | 0 | | | | | | |
| Hearing | 0 | 0 | 2 | 6 | 6 | 5 | | | | | | |
| Final Agency Action | 0 | 0 | 0 | 0 | 0 | 1 | | | | | | |
| Appeal with EEOC Office of Federal Operations | 0 | 0 | 0 | 0 | 0 | 4 | | | | | | |
| Complaint Investigations | Comparative Data | | | | | | | | | | | |
| | Previous Fiscal Year Data | | | | | | | | | | 2014Thru 09-30 | |
| | 2009 | 2010 | 2011 | 2012 | 2013 | | | | | | | |
| Pending Complaints Where Investigations Exceed Required Time Frames | 0 | 0 | 0 | 3 | 3 | 1 | | | | | | |