

## Women's Work Group Summary

### **I. Executive Summary**

In January 2010, Carlton Hadden, Director of the Equal Employment Opportunity Commission's (EEOC) Office of Federal Operations (OFO), commissioned a work group to identify the obstacles that remain in the federal workplace that hinder equal employment opportunities for women.

This women's workgroup was created in furtherance of the EEOC's overall mission to eradicate discrimination in both the federal sector and private sector workplace. EEOC's OFO ensures equality of opportunity within the federal sector by implementing its regulatory and adjudicatory authority and through use of its oversight function.

This workgroup's necessity is supported by current government-wide data. As just a small example, in 2011, women comprised 43.81% of the federal workforce.<sup>1</sup> Despite this, preliminary data for 2011 shows that women only comprised 37.77% of GS-14 and GS-15 positions, and 30.03% of Senior Executive Service positions.<sup>2</sup> Further, the average General Schedule and Related (GSR) grade for women was 9.6, more than one grade below the average grade level for men of 10.7.<sup>3</sup>

Additionally, this workgroup is timely based on the EEOC's Strategic Plan for Fiscal Years 2012-2016. The Strategic Plan establishes a framework to achieve the EEOC's mission to stop and remedy unlawful employment discrimination and to promote equal opportunity in the workplace. With regard to the federal sector, the new Strategic Plan sets forth our objective to use education and outreach to prevent employment discrimination, deliver excellent service through effective systems, update technology, have a skilled and diverse workforce, and combat employment discrimination through strategic law enforcement.

In advancement of the mission of the Commission and OFO's oversight responsibilities, between 2010 and 2012, the women's workgroup engaged in a series of discussions with EEO officials, various affinity groups, and subject matter experts. The workgroup decided that it would be most efficient to hold these discussions in conjunction with a similar workgroup commissioned to identify obstacles for African Americans in the federal workplace.

## Executive Summary

**Obstacle 1:** Inflexible workplace policies create challenges for women in the federal workforce with caregiver obligations.

In summation, the workgroup began the dialogue about obstacles facing women by engaging in a roundtable discussion with federal EEO Directors, who are responsible for the implementation of a continuing affirmative employment program to promote equal employment opportunity and to identify and eliminate discriminatory practices and policies. Next, the workgroup engaged in roundtable dialogue with federal Special Emphasis Program Managers, who are tasked with assisting Agencies in ensuring equal opportunity for specific protected classes that are underrepresented. Subsequently, the workgroup held roundtable discussions with various affinity groups, including Blacks in Government (BIG); Federally Employed Women (FEW); and the African American Federal Executives Association (AAFEA).

Additionally, the workgroup dialogued with non-federal interest and advocacy groups, including the Equal Justice Society, the Women’s Bar Association of the District of Columbia, Workplace Flexibility 2010, and the Equal Rights Center. Finally, we received input from academic expert Dr. Paula Caplan, who is the Voices of Diversity Project Director for the W.E.B. Dubois Institute at Harvard University and an author, noted research psychologist, and professor. We assured our dialogue partners that their contributions to this discussion would only be generally reported and not specifically attributed to any particular dialogue partner.

Our dialogue partners identified many obstacles to achieving equality for women in the federal workforce and provided recommendations for overcoming those obstacles. For the most part, the impediments identified below were independently and repeatedly identified by our dialogue partners as the most formidable obstacles to equal employment opportunities for women in the federal sector.

We note that while we are not issuing a traditional report with findings and conclusions of the EEOC, we are issuing this report to memorialize the obstacles and recommendations identified by our dialogue partners.

## **II. Challenges Identified by Dialogue Partners**

**OBSTACLE 1:** Inflexible workplace policies create challenges for women in the federal workforce with caregiver obligations.

**Background:** Our dialogue partners reported that a major obstacle that applies to women more than any other EEO class is balancing work and

life issues (work/life balance). A prevalent work/life balance issue is caregiving obligations. Caregiving obligations often create conflicts with work for women, particularly in non-flexible work environments.

Widespread cultural and lifestyle changes in American society have led to an overall increase of women in the workplace over the last several decades, especially women with caregiving responsibilities. In the EEOC's Caregiver Guidance (Guidance), the Commission noted "[t]he rise [of the number of women in the American workforce] has been most dramatic for mothers of young children, who are almost twice as likely to be employed today as were their counterparts 30 years ago."<sup>4</sup> The Guidance noted that the total number of hours per week married couples with minor children spent working also increased.<sup>5</sup> In many families, particularly those with lower wage earners, it has become necessary for women to work. A recent Pew Research Center analysis of data from the U.S. Census Bureau revealed that a record 40% of all households with children under the age of 18 include mothers who are either the sole or primary source of income for the family.<sup>6</sup> Despite a greater presence of women working outside of the home, "Women continue to be most families' primary caregivers."<sup>7</sup>

In writing for the Supreme Court in 2003, Chief Justice Rehnquist stated that "the faultline between work and family [is] precisely where sex-based overgeneralization has been and remains strongest."<sup>8</sup> Sex-based stereotyping associated with caregiver responsibilities is not restricted to childcare and can be based on other forms of caregiving, such as for a sick parent, spouse or other relative.<sup>9</sup> Our Guidance noted that women who have caregiving responsibilities "may be perceived as more committed to caregiving than to their jobs and as less competent than other workers, regardless of how their caregiving responsibilities actually impact their work."<sup>10</sup>

Further, our dialogue partners noted that women often face obstacles when returning to the workplace after leaving for a period of time for caretaking responsibilities. For example, because of caregiving responsibilities, women may have fewer years of work experience, may work fewer hours per year, are less likely to work a full-time schedule, and leave the labor force for longer periods of time.<sup>11</sup> In 2009, 24 percent of employed women (age 20 and older) worked part time, whereas only 11 percent of men did so.<sup>12</sup>

