

**STANDARD OPERATING PROCEDURES**

**GSA Internal Conflict of Interest Cases**

Office of Civil Rights  
Equal Employment Opportunity Program

Prepared By: EEO Director

Date:

Approved By: Deputy Associate Administrator

Date:

Approved By: Associate Administrator

Date:

Effective Date: TBD



<b>Table of Contents</b>	
<b>I. Purpose</b>	<b>4</b>
<b>II. Background</b>	<b>4</b>
<b>III. References, Resources</b>	<b>5</b>
<b>IV. Responsibilities</b>	<b>5</b>
<b>V. Unauthorized Access</b>	<b>6</b>
<b>VI. Conflict Case Processing</b>	<b>7</b>
B. Informal Processing	8
C. Mediation Requested	9
D. Formal Processing	9
E. Processing Hearing Request	11
F. Processing Final Orders	11
G. Processing Final Agency Decisions	12
H. Absences	13
<b>VII. Reporting</b>	<b>14</b>
A. Conflict Activity Report	14
B. External GSA Reports	14
Appendix A -Glossary	15
Appendix B - Sample Weekly Report	16

## **STANDARD OPERATING PROCEDURES GSA Internal Conflict of Interest Cases**

### **I. Purpose**

These Standard Operating Procedure (SOP) establish procedures and guidance for processing internal General Services Administration (GSA) Equal Employment Opportunity (EEO) cases that have been determined to have conflict of interest concerns. Conflict of interest cases require special handling and SOPs outside the SOPs for non-conflict EEO cases.

Accessing conflict cases without a business need to know will result in disciplinary action. This includes accessing an employee's own case, the case of a friend or a co-worker; accessing a case out of curiosity or because it presents interesting issues; accessing a case out of concern for a particular individual; and accessing a case file for any reason other than a business need to know. A conflict case should not be accessed unless the employee is a case manager designated to process conflict cases and needs access to conflict case information to perform his or her official duties.

### **II. Background**

The Equal Employment Opportunity Commission (EEOC) requires agencies to develop an impartial factual record in accordance with the instructions contained in Management Directive (MD) 110. Therefore, agencies must develop procedures for processing complaints where it is perceived that the EEO office would have an actual or perceived conflict of interest. The EEOC further states that agencies should consider using a third party (another federal agency) to develop an impartial record and/or writing of the final agency decision (FAD).

An EEO case filed within OCR will be considered a conflict of interest case depending on who filed the complaint, who the complaint is filed against, and the sensitive nature of complaint.

Cases that would present a conflict of interest or the appearance of a conflict of interest are:

- The complainant is an OCR employee, former OCR employee or an applicant for employment with OCR.
- The named alleged responsible management official (RMO) involves any OCR director, supervisor or manager.
- The alleged RMO is the Administrator of GSA, a member of the immediate staff of the Administrator, or holds a high influential position in GSA.
- There may be a perception of a conflict (i.e., OCR management or employee has a personal relationship with the alleged RMO(s)).
- Any case that the OCR Associate Administrator determines sensitive handling is required.

Some processes that are unique to conflict EEO cases are:

- An external agency will process the EEO conflict case.
- The Adjudication & Compliance (A&C) Branch Chief serves as case manager and the Early Resolution (ER) Branch Chief as an alternate case manager.
- The OCR Associate Administrator will name an alternate conflict case manager, if necessary.
- Case information shall not be shared with OCR employees or managers, unless they are either a witness or RMO in the case.

### III. References, Resources

- A. EEOC Management Directive - [MD-110](#) Chapter 1, Section IV.B and Section IV.C
- B. Code of Federal Regulations - [29 C.F.R. 1614](#)
- C. OCR Civil Rights Handbook - [ADM 2300.1B](#)
- D. Process for establishing an IAA - [SOP - IAA](#)
- E. Agencies OCR currently have an IAA with - [IAA List](#)

### IV. Responsibilities

#### A. Conflict Case Manager

The conflict case manager acts manages the case and ensures that all EEO complaint actions are completed. They secure an external agency to process the conflict case and serve as the point of contact for OCR. They maintain separate secured conflict case tracking sheets and electronic virtual file rooms and ensure that all appropriate databases (case tracking sheet and EEOC FEDSEP) are updated and documents are saved and uploaded as necessary. They ensure data integrity and provide data for annual reports on EEO complaint activity. to the Policy, Reporting, and Outreach (PRO) Branch Chief. The conflict case manager is typically the A&C Branch Chief; however, the ER Branch Chief will serve as an alternate when the A&C Branch Chief is named in an EEO Case.

