

Congress of the United States
Washington, DC 20515

May 15, 2014

The Honorable Carolyn W. Colvin
Acting Commissioner
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235

Dear Acting Commissioner Colvin:

We are writing to express our deep concern with the findings of the Equal Employment Opportunity Commission (EEOC) in its Program Evaluation Report on the Social Security Administration (SSA) and, in particular, SSA's refusal to implement several recommendations set forth in the EEOC report.

The EEOC initiated its report in response to "a series of concerns raised during Fiscal Years (FY) 2009-2011 and the first two quarters of FY 2012, regarding the agency's failure to comply with laws, regulations, and other EEOC directives and the high rate of complaints alleging workplace harassment."¹ The EEOC report identifies a top-down failure on SSA's part to have a structure in place for the proper handling of EEO complaints.

The EEOC made 12 findings regarding SSA's failure to maintain a model EEOC program, ensure efficient management of the various stages of the complaint process, provide uniform training to ensure equal opportunities, and implement effective and efficient anti-harassment policies and procedures. The EEOC made more than 60 recommendations for reform.

Although SSA has made several important procedural changes to address some of the issues raised by the EEOC, we remain concerned that SSA is not implementing key recommendations in several areas.

For example, the EEOC's first finding was that the Associate Commissioner of the Office of Civil Rights and Equal Opportunity does not report directly to the SSA Commissioner despite EEOC regulations specifying that the "EEO Director shall be under the immediate supervision of the agency head."² The EEOC recommended that SSA "restructure to ensure that the

¹ U.S. Equal Employment Opportunity Commission, *Program Evaluation Report, Social Security Administration* (May 14, 2014).

² *Id.* See also 29 C.F.R. § 1614.102(b)(4).

functioning EEO Director has a direct reporting relationship with and meaningful access to the Commission.”³

In response, SSA stated: “organizationally and functionally, our current structure provides meaningful access to our agency head and an effective level of EEO Director communication, support, and involvement in agency policymaking.”⁴ SSA noted that “other Federal agencies have the same reporting structure as SSA.”⁵

We do not believe this is an acceptable response. Ensuring that the head of the EEOC program reports to the head of SSA is one of the simplest steps SSA can take to comply with the EEOC regulations and recommendations.

The EEOC also found that SSA’s decision to have the managers of the Regional Civil Rights and Equal Opportunities units report to their regional commissioners rather than the Associate Commissioner does not comply with EEOC regulations because it does not ensure that the Associate Commissioner has supervisory authority over the regional managers.⁶ In response, SSA argued: “A direct reporting line between all entities providing EEO services is not necessary to achieve effective EEO programs and ensure compliance with the regulations.”⁷

Again, ensuring that SSA puts in place a reporting structure recommended by the EEOC is the minimum step the agency can take to ensure that its program meets the requirements of a model program, and we believe that structure should be put in place immediately.

These findings—and the EEOC’s recommendations to provide efficient and effective services to SSA employees—require immediate attention. For that reason, we ask that you provide a timeline with the specific dates by which SSA will fully comply with each recommendation made by EEOC. If SSA rejects a recommendation, we request that you explain why you are not implementing the recommendation and what steps you will take to address the finding that led to the recommendation. Please also identify any resource constraints that prevent SSA from implementing any recommendation and identify additional resources necessary to implement each recommendation.

In addition, we request ask that you provide the following documents by June 2, 2014:

- (1) copies of all contracts executed in the last five years between SSA and contractors that handle any component of the EEO process (such as Reports of Investigation

³ *Id.*

⁴ Social Security Administration, *Response to the U.S. Equal Employment Opportunity Commission’s February 2014 Draft Program Evaluation Report* (Mar. 26, 2014).

⁵ *Id.*

⁶ U.S. Equal Employment Opportunity Commission, *Program Evaluation Report, Social Security Administration* (May 14, 2014).

⁷ *Id.*

and Final Agency Decisions), as well as addenda to the contracts, evaluations of contractor performance, the revised Blanket Purchase Agreement to be in effect by October 2014, and all correspondence between SSA and contractors regarding findings of inadequate performance or requests for improved performance;

- (2) all requests made by SSA Contracting Officer Representatives for status updates from contractors regarding EEO cases and all status updates received by SSA from May 1, 2013, to the present;
- (3) copies of the “commitment” provided by each Deputy Commissioner in fiscal year 2013 to SSA’s EEO Director “to increase his or her component’s ADR [Alternative Dispute Resolution] participation,” a copy of the materials used to provide the training due to start in April 2014 “on the benefits of ADR,” and copies of all materials used to provide training on ADR in all SSA regions, along with the dates of each training session and the number of staff members who have participated in each training session;⁸
- (4) the directive provided by the EEO Director in July 2012 “to release all ROIs when completed, without regard to fiscal year numbers and to stop closing investigations without an adequate review”;⁹
- (5) all weekly reports tracking the status of appeal requests for the last calendar year, as well as copies of spreadsheets compiled over the last year to track SSA’s compliance with settlements and EEOC orders;
- (6) copies of reports submitted by CREO Managers identifying specific training needs, as well as the training materials that will be provided in the seven regions in which training for CREO staff and agency managers is to be provided in this fiscal year;
- (7) a copy of SSA’s revised anti-harassment policy and all anti-harassment training materials based on the revised policy; and
- (8) analyses of the feasibility of establishing centralized processing, coordination, and tracking of harassment complaints, as well as information regarding revisions made to the processing, coordination, or tracking of harassment complaints, and a copy of any revised policies regarding the handling of harassment complaints completed during the last year.

Finally, we would like to understand the steps SSA will take immediately to hold employees responsible for the timely development of Reports of Investigation, including the

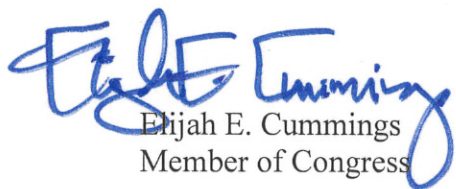
⁸ Social Security Administration, *Response to the U.S. Equal Employment Opportunity Commission’s February 2014 Draft Program Evaluation Report* (Mar. 26, 2014).

⁹ *Id.*


authorities that will be given to the head of the Office of Civil Rights and Equal Opportunity to hold SSA managers responsible for responding to complaints.

We look forward to hearing from you the specific steps SSA will take to bring its program into compliance with the requirements of a model program, ensure the efficient and effective handling of discrimination allegations, and implement effective policies and procedures to prevent discrimination.

Sincerely,


Elijah E. Cummings
Member of Congress


Barbara Mikulski
U.S. Senator


Benjamin Cardin
U.S. Senator