The Government Accountability Office (GAO) found that women may forego advancement or higher earnings in exchange for positions that offer

greater flexibility in managing work and family obligations.<sup>13</sup> This information is significant because studies have found that when a woman returns to the workplace after a leave of absence, such as maternity leave, that period of leave has been estimated to result in a wage loss of 3-9% percent per year of absence compared to the individuals with continuous employment.<sup>14</sup>

A recent PEW poll revealed telling societal attitudes about women successfully balancing work and caregiving responsibilities. The poll revealed that about three-quarters of adults (74%) said the increasing number of women working has made it harder for parents to raise children, and half said that it has made it harder for marriages to succeed.<sup>15</sup> At the same time, two-thirds said it has made it easier for families to live comfortably.<sup>16</sup>

Our dialogue partners stressed that the only way to ensure that women with caregiving responsibilities can successfully balance both their work and home-life responsibilities is the implementation of effective and flexible workplace policies geared towards allowing individuals to achieve a work/life balance.

#### **Issues Identified by Dialogue Partners:**

The dialogue partners reported that inflexible federal workplace policies create the following issues for women who have caregiving responsibilities:

- Inflexible workplace policies can result in women being unable to achieve a satisfactory work/life balance.
- Inflexible workplace policies negatively impact employee productivity, attendance, and morale.
- Inflexible workplace policies may thwart Agency recruitment and retention efforts of women, and as a result Agencies cannot retain a diverse, talented, and knowledgeable workforce.
- Employers may be less willing to have flexible workplace policies because of the gender-based assumption that women who have young children or may become pregnant in the future are not as dependable or as committed as their male counterparts.
- Women who work part-time or take advantage of flexible work

arrangements because of caregiving responsibilities are often considered less committed to their jobs than full-time employees with traditional work schedules.

- Leaves of absence due to caregiver responsibilities affect women's accrual of specified training and experience needed for career advancement.

### **Recommendations of Dialogue Partners**

The dialogue partners made the following recommendations to address inflexible workplace policies that affect women:

- Where practicable, Agencies should allow flexibility with regard to start and end times, job-sharing, telework, leave and benefits. Agencies should remain open to changing the way that federal employees work, including exploring the possibility of establishing satellite telework centers that would reduce commutes and enhance employees' work-life balance.
- The Federal Women's Program (FWP) Manager/Special Emphasis Program Manager at each Agency should sponsor events that feature discussions and presentations on caregiver responsibilities and gender-based assumptions.
- All managers and employees should be trained on telework, including the Agency's policies and expectations of employees while they are teleworking.
- FWP Managers should work with Agency management to foster proactive measures to eradicate gender based caregiver bias in employment decisions.
- Parenting leave and other flexible work place policies should apply equally to men, which encourages gender neutral balancing of work and caregiving responsibilities.
- Agency leaders should ensure that those who avail themselves of workplace flexibilities are not penalized or stigmatized for doing so.

Obstacle 1

Recommendations

**Obstacle 2:**

Higher level and management positions remain harder to obtain for women.

**OBSTACLE 2:** Higher level and management positions remain harder to obtain for women.

**Background:** Our dialogue partners reported that higher level and management positions remain harder to obtain for women. As we noted earlier, in preliminary data for 2011, women only comprised 37.77% of GS-14 and GS-15 positions, and 30.03% of Senior Executive Service positions.<sup>17</sup> Additionally, the average GSR and related grade for women was 9.6, more than one grade below the average grade level for men of 10.7.<sup>18</sup>

Many academics believe that the “glass ceiling”<sup>19</sup> is to blame for hindering women’s progress in ascending the career ladder. The term “glass ceiling” describes “an invisible - but impenetrable - obstacle between women and the executive suite, preventing them from reaching the highest levels of the business world regardless of their accomplishments and merits.”<sup>20</sup> In the federal sector, women have made great strides in their representation in the overall federal workforce. However, as the aforementioned statistics indicate, women comprise a less than expected percentage of higher level and management positions. As stated by Valerie Jarrett, the Senior Advisor to President Barack Obama and Chair of the White House Council on Women and Girls: “We have made a great deal of progress, but we still have a very long way to go.”<sup>21</sup>

Most of our dialogue partners identified a lack of mentoring as a factor in many women’s inability to attain higher level and management positions in the federal sector. According to the Office of Personnel Management, “Mentoring is usually a formal or informal relationship between two people – a senior mentor (usually outside the protégé’s chain of supervision) and a junior protégé.”<sup>22</sup>

The dialogue partners noted that most current managers and senior executives were groomed for their positions by mentors who steered and prepared them for career advancement. Our partners maintained that few management officials formally mentor any employees, and even fewer mentor women because managers and senior executives tend to groom employees for advancement who are most similar to themselves. Our partners stated that because most managers are not women, inequality is often reproduced and creates a profound disadvantage for women.

Our dialogue partners also noted that insufficient training is a significant impediment to women reaching higher level and management positions in the federal sector. Training provides planned, organized experiences that assist in the gaining or expansion of key competencies.<sup>23</sup> Training for women not only builds needed competencies in order to achieve mission success and performance objectives, but also helps prepare women to take on new or expanded work duties and positions, including management positions. Our dialogue partners noted that they believe that inequalities in the federal sector will be replicated and exacerbated if women do not receive developmental training on an equal footing as men.