#### B. Associate Administrator for OCR:

The OCR Associate Administrator designates a back up in the event that both the A&C and ER Branch Chiefs are alleged RMOs in a complaint. The OCR Associate Administrator receives a weekly conflict case activity report, and, that monitors case status only. The OCR Associate Administrator does not have access to iComplaints, the conflict case virtual file room, or the conflict case tracker worksheets. If there is a conflict for the OCR Associate Administrator to sign a document, the OCR Associate Administrator will request that the Administrator designate a signatory official to sign the document.

C. PRO Branch Chief:

The PRO Branch Chief will coordinate with the conflict case managers to obtain any conflict case data required for external reports (e.g., No FEAR Act and EEOC Form 462 EEO Statistical Report). The PRO Branch Chief will merge the conflict of interest data with the aggregate data derived from iComplaints for purposes of reporting.

D. OCR Management & Program Analysts:

The OCR management and program analyst is responsible for managing OCR's budget and executing and managing interagency disbursements and fund transfers related to GSA's Interagency Agreements (IAA) for conflict cases. The management and program analyst will be provided information only as it pertains to procuring funds. The management and program analyst is responsible for maintaining updated IAA documents and to update the IAA list as necessary.

## V. Unauthorized Access

Q: Who has access to conflict cases?

A: Only Conflict Case Managers will have access to their conflict case files. No other OCR employee has a need to process, access, or review conflict case information.

Q: What if I don't have a need to know but has access or become aware of someone who has access conflict of interest case information?

A: You should immediately notify your Division Director and the Deputy Associate Administrator that you, or an individual, has accessed conflict of interest case information.

Q: Will disciplinary action occur if an OCR employee access conflict of interest case information?

A: If an OCR employee, who doesn't have a need to know, willfully access conflict of interest case information they may receive disciplinary action.

Q: What if I received information on a conflict of interest case?

A: You should immediately forward any of the communication and/or documentation that was received to the A&C Branch Chief.

Q: Will I be disciplined if I received unsolicited information on conflict of interest cases?

A: No, if you received information about a conflict of interest case you will not be subjected to disciplinary action.

## VI. Conflict Case Processing

Each conflict case manager will process the cases assigned to them and maintain and update their own separate conflict case tracker and virtual file room (VFR) that will only be accessible to

them, unless they are absent (See absence section below). The conflict case manager will not input any data into iComplaints database.

## **A.**

The standardized conflict case tracker sheet (Link to blank sheet) should be utilized to maintain conflict case data to ensure the case is properly managed and to provide reporting information. For each conflict case, the conflict case manager will:

- Enter case information on their conflict case tracker.
- Modify and add the case information throughout the tabs as appropriate.
- Provide case data, when requested, based on the conflict case tracker.

A conflict case VFR will be created in the case manager's' Google, 'my drive.' Conflict case manager will have sole access to their respective VFR. The conflict case manager will upload to the respective case file within the VFR all documents, including emails, generated from the processing of the conflict cases. The VFR will contain the following information:

- Main Folder: Conflict Cases
- Within the main folder, create case file folders that follow naming conventions.
  - Case File: LastName.FirstName-Case Number
- Each case file folder should have subfolders
  - 01. Informal
  - 02. Formal
  - 03. Investigation
  - 04. Hearing
  - 05. FO/FAD
  - 06. Appeal
  - 07. Compliance

## **B. Informal Processing**

An individual may initiate an informal EEO claim by e-File, email, telephone, or direct contact with the conflict case manager. If the claim is not received by the conflict case manager, the ER Branch Chief

### *e-File*

If an aggrieved person (AP) has filed by e-file, within iComplaints, the conflict case manager will re-assign the case office location to the hierarchy office of 'Conflict Cases - AK'. The conflict case manager will download and save the information entered into iComplaints and then delete the case from iComplaints.

To modify the hierarchy:

1. Search case within iComplaints.

2. Open case and click on 'Edit this Case' button in the right-hand corner.
3. On the 'Complainant' tab - scroll down to the bottom and click on 'Edit'.
4. New view pops up - Update Complaint Form.
5. Under the Office: Choose Office section, locate correct office.
  - a. 'Conflict Cases - AK'
  - b. Click on 'Update'

The assigned conflict case manager will proceed with processing the informal case as described below.

