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Part VII

**Department of
Housing and Urban
Development**

No FEAR Act; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket Number FR-5101-N-01]

No FEAR Act Notice

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: HUD is providing notice to all of its employees, former employees, and applicants for employment about the rights and remedies that are available to them under the Federal antidiscrimination laws and whistleblower protection laws. This notice fulfills HUD's notification obligations under the Notification and Federal Employees Antidiscrimination Retaliation Act (No FEAR Act), as implemented by Office of Personnel Management (OPM) regulations.

FOR FURTHER INFORMATION CONTACT: Linda Bradford-Washington, Deputy Director, Office of Departmental Equal Employment Opportunity, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 2134, Washington, DC 20410, telephone (202) 708-3362 (this is not a toll-free number). Hearing-or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION: On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," which is now known as the No FEAR Act (the Act). One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws." (Pub. L. 107-174, Summary) In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination." (Public Law 107-174, Title I, General Provisions, section 101(1))

The Act also requires the Department to inform Federal employees, former Federal employees, and applicants for Federal employment of the rights and protections available to them under Federal antidiscrimination and whistleblower protection laws.

Antidiscrimination Laws

A Federal agency cannot discriminate against an employee or applicant with respect to the terms, conditions, or privileges of employment on the basis of race, color, religion, sex, national origin, age, disability, marital status, or political affiliation. Discrimination on these bases is prohibited by one or more

of the following statutes: 5 U.S.C. 2302(b)(1), 29 U.S.C. 206(d), 29 U.S.C. 631, 29 U.S.C. 633a, 29 U.S.C. 791, and 42 U.S.C. 2000e-16.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin, or disability, you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action, before you can file a formal complaint of discrimination with the Department. If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO counselor as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 calendar days of the alleged discriminatory action. If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) (see contact information below). In the alternative, you may be eligible to pursue a discrimination complaint by filing a grievance through the Department's administrative or negotiated grievance procedures.

Whistleblower Protection Laws

A Federal employee with authority to take, direct others to take, recommend, or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because the Federal employee with authority reasonably believes disclosure of information by that employee or applicant would violate Federal law, rule, or regulation; would uncover gross mismanagement, a gross waste of funds, or an abuse of authority; or create a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. 2302(b)(8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC-11) with the U.S. Office of Special Counsel at 1730 M Street, NW., Suite 218, Washington, DC 20036-4505 or online through the OSC Web site, <http://www.osc.gov>.

Retaliation for Engaging in Protected Activity

A Federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protection laws listed above. If you believe that you are the victim of retaliation for engaging in protected activity and want to pursue any legal remedy, you must follow, as appropriate, the procedures described in the Antidiscrimination Laws and Whistleblower Protection Laws sections of this notice or, if applicable, the Department's administrative or negotiated grievance procedures.

Disciplinary Actions

Under the existing laws, each Federal department and agency retains the right, where appropriate, to discipline a Federal employee for conduct that is inconsistent with Federal antidiscrimination and whistleblower protection laws up to and including removal. If OSC has initiated an investigation under 5 U.S.C. 1214, however, according to 5 U.S.C. 1214(f), agencies must seek approval from the OSC to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits a department or agency to take unfounded disciplinary action against a Federal employee or former employee, or to violate the procedural rights of a Federal employee or former employee who has been accused of discrimination.

Additional Information

For further information regarding the No FEAR Act regulations, refer to 5 CFR part 724, as well as HUD's Office of Departmental Equal Employment Opportunity. Additional information regarding Federal antidiscrimination and whistleblower protection laws can be found at the EEOC Web site at <http://www.eeoc.gov> and the OSC Web site at <http://www.osc.gov>.

Existing Rights Unchanged

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands, or reduces any rights otherwise available to any employee, former employee, or applicant under the laws of the United States, including the provisions of law specified in 5 U.S.C. 2302(d).

Dated: September 18, 2006.

Linda Bradford-Washington,

*Deputy Director for the Office of Departmental
Equal Employment Opportunity.*

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