Our dialogue partners stated that the lack of developmental assignments for women is another impediment to women reaching higher level and management positions in the federal workforce. Developmental assignments are temporary projects assigned for the purpose of exposing employees to work duties and environments that will prepare them for promotional opportunities. Our dialogue partners maintained that, through assignments, managers often steered women into non-management tracks and traditional female positions, such as staff positions or human resources, research, or administrative positions rather than managerial or high level positions.

#### **Issues Identified by Dialogue Partners:**

The dialogue partners identified the following issues related to women's difficulty in obtaining higher level and management positions:

- Women are less likely to be groomed for management positions because they are less likely to have mentoring relationships with individuals who are already in management positions.
- Women are less likely to be invited to networking opportunities and events, resulting in women not being privy to multidimensional professional and social relationships that may lead to promotional opportunities and vital career enhancement prospects.
- The lack of mentoring and networking opportunities result in women being less likely to receive important advice and insider information about how to obtain an upper level or management position.

## Obstacle 2 Recommendations

- Women are not granted training and developmental assignments on equal footing as men, resulting in women being considered less qualified for upper level and management positions.
- Women are steered into non-management tracks and positions rather than managerial or high level positions.
- Women are not targeted in recruitment efforts for upper level and management positions, and selection panels often do not have a diverse representation of both women and men.

### **Recommendations of Dialogue Partners:**

The dialogue partners made the following recommendations to address obstacles related to women obtaining higher level and management positions:

- Agencies should establish formal mentoring programs and monitor their effectiveness in increasing equal employment opportunities. Agencies should appoint mentoring Program Managers to oversee Agency mentoring activities and metrics should be developed to assess the success of mentorship programs and activities.
- Senior level officials, especially SES officials, should be expected to mentor subordinates, and mentoring should be gender neutral.
- Mentors and supervisors should work with employees to develop Individual Development Plans (IDPs) that identify helpful training opportunities and create a general roadmap for employees' career advancement and fulfillment. Mentors and supervisors should specifically inquire into whether employees are interested in management and higher level positions.
- Mentors should be used to help employees acquire specific technical and leadership skills, to address succession planning needs, and to assist in adjusting socially to the workplace.
- Agencies should conduct a barrier analysis to determine what obstacles are impeding women from progressing past GS-12 or higher positions at their particular Agency. Additionally, Agencies should utilize Federal Women's Program Managers to monitor and evaluate human resources policies, practices and procedures to ensure that they are not creating obstacles to women obtaining higher level and management positions.
- Agencies should sponsor periodic events that provide attendees

with educational opportunities on topics such as career planning, interviewing techniques, supervisory development, networking, and the process for applying for SES positions.

- Networking opportunities and events should be held during work hours in order to allow women with caregiving responsibilities to attend.
- Agencies should utilize selection panels that are diverse in gender, and should partner with women's interest organizations to recruit for management and upper level positions.

**OBSTACLE 3:** Women are underrepresented in science, technology, engineering, and mathematics fields in the federal workforce.

**Background:** Our dialogue partners reported that women are less likely than men to work in federal science, technology, engineering, and mathematics (STEM) positions. In fiscal year 2012, women comprised the majority of federal employees working in the fields of personnel management and industrial relations, medical, hospital, dental, and public health, legal, social science, and accounting and budget.<sup>24</sup> Conversely, women held significantly less STEM positions in the federal workforce. Specifically, women held only 31 percent of information technology positions, 32 percent of natural resources management and biological science positions, 28 percent of physical science positions, and 15 percent of engineering and architecture positions.<sup>25</sup> This pattern is similar to the civilian workforce.<sup>26</sup>

Our dialogue partners reported that because a STEM degree is required for many or most STEM federal sector positions, any gender disparities in STEM educational attainment will reverberate in federal sector employment. Women earn substantially fewer degrees in the rapidly growing and higher paying STEM fields of computer sciences, mathematics, statistics, physical sciences, earth sciences, and engineering.<sup>27</sup> Specifically, from 2001 through 2010, women only received 18.4 percent of bachelor's degrees in engineering, 43.1 percent of bachelor's degrees in mathematics and statistics, 41.3 percent of bachelor's degrees in physical sciences, 39.3 percent of bachelor's degrees in earth, atmospheric and ocean sciences, and 18.2 percent of bachelor's degrees in computer sciences.<sup>28</sup> Similar patterns are reflected in the percentage of master's and doctoral degrees in STEM fields awarded to women.<sup>29</sup> The lower percentage of women receiving STEM degrees results in substantially fewer women than men available in the applicant pool to recruit to federal STEM positions, which presents a formidable challenge to efforts to increase

### Obstacle 3:

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women's representation in federal STEM occupations.

Additionally, dialogue partners expressed concern that even when women have STEM degrees, they are less likely to be hired, promoted, and supported than their male federal sector counterparts. We note that a recent Yale University study found that female scientists have a tougher time succeeding in the workplace than their male colleagues.<sup>30</sup> Researchers reported that in rating applicants for a laboratory position, science faculty participants rated a male candidate as significantly more competent than a female candidate with an identical application.<sup>31</sup> Additionally, participants were more likely to hire the male candidate than the female candidate, as well as assign him a higher starting salary and offer the male candidate more career mentoring.<sup>32</sup> Notably, male and female participants were equally likely to exhibit bias against the female candidate, which the researchers concluded reflected unintentional biases that stem from widespread cultural stereotypes about women's competence in science.<sup>33</sup>

#### **Issues Identified by Dialogue Partners:**

The dialogue partners reported that the following issues are related to the underrepresentation of women in STEM positions in the federal government:

- Gender stereotypes and cultural norms portray STEM fields as inherently “male” fields and not suitable for women.
- Because fewer women are in STEM fields, many women employed therein experience isolation, a lack of support and mentorship, and hostility.
- The lower percentage of women with STEM degrees makes it difficult for Agencies to recruit qualified women to STEM positions.
- Women with STEM degrees are less likely than their male counterparts to work in a STEM occupation, and are more likely to work in non-STEM education or non-STEM healthcare positions.<sup>34</sup>
- Women leave STEM fields at a higher rate than their male peers.<sup>35</sup>

**Recommendations of Dialogue Partners:**

The dialogue partners made the following recommendations to address the underrepresentation of women in federal sector STEM positions:

- Agencies should consider awarding scholarships to undergraduate students pursuing STEM degrees.
- Agencies should provide STEM employees with a committed mentor or “career champion.”
- Agencies should partner with primary schools, secondary schools, colleges, and foundations to stimulate interest in STEM and to encourage students to pursue degrees in STEM.<sup>36</sup>
- In Agencies where women are underrepresented in STEM positions, Agencies should establish a STEM Intern Program that encourages female students to apply for internship positions and utilizes existing hiring authority to retain these interns for permanent positions.
- Agencies should sponsor and host seminars and conferences that enable women scientists, engineers, mathematicians, and information technologists to network and dialogue with each other.
- Agencies should consider establishing intra-Agency networks that foster professional associations among women in STEM fields.
- Agency senior executives should sponsor and champion women’s STEM affinity groups, should notify the groups of job opportunities, and should respond to issues identified by the affinity groups.
- Agencies with STEM missions should partner with media to publicize STEM accomplishments. The publicity should highlight the major accomplishments of STEM employees, including women who have made noteworthy contributions, in a manner that encourages girls and women to pursue STEM educations and careers.

#### Obstacle 4:

The gender pay gap prevents women from earning the same average salary as men in the federal workforce.

**OBSTACLE 4:** Women and men do not earn the same average salary in the federal government.

**Background:** Our dialogue partners noted that women in the federal workforce are not earning equal pay compared to men. The gender pay gap is the difference between men and women’s average annual salary.<sup>37</sup> The gender pay gap specifically affects women, who continue to be paid less than similarly qualified and experienced men who have similar job duties.

The gender pay gap is a particularly substantial obstacle for women in the federal workforce because in the current financial crisis, federal employees are faced with increased financial challenges, stagnant federal wages, and furloughs. Additionally, more than 12 million American families rely primarily on women’s earnings.<sup>38</sup> The District of Columbia, which houses a large portion of federal workers, has the highest share of “breadwinner mothers,” with 63.8 percent of mothers in working families bringing home at least half of their family’s earnings.<sup>39</sup>

Despite the fact that women are now earning Bachelor’s and Master’s Degrees at a higher rate than men, men are still earning more money than women in similar positions.<sup>40</sup> Studies show that in the federal workforce, the gender pay gap still exists, although it has declined and is not as significant as it currently is in the private sector.<sup>41</sup> For example, a study conducted by the U.S. Government Accountability Office found that in the federal sector in 1988, women earned 72 cents for every dollar a Man earned (a 28 cent difference).<sup>42</sup> In 1998, federal sector women earned 81 cents for every dollar a Man earned (a 19 cent difference).<sup>43</sup> And in 2007, federal sector women earned 89 cents for every dollar a Man earned (an 11 cent difference).<sup>44</sup> The study concluded that seven cents of the current gender gap cannot be accounted for by measurable factors and may be the result of discriminatory practices.<sup>45</sup>

Our dialogue partners noted that African American women and Hispanic women earn even less than the average Woman. Studies have corroborated the dialogue partners’ observations, and have found that the gender pay gap is even worse for women who are also part of a minority racial or national origin group. For example, in the private sector, African American women earn only 64 cents for every dollar a Man earns, and Hispanic women earn only 55 cents for every dollar a Man earns.<sup>46</sup> At this time, there is no comparable data available for the federal sector.<sup>47</sup>

### Issues Identified by Dialogue Partners

The dialogue partners reported the following issues related to the gender pay gap in the federal government:

- Subjective and sometimes discriminatory criteria are used to negotiate starting salaries for individuals who have similar qualifications.
- The gender pay gap gives women less financial security than men.
- The gender pay gap results in women receiving significantly less retirement benefits because the benefits are determined by income received.
- As women obtain promotions to higher level positions, the gender pay gap increases significantly. In other words, as grade levels increase the total dollar value of the pay gap increases.
- Because higher pay is often a motivating factor in pursuing higher level positions, the gender pay gap may dissuade women from pursuing these positions.
- It is difficult for women to pursue claims of unequal pay because the Equal Pay Act does not allow successful Complainants to obtain attorney's fees and costs.

### Recommendations of Dialogue Partners:

The dialogue partners made the following recommendations to address the gender pay gap in the federal government:

- More research, including data collection, should be done to capture how the equal pay gap affects women of different protected groups, including but not limited to race and national origin, in the federal workforce.
- There must be an analysis to determine what, if any, discriminatory practices are contributing to the current pay gap.
- Congress should consider changing the Equal Pay Act to allow successful Complainants to receive attorney's fees and costs as relief.

**Obstacle 5:**  
Unconscious gender biases and stereotypical perceptions about women still play a significant role in employment decisions in the federal sector.

- Agencies should perform more frequent objective and thorough desk audits to ensure that both women and men are making the same money for similar work.
- Agencies should ensure that objective and nondiscriminatory practices are used when determining an employee's starting salary.
- The federal government should take on the role as the Model Employer and implement a strategy to eliminate the gender pay gap among federal employees.

**OBSTACLE 5:** Unconscious gender biases and stereotypical perceptions about women still play a significant role in employment decisions in the federal sector.