1. Create a case number for the case following the general structure (i.e., GSA-18-CO-P-0045).
  - a. Double check in iComplaints and with other conflict case managers to ensure that the case number is not a duplicate.
2. Create an electronic case file within their conflict VFR.
3. Review the IAA list to see what agencies are available to request work.
4. Reach out to the point of contact listed for that agency via email and inquire if they are available to conduct the specific work requirement and, if so, what the estimated cost would be.
5. Send an email to OCR management analyst informing them of the new case including: case number, name of processing agency, specific work requirement (Counseling and ADR), service where the complaint originated from, and estimated cost. Review SOP - IAA for additional information.

Note: In order to maintain the AP right to anonymity during the informal process, no formal notification to OCR management will occur besides a general "complaint has been initiated" for budgetary reasons.

6. Forward case details (i.e., AP's name, contact information, case number, and initial contact documentation, if applicable) to the appropriate external agency.
7. Notify the AP of the name of the agency that will process their case and the contact information of the POC.
8. Update conflict case tracker with the appropriate information, as necessary.
9. Provide requested documentation or information as requested by external agency.
10. Request weekly updates from the processing agency to ensure timeliness and for reporting purposes.
11. Upon receipt of the counselor's name, provide notification to AP and named RMO(s).
  - a. If anonymity is requested, the AP's name shall not be disclosed.
12. Upon completion of the informal process, conflict case manager will:
  - a. Upload documents to electronic case file within their VFR.
  - b. Update conflict case tracking sheet with appropriate information.
  - c. Email OCR management analyst that informal process was completed,

### C. Mediation Requested

If mediation is requested, the conflict case manager will assist the processing agency by:

1. Finding and reserving appropriate rooms by utilizing [BookIT!](#)
  - a. Find two conference rooms on the same floor but not right next to each other, if possible and should not be rooms that aren't usually used for OCR mediations.
  - b. If in central office, the building is shaped as an 'E' and are numbered by floor, wing number, and then the room where '0' is the spine and the wings are numbered 100, 200, 300. The 7th floor should be avoided.
2. Finding a point of contact to escort the mediators to the mediation room.
  - a. . contact.
3. Providing the logistics to the processing agency.

### D. Formal Processing

If after the completion of the informal process a formal complaint is filed, the formal complaint will be forwarded to the conflict case manager.

The conflict case manager will:

1. Immediately review the IAA list to see what agencies are available to request work.
2. Reach out to the point of contact listed for that agency via email and inquire if they are available to conduct the specific work requirement and, if so, what the estimated cost would be.
3. Send an email to the OCR management analyst informing them of the case number, name of processing agency, specific work requirement (ie. accept/dismiss, investigation, FAD, etc.) service where the complaint originated from, and estimated cost. Review SOP - IAA for additional information.
4. Forward case details (i.e., counselors report, formal complaint) to the appropriate external agency.
5. Update conflict case tracking sheet.
6. Upload appropriate documents and emails to the electronic case file within the Conflict VFR.
7. Request weekly updates from the processing agency to ensure timeliness and for reporting purposes.
8. Upon completion of review for acceptance or dismissal:
  - a. Upload acceptance/dismissal letter to electronic case file within the conflict VFR.
  - b. Update conflict case spreadsheet with appropriate dates.

A case may be either accepted or partially accepted for investigation or procedurally dismissed. If the case is dismissed review the [Final Agency Decision section](#) below.

If the case is accepted, the conflict case manager will:

1. Immediately review the IAA list to see what agencies are available to request work.
2. Reach out to the point of contact listed for that agency via email and inquire if they are available to conduct the specific work requirement and, if so, what the estimated cost would be.
3. Send an email to OCR management analyst informing them of the new case, name of processing agency, specific work requirement, and estimated cost. Review SOP - IAA for additional information.
4. Forward case details (i.e. counselors report, formal complaint, etc.) to the appropriate external agency.
  - a. Acts as the agency's point of contact to gather and provide requested documents.
5. Notify HSSO and RMO(s) of the conflict of interest case. See [Accept/Dismiss SOP](#).
6. Prepare the litigation hold letter to be forwarded to the head of the Office of General Counsel.
7. Upon completion of the report of investigation (ROI)
  - a. Update conflict case tracking sheet with investigation information (i.e., date investigation started and ended, investigators name, and cost of investigation)
  - b. Upload ROI transmittal letter and ROI to electronic case file folder.
8. Track the 30 days.
  - a. If hearing requested review [hearing request](#) process.
  - b. If the final agency decision requested or no election made review [final agency decision](#) process.
  - c. Update conflict case spreadsheet as appropriate

## E. Processing Hearing Request

When a hearing is requested, the conflict case manager will process the case in accordance with the GSA hearing process and upload necessary documentation into EEOC's Federal Sector EEO Portal (FEDSEP). (See [Hearing SOP](#).) The EEOC FEDSEP database is set up that only the agency where the case originated can input the case in the FEDSEP database. In addition, access to conflict cases are only granted to the designated conflict case manager.