**Background:** Dialogue partners reported that discrimination towards women today tends to be more subtle and can often be directly attributable to unconscious gender bias. Unconscious bias is defined as “social behavior . . . driven by learned stereotypes that operate automatically – and therefore unconsciously — when we interact with other people.”<sup>48</sup> Notably, unconscious bias was also reported to us as a major obstacle affecting other protected groups in the federal government.<sup>49</sup>

Prejudiced actions are often the unconscious manifestation of mental processing and stereotypical associations, of which the prejudiced subject may be completely unaware.<sup>50</sup> While individuals are generally unaware of their unconscious biases, there are tools available to help individuals understand the biases that motivate their everyday decision making. For instance, the Implicit Association Test (IAT) is a test that assesses bias by measuring the speed with which an individual associates a categorical status (such as women) with a given characteristic or description (such as good or bad).<sup>51</sup>

Our dialogue partners noted that with regard to women, unconscious gender biases result in management viewing female applicants and current employees in predetermined ways. One dialogue partner noted that this is a particularly troubling issue in the recruitment and selection processes where hiring decisions are unknowingly based on whether a candidate has similar characteristics to the recruitment or selecting official.<sup>52</sup> This phenomenon, referred to as the “Mini-Me Syndrome,” is problematic for females because

the majority of recruitment and selecting officials are male, and they are unaware that they are subconsciously filtering candidates based on their gender.<sup>53</sup>

### **Issues Identified by Dialogue Partners**

The dialogue partners reported that unconscious gender bias creates the following issues for women in the federal government:

- There is a stereotypical perception that women should be in traditional female positions such as clerical, nursing, and teaching positions.
- Stereotypical assumptions about women result in a double standard: women are perceived as too aggressive if they behave in an ambitious manner, but are also perceived as too weak if they are communal and collaborative.
- Women are not considered, groomed, or selected for high level positions because of the stereotypical view (or unconscious bias) that those positions are considered non-traditional for women.
- There is a stereotypical assumption (or unconscious bias) that women who are in high level positions cannot successfully perform in those positions.
- Women have to work extra hard to “prove themselves” worthy of positions that are not viewed as traditional female positions.
- Individuals may not be aware that their decisions are motivated by bias because it is subconscious rather than intentional, and therefore they do not take steps to change their biased decision making.
- It is difficult to prove discrimination motivated by unconscious bias because it is not conducive to current legal analysis.

### **Recommendations of Dialogue Partners:**

The dialogue partners made the following recommendations to address unconscious gender biases that affect women in the federal government:

- The Agency should conduct unconscious bias training for all employees so they can become aware of their unconscious biases towards women. This should include the encouragement of employees to utilize the Implicit Association Test and other similar tools to help

## Obstacle 5 Issues

## Obstacle 5 Recommendations

them recognize their own unconscious biases.

- All recruitment officials, selection panelists, and selection officials should receive comprehensive training on unconscious bias that will keep them attuned to the subtle and unconscious ways that gender bias can negatively affect the recruitment and selection process of women.
- Women Special Emphasis Program Managers should sponsor events that feature discussions and presentations on unconscious bias towards women. Such discussions may feature academic and social science researchers to educate employees on unconscious bias theory.
- Legal experts must analyze how unconscious bias can be evaluated as evidence of discrimination under Title VII and other federal antidiscrimination laws.

**Obstacle 6:** There is a perception that Agencies lack commitment to achieving equal opportunities for women in the federal workplace.

**OBSTACLE 6:** There is a perception that Agencies lack commitment to achieving equal opportunities for women in the federal workplace.

**Background:** Our dialogue partners reported that an obstacle for women in the federal workplace is that it appears that Agencies lack commitment to achieving equal opportunities for women in the workplace. As examples, the dialogue partners noted that EEO programs lack resources, particularly when compared to other Agency departments, and Agencies are not adequately held accountable when they do not comply with EEO regulations or have been found to have discriminated against an employee.

Our dialogue partners stated that Agencies' EEO programs generally lack adequate resources, including funding, to effectively prevent and address discrimination against women and other groups. In a time of budget uncertainty, all federal Agencies are forced to choose which of their programs will lose funding. It is important that Agencies balance their budget obligations while ensuring that their EEO programs remain sufficiently funded. In accordance with the Commission's Management Directive 715 (MD-715), Agencies must allocate sufficient resources to create and/or maintain EEO programs that identify and eliminate barriers that impair the ability of individuals to compete in the workplace because of their protected bases, establish and maintain training and education programs designed to provide maximum opportunity for all employees to advance, and ensure that

unlawful discrimination in the workplace is promptly corrected and addressed.<sup>54</sup> Our dialogue partners noted that when EEO programs are not adequately funded, it sends the message that EEO issues are not valued as important within the Agency.

The dialogue partners also reported that Agencies are not adequately held accountable when they do not comply with EEO regulations and management directives. As an example, the dialogue partners noted that Agencies frequently do not comply with the timeframes required by EEO regulations when completing EEO counseling, issuing an acknowledgment letter, completing an investigation, or issuing a final Agency decision. The dialogue partners noted that there are no real consequences for the Agency's non-compliance with the timeframes. In contrast, if a Complainant does not comply with a timeframe, it will result in immediate dismissal of their complaint, hearing, or appeal. The dialogue partners noted that this double standard undermines the perception of neutrality in the EEO process and stymies the eradication of obstacles to equal employment opportunities for all groups, including women.

Many of our dialogue partners reported that their Agencies do not comply with the MD-715, in which we require that the Director of Equal Employment Opportunity be under the immediate supervision of the Agency head. Additionally, dialogue partners stated that a significant percentage of Agencies still fail to evaluate managers on EEO factors, which means that those managers are not sufficiently held accountable for their performance in EEO. These practices send the message that commitment to equal employment opportunity is not embraced by Agency leadership.

The dialogue partners also stated that when an Agency is found to have discriminated against an employee, the Agency is not adequately held accountable for the discrimination. The dialogue partners noted that when the Commission only orders Agencies to consider disciplining the responsible management officials, Agencies usually do not discipline responsible management officials. The dialogue partners stated that this unfair practice sends a strong message to employees that EEO is not a priority within the Agency and that discriminators can get away with their illegal conduct. Additionally, the dialogue partners reported that the Commission does not publicize findings of discrimination, and as a result, Agencies are not adequately deterred from changing their workplace practices to ensure that discrimination does not occur again. The dialogue partners noted that these

## Obstacle 6 Issues

obstacles make it more difficult to effectively combat discrimination and eradicate impediments for women in the federal government.

### Issues Identified by Dialogue Partners

The dialogue partners reported the following issues related to the perception that Agencies lack commitment to achieving equal opportunities for women in the federal workplace:

- If an Agency's EEO program does not have sufficient funding, the EEO Director may not be able to ensure that Agency EEO action plans are implemented efficiently, and they may not be able to identify and eliminate barriers to equal employment for women and other protected groups.
- A lack of funding in an EEO program may result in a host of issues, including: a lack of EEO counselors readily available to speak with women who believe they have been discriminated against; a lack of analysts to conduct barrier analyses to identify barriers to equal opportunities for women; significant delays in processing times and an ineffective complaint processing system; a lack of an effective alternative dispute resolution process; a lack of compliance with EEOC orders; and a lack of training and outreach and related materials to employees about the EEO process and discrimination in the workplace.
- When Agencies are not held accountable for violations of timeframes within EEO regulations but Complainants are held strictly accountable to the timeframes within EEO regulations, it gives the appearance of an impartial and ineffective EEO process, which dissuades women from filing complaints.
- Agencies that are not held accountable for violations of time frames in the EEO regulations have no incentive to make their EEO program more effective and process matters in a more timely manner.
- When an Agency's EEO Director does not report directly to the Agency head, it gives the perception that EEO matters are not taken seriously within the Agency.

- When the Commission finds that an Agency has engaged in unlawful discrimination and orders the Agency to consider disciplining the responsible management officials, Agencies usually do not discipline responsible management officials, which sends a strong message that EEO is not a top priority for the federal government and discriminators can get away with their conduct.
- The Commission's inability to directly order Agencies to discipline managers who have been found to have engaged in unlawful discrimination sends a message to Agencies, discriminators, employees, and the public that the federal government does not take discrimination seriously.

### **Recommendations of Dialogue Partners:**

The dialogue partners made the following recommendations to address the perception that Agencies lack commitment to achieving equal opportunities for women in the federal workplace:

- All Agencies should ensure that their EEO programs are adequately funded and have adequate resources, including personnel, to ensure that their EEO programs are effective and are able to eradicate obstacles for women and all protected groups in the federal workplace.
- Agencies should show their commitment to achieving equal opportunities in the workplace by evaluating managers, supervisors, and senior executives in their annual performance appraisals in at least one element that assesses their commitment to equal employment opportunity principles and goals.
- Agencies should show their commitment to achieving equal opportunities in the workplace by ensuring that awards, bonuses, and promotions are contingent upon managements' actions in EEO, and Agencies should not grant proven discriminators awards, promotions, outstanding performance evaluations, etc.
- Agencies should show their commitment to achieving equal opportunities in the workplace by seriously considering demotion and/or removal of managerial duties of management officials who have been found to have engaged in unlawful discrimination or

have inadequately responded to harassment.

- The Commission should implement effective consequences for Agencies' failure to comply with the requirements and time frames in EEO regulations, including in all aspects of the complaint process as well as the filing of MD-715 and 462 reports.
- The Commission should issue an Agency "EEO Scorecard" that evaluates Agencies' EEO programs, inclusiveness, and accomplishments in various critical EEO elements, and it should be presented in a digestible, user-friendly manner that is available to the public.
- The Commission should publicize findings of discrimination and the results of program evaluations in the federal sector via press releases.
- The Commission should seek legal authority to order punishment for responsible management officials.
- The Commission should enter into a new agreement with the Office of Special Counsel (OSC) and explore ways to refer more cases in which Agencies have failed to comply with our orders or if a violation warrants prosecution by OSC.

## Conclusion

### III. Conclusion: What We Learned

We have learned that while women have made enormous strides within the federal workforce, there are still significant obstacles to women's attainment of equal employment opportunities in the federal government.

One observation is that many of the obstacles and issues documented in this report have also been reported to us by other protected groups as obstacles to their ability to achieve equal opportunities in the workplace. For example, the following obstacles and issues were also reported in our federal sector reports as obstacles for Hispanics, Asian American Pacific Islanders, individuals with disabilities, and/or African Americans: lack of sufficient training; lack of sufficient mentorship opportunities; lack of developmental assignments; underrepresentation in higher level positions; underrepresentation in STEM positions; lack of demonstrable commitment from Agency leaders; lack of management accountability for EEO in

performance appraisals and award criteria; lack of effective Agency accountability for violations of EEO regulations and findings of discrimination; and unconscious biases that influence personnel decisions.

It is also interesting to note the obstacles that were unique to women in the federal workforce. For example, our dialogue partners reported that inflexible workplace policies especially make it difficult for women to balance their work responsibilities with their caregiving responsibilities. Additionally, while the pay gap is not as significant as it is in the private sector, women typically make less money than men in the federal government. Further, our dialogue partners reported that stereotypes continue to exist about what positions and roles are considered “traditional” female roles, and those stereotypes influence women’s abilities to move beyond those positions within the federal government.