## F. Processing Final Orders (FO)

### 1. *If the EEOC administrative judge decision (AJD) is a no-finding or withdrawal*

The conflict case manager will prepare the appropriate FO letters if the decision is a no-finding or withdrawal. If the OCR Associate Administrator is named as an RMO, the conflict case manager will ask the OCR Associate Administrator to request a designated signatory official from the Administrator to sign the final order to avoid any perceived conflict. The OCR Associate Administrator will then inform the conflict case manager of who the signing official will be.

If the decision is an order of dismissal due to a settlement agreement, that order will stand as the closure document and a FO letter will not be issued.

The conflict case manager will change the FO to the appropriate signatory official and forward the FO letter to the signatory official and Firewall Counsel for review. Once reviewed and signed, the signatory official or Firewall Counsel will distribute to the appropriate parties (i.e., the complainant, the complainant's representative, if applicable, HSSO, and conflict case manager).

Upon receipt of the FO letter, the conflict case manager will:

- a. Update conflict case tracking sheet with appropriate information.
- b. Upload applicable documents (i.e., administrative judge's decision, FO, other attachments) to electronic case file within the conflict VFR.

2. If AJD is a finding - OCR Associate Administrator is NOT the named RMO.

The conflict case manager will forward the AJD to the OCR Associate Administrator. The OCR Associate Administrator and OGC will discuss whether or not to implement the AJ's finding decision. The OCR Associate Administrator will notify the conflict case manager as to whether or not the decision will be implemented. The conflict case manager will then prepare the appropriate FO letter.

If the decision is implemented, the conflict case manager will follow the standard FO SOP.

If the decision is not implemented, OGC will submit its appeal to EEOC Office of Federal Operations (OFO) and provide a copy of the appeal to the conflict case manager to include with the FO.

The conflict case manager will:

- a. Distribute the FO letter to the appropriate parties.
- b. Update conflict case tracking sheet with appropriate information.
- c. Upload applicable documents (i.e., administrative judge's decision, FO, other attachments) to electronic case file within the conflict VFR.

3. If AJD is a finding - OCR Associate Administrator is the named RMO.

If the OCR Associate Administrator is named as an RMO, the conflict case manager will ask the OCR Associate Administrator to request a designated signatory official from the Administrator to sign the final order to avoid any perceived conflict. The OCR Associate Administrator will then inform the conflict case manager of who the signatory official will be.

The signatory official and OGC will discuss whether or not to implement the AJ's finding decision. The signatory official or OGC will notify the conflict case manager as to whether or not the decision will be implemented. The conflict case manager will then prepare the appropriate FO letter.

If the decision is implemented, the conflict case manager will forward the FO to the signatory official and Firewall Counsel for review. Once reviewed and signed, signatory official or OGC will distribute to the appropriate parties.

If the decision is not implemented, OGC will submit its appeal to EEOC Office of Federal Operations (OFO) and provide a copy of the appeal to the conflict case manager to include with the FO.

Upon receipt of the FO letter, the conflict case manager will:

- c. Update conflict case tracking sheet with appropriate information.
- d. Upload applicable documents (i.e., administrative judge's decision, FO, other attachments) to electronic case file within the conflict VFR.

## **G. Processing Final Agency Decisions (FAD)**

A complainant may request a FAD after the completion of the ROI or an AJ can order the agency to produce a FAD while the case is pending with the EEOC. In either case, the conflict case manager will:

1. Immediately review the IAA list to see what agencies are available to request work.
2. Reach out to the point of contact listed for that agency via email and inquire if they are available to conduct the specific work requirement and if so what the estimated cost would be.
3. Send an email to the OCR management analyst informing them of the agency case number, name of processing agency, service where the complaint originated from and estimated cost. Review SOP - IAA for additional information.
4. Forward information (i.e., report of investigation, requested due date) to the appropriate external agency.
5. If the OCR Associate Administrator is named as an RMO, the conflict case manager will ask the OCR Associate Administrator to request a designated signatory official from the Administrator to sign the final order to avoid any perceived conflict.

Upon receipt of draft FAD, the conflict case manager will:

1. Forward the FAD to the signatory official and Firewall Counsel for review.
  - a. Any named manager should not be involved.
2. Once approved and signed, signatory official or OGC will issue FAD to appropriate parties.

Upon receipt of the signed FAD, the conflict case manager will:

- a. Update the conflict case tracking sheet with appropriate information.
- b. Upload the applicable documents (i.e., FAD, other attachments) to electronic case file within the conflict VFR.