We have learned that further research is necessary to determine what actions can be taken to address the obstacles. For example, a study should be conducted to determine exactly why women are not equally represented in higher level and management positions. Possible analyses in the study could be whether women are not selected for these positions because of discrimination based on sex, or are women not applying for those positions because, for example, of a lack workplace flexibility. Additionally, a statistical study should be conducted to identify the reasons for the wage gap between men and women in the federal government. In a May 10, 2013 memorandum to the heads of executive departments and agencies, the President ordered analyses, proposed guidance, and recommendations for advancing pay equality in the federal government.<sup>55</sup> Additional and ongoing research such as this will help us determine the measures that need to be taken to ensure that the federal government is the model workplace with regard to equal opportunities for women.

Additionally, the Office of Federal Operations should take steps to further cultivate our relationships with the dialogue partners that communicated with this workgroup, as they will continue to be a great source of a wealth of information and insight into the obstacles that face women in the federal workplace. Finally, Agency officials should champion equal opportunities for women in the federal workforce. The ultimate responsibility rests with Agencies to take seriously the obstacles and issues identified by our dialogue partners, and to make it a priority to adopt the dialogue partners’ recommendations contained in this report.

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<sup>1</sup> EEOC Annual Report on the Federal Work Force Part II, Workforce Statistics, Fiscal Year 2011 (EEOC Annual Report FY 2011).

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> Enforcement Guidance: Unlawful Disparate Treatment of Workers with Caregiving Responsibilities (Caregiver Guidance), EEOC Notice No. 915.002 (May 23, 2007).

<sup>5</sup> Id.

<sup>6</sup> Pew Research Social & Demographic Trends, *Breadwinner Moms: Mothers Are the Sole or Primary Provider in Four-in-Ten Households with Children; Public Conflicted about the Growing Trend* (May 29, 2013), available online at <http://www.pewsocialtrends.org/2013/05/29/breadwinner-moms/> .

<sup>7</sup> Caregiver Guidance, supra.

<sup>8</sup> Caregiver Guidance (*citing Nevada Dep't of Human Res. v . Hibbs*, 538 U.S. 721, 738 (2003)).

<sup>9</sup> Id.

<sup>10</sup> Caregiver Guidance, supra.

<sup>11</sup> U.S. Government Accountability Office, *Women's Earnings: Work Patterns Partially Explain Difference between men's and Women's Earnings* (Oct. 31, 2003), available online at <http://www.gao.gov/new.items/d0435.pdf> .

<sup>12</sup> U. S. Department of Commerce and the Executive Office of the President, *Women in America: Indicators of Social and Economic Well-Being* (March 2011), available online at <http://www.whitehouse.gov/administration/eop/cwg/data-on-women> .

<sup>13</sup> U.S. Government Accountability Office, *Women's Earnings*, supra.

<sup>14</sup> TD Bank Financial Group, Special Report, *Career Interrupted: The Economic Impact of Motherhood* (October 12, 2010).

<sup>15</sup> Pew Research Social & Demographic Trends, supra.

<sup>16</sup> Id.

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<sup>17</sup> EEOC Annual Report FY 2011, *supra*.

<sup>18</sup> *Id.*

<sup>19</sup> Nora Frenkiel, *The Up-and-Comers: Bryant Takes Aim at the Settlers-In*, *Adweek* (March 1984).

<sup>20</sup> Department of Labor, Federal Glass Ceiling Commission, *Good for Business: Making Full Use of the Nation's Human Capital - The Environmental Scan* (March 1995).

<sup>21</sup> Rahim Kanani, *Valerie Jarrett: Women in America Report Could Change Policies*, *Huffpost Impact*, (March 30, 2011), available online at [http://www.huffingtonpost.com/rahim-kanani/Women-in-america-report\\_b\\_841466.html](http://www.huffingtonpost.com/rahim-kanani/Women-in-america-report_b_841466.html).

<sup>22</sup> U.S. Office of Personnel Management, *Best Practices: mentoring* (September 2008).

<sup>23</sup> NASA's Goddard Space Flight Center Office of Human Capital Management, Supervisor's Toolbox, Managing Performance and Development, Career Development and Training, available online at [http://ohcm.gsfc.nasa.gov/sup\\_info/toolbox/career/career.htm](http://ohcm.gsfc.nasa.gov/sup_info/toolbox/career/career.htm).

<sup>24</sup> The referenced statistics on women's representation in occupational categories is based on the Office of Personnel Management's (OPM) Fedscope database. The data source for Fedscope is Enterprise Human Resources Integration-Statistical Data Mart (EHRI-SDM). EHRI-SDM does not include occupational statistics from the following federal Agencies and employees: Board of Governors of the Federal Reserve; Central Intelligence Agency; Defense Intelligence Agency; Foreign Service personnel at the State Department; National Geospatial-Intelligence Agency; National Security Agency; Office of the Director of National Intelligence; Postal Regulatory Commission; Tennessee Valley Authority; and the U.S. Postal Service.

<sup>25</sup> *Id.*

<sup>26</sup> U.S. Census Bureau, 2011 American Community Survey, *Table: Occupation by Sex and Median Earnings in the Past 12 Months for the Civilian Employed Population 16 Years and Over*, available online at [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_11\\_1\\_YR\\_S2401&prodType=table](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_11_1_YR_S2401&prodType=table). Likewise, women are less likely to work in STEM positions in the overall civilian workforce. According to the Census Bureau's 2011 American Community Survey (ACS), women comprised 48 percent of the U.S. civilian workforce but just 26 percent of STEM workers. Moreover, there were 2.5 million college-educated working women with STEM degrees in the overall civilian workforce in 2011, in comparison to 6.7 million men.