The conflict case managers are responsible for providing necessary case activity updates as well as reporting data for external reporting and shall perform the following actions:

- Maintaining updated case tracking.
- Providing weekly Conflict Activity Report, as necessary.
- Providing quarterly and annual case activity to PRO Branch Chief.

## H. Absences

When a conflict case manager is on an extended leave status (i.e., greater than one week), they will provide temporary access of their tracker and VFR to the other conflict case manager, and inform the external agency POC of their leave of absence and who they should contact in their absence. During any absence, the conflict case manager's out of office reply should contain who the point of contact for conflict of interest cases is while they are out. When a conflict case manager is in an extended leave status, the OCR Associate Administrator may designate either the other conflict case manager or another individual to temporarily have access to the conflict case files and case tracking sheet.

The conflict case manager prior to a leave of absence will:

- Notify, via email, the external agency point of contact that they will be on leave. The email will contain the following information:
  - and provide their return date.
  - Name and contact information of the alternate conflict case manager, if on extended leave. If the conflict case manager is on extended leave and a designated alternate was identified, the email to the external agency point of contact will also include the alternate conflict case manager's name and contact information.
- Provide access to conflict tracker and VFR to the alternate conflict case manager.

The alternate conflict case manager shall obtain appropriate access to conflict tracker and VFR, as appropriate. The alternate conflict case manager shall be responsible for the following items:

- Updating the case tracking sheet as appropriate.
- Preparing and providing a weekly report to the OCR Associate Administrator.
- Providing the external agency with any necessary information, as requested.

Upon return of the conflict case manager, the alternate conflict case manager's access to the case files and the case tracking sheet shall be immediately revoked.

## I. Absences

## VII. Reporting

### A. Conflict Activity Report

Each conflict case manager will submit their own conflict activity report (see sample at [appendix B](#)) to the OCR Associate Administrator via email every Thursday by 9:00 am EST, absent those cases where the OCR Associate Administrator is named as an RMO. This report will contain only the following information for each active conflict case:

- Name of the aggrieved party (if anonymity is waived) or complainant
- Alleged responsible management official(s)
- Basis(es)
- Issue(s)
- Stage of the EEO process
- Status of case
- Deadline
- Number of days remaining before the due date

### B. External GSA Reports

Any internal GSA conflict case will be reported only on external reports such as the quarterly and annual No FEAR Act and the annual 462 reports. Each conflict case manager will work with the PRO Branch Chief to provide the required data. Data will be limited to only the necessary data that needs to be included in the report; specific case details such as complainants name and nature of complaint will not be shared.

## Appendix A -Glossary

### **Glossary - Terms and Abbreviations**

A&C - Adjudication and Compliance  
ADR - Alternative Dispute Resolution  
AJ - Administrative Judge  
AJD - Administrative Judge Decision  
AP - Aggrieved Person  
EEO - Equal Employment Opportunity  
EEOC - Equal Employment Opportunity Commission  
ER - Early Resolution  
EST - Eastern Standard Time  
FAD - Final Agency Decision  
FEDSEP - Federal Sector EEO Portal  
FO - Final Order  
GSA - General Services Administration  
IAA - Interagency Agreement  
MD-110 - Management Directive 110  
No FEAR - Notification and Federal Employee Anti-discrimination Retaliation Act  
OFO - Office of Federal Operations  
OCR - Office of Civil Rights  
OGC - Office of General Counsel  
PII - Personal Identifiable Information  
POC - Point of Contact  
PRO - Policy, Reporting and Outreach  
ROI - Report of Investigation  
RMO - Responsible Management Official  
SOP - Standard Operating Procedures  
VFR - Virtual File Room

**Appendix B - Sample Weekly Report**

**Sample weekly report**

*To: OCR Associate Administrator*  
*Subj: Weekly Active Conflict Case Report*

*Body of email:*  
Aggrieved Party (if anonymity is waived) / Complainant:  
Alleged Responsible Management Official(s):  
Bases:  
Issues:  
Stage of EEO Process:  
Status of case:  
Deadline:  
Days Remaining:

Date

MEMORANDUM FOR THE RECORD

FROM: [EEO Counselor]  
EEO COUNSELOR  
OFFICE OF CIVIL RIGHTS (AK)

SUBJECT: Certification of Recusal  
Agency Case Number: Case Number

In regards to the above case, I declare that the relationship with the aggrieved person/complainant could be perceived as a conflict of interest. Therefore, on DATE, I recuse myself from processing the above case during the EEO process.

[EEO Counselor's signature]  
Print Name