<sup>27</sup> Committee on Equal Opportunities in Science and Engineering, *2009-2010 Biennial Report to Congress, Broadening Participation in American's STEM Workforce* (June 2011), p. 23, available online at [http://www.nsf.gov/od/iaa/activities/ceose/reports/2009-2010\\_CEOSE](http://www.nsf.gov/od/iaa/activities/ceose/reports/2009-2010_CEOSE)

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[BiennialReportToCongress.pdf](#); see also U. S. Department of Commerce and the Executive Office of the President, *Women in America*, *supra*, p. 18.

<sup>28</sup> National Science Foundation, National Center for Science and Engineering Statistics, Special Tabulations of the U.S. Department of Education, National Center for Education Statistics, Integrated Postsecondary Education Data System, Completions Survey, 2001-10, available online at <http://www.nsf.gov/statistics/wmpd/2013/pdf/tab5-1.pdf>. This data is based on degree-granting institutions eligible to participate in Title IV federal financial aid programs.

<sup>29</sup> *Id.*, available online at <http://www.nsf.gov/statistics/wmpd/2013/tables.cfm>.

<sup>30</sup> Corrina A. Moss-Racusin, John F. Dovidio, Victoria L. Brescoll, Mark J. Graham, and Jo Handelsman, *Science Faculty's Subtle Gender Biases Favor Male Students*, Proceedings of the National Academy of Sciences of the United States of America (PNAS) (August 21, 2012), available online at <http://www.pnas.org/content/109/41/16474>.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> U.S. Department of Commerce, Economics and Statistics Administration, *Women in STEM: A Gender Gap to Innovation*, p. 1 (August 2011), available online at <http://www.esa.doc.gov/sites/default/files/reports/documents/Womeninstemagaptoinnovation8311.pdf>.

<sup>35</sup> American Association of University Women (AAUW), *Why So Few Women? Women in Science, Technology, Engineering, and Mathematics* (March 21, 2010).

<sup>36</sup> For example, in conjunction with the White House Council on Women and Girls, the National Aeronautics and Space Administration (NASA) through Women@NASA, has created a mentoring project, NASA Giving Initiative and Relevance to Learning Science (G.I.R.L.S.). The project offers middle school girls one-on-one mentoring from women working at the Agency. Participants will complete online lessons in STEM fields with their mentors via virtual connection, available online at <http://Women.nasa.gov/nasagirls/>.

<sup>37</sup> U.S. Government Accountability Office, *Women's Pay: Gender Pay Gap in the Federal Workforce Narrows as Differences in Occupation, Education, and Experience Diminish*, p. 11 (March 2009).

<sup>38</sup> Heather Boushey, Jessica Arons, Lauren Smith, *Families Can't Afford the Gender Wage Gap: Equal Pay Day 2010*, Center for American Progress (April 20, 2010), available online at [http://www.americanprogress.org/issues/2010/04/equal\\_pay.html](http://www.americanprogress.org/issues/2010/04/equal_pay.html).

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<sup>39</sup> Id.

<sup>40</sup> Women received 57.2 percent of Bachelor's degrees and 60.1 percent of Master's degrees during the 2010-2011 academic year. See Department for Professional Employees, *Professional Women: A Gendered Look at Occupational Obstacles and Opportunities* (January 2013).

<sup>41</sup> Women in the private sector are paid 77 cents for every dollar paid to men. National Women's Law Center, *Lily Ledbetter Fair Pay Act* (January 29, 2013).

<sup>42</sup> U.S. Government Accountability Office, *Women's Pay*, supra.

<sup>43</sup> Id.

<sup>44</sup> Id.

<sup>45</sup> Id.

<sup>46</sup> National Women's Law Center, supra.

<sup>47</sup> “[The Commission] recommend[ed] that the [GAO] report be expanded to show how the gender pay gap evolved for different protected groups. In addition, [the Commission] recommend[ed] that the study look at inter-group gender differences, and not merely differences within the same group.” U.S. Government Accountability Office, *Women's Pay*, supra, Appendix VII: Comments from the U.S. Equal Employment Opportunity Commission Acting Chairman Stuart Ishimaru (February 25, 2009).

<sup>48</sup> American Values Institute, *What Is Implicit Bias?* (August 24, 2009), available online at [http://www.americanvaluesinstitute.org/?page\\_id=14](http://www.americanvaluesinstitute.org/?page_id=14) .

<sup>49</sup> See *EEOC African American Workgroup Report* (March 2013), available online at <http://www.eeoc.gov/federal/reports/aawg.cfm> .

<sup>50</sup> Id.

<sup>51</sup> Samuel R. Bagenstos, *Implicit Bias, “Science,” and Antidiscrimination Law*, Harvard Law and Policy Review, Vol. 1, p. 477 (2007).

<sup>52</sup> Shah Salma, *Equality: Unconscious Bias and the Mini-Me Syndrome*, HR Magazine (November 11, 2010).

<sup>53</sup> Id.

<sup>54</sup> EEOC Management Directive 715 (Oct. 1, 2003), available online at <http://www.eeoc.gov/federal/directives/md715.cfm> .

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<sup>55</sup> Presidential Memorandum – Advancing Pay Equality in the Federal Government and Learning from Successful Practices (May 10, 2013), available online at <http://www.whitehouse.gov/the-press-office/2013/05/10/presidential-memorandum-advancing-pay-equality-federal-government-and-le> .