

Annual Report for Fiscal Year 2019
under the
Notification and Federal Employee Antidiscrimination
and Retaliation Act of 2002

Prepared for

Speaker of the House of Representatives
President Pro Tempore of the Senate
Senate Committee on Homeland Security and Governmental Affairs
House Committee on Oversight and Reform
Senate Committee on Banking, Housing, and Urban Affairs
House Committee on Financial Services
Equal Employment Opportunity Commission
Office of Personnel Management
Attorney General

Report Submitted by

Export-Import Bank of the United States

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A. Introduction

This report is prepared by the Export-Import Bank of the United States (EXIM) in accordance with the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act, or the Act; P.L. 107–174, as amended).

The Act holds federal agencies accountable for violations of antidiscrimination and whistleblower protection laws relating to federal employment. The report contains data and analysis concerning equal employment opportunity (EEO) complaints activity at EXIM, including federal court cases and resulting disciplinary actions during Fiscal Year (FY) 2019.

Consistent with federal law and agency policy, EXIM prohibits discrimination in the workplace. EXIM is committed to maintaining an environment that provides equal employment opportunity for all its employees as well as applicants for employment.

B. Federal Court Cases Arising Under the Federal Antidiscrimination or Whistleblower Laws

1. The Number of Federal Court Cases Pending or Resolved in FY 2019

As shown below in Table 1, 2 federal court cases under Title VII were resolved in FY 2019.

TABLE 1

Federal Court Cases Pending or Resolved in FY 2019 Separated by Statute

Title VII of the Civil Rights Act of 1964:	2
Age Discrimination in Employment Act of 1967:	0
Rehabilitation Act of 1973:	0
Whistleblower Protection Act:	0
Equal Pay Act of 1963:	0

2. Status or Disposition of Federal Court Cases Including the Amount of Money Required to be Reimbursed to the Judgment Fund and Any Budget Adjustments Relating to the Judgment Fund

Table 2 below shows the status and disposition of federal court cases under federal antidiscrimination or whistleblower laws, by statute, in FY 2019. There were two pending cases in total.

As a government corporation, EXIM has corporate funds available to pay judgments and settlements. During FY 2019, EXIM paid no settlements to the Judgment Fund, nor did it make any budget adjustments relating to the Judgment Fund.

TABLE 2

Status of Federal Court Cases Pending in FY 2019 by Statute

Title VII of the Civil Rights Act of 1964:		2
Pending:	0	
Dismissed:	0	
Settled:	2	
Age Discrimination Employment Act of 1967:		0
Pending:	0	
Dismissed:	0	
Settled:	0	
Rehabilitation Act of 1973:		0
Pending	0	
Dismissed:	0	
Settled:	0	
Whistleblower Protection Act:		0
Pending:	0	
Dismissed:	0	
Settled:	0	
Equal Pay Act of 1963:		0
Pending:	0	
Dismissed:	0	
Settled:	0	

C. Employees Disciplined for Conduct Inconsistent with Federal Antidiscrimination or Whistleblower Laws

Table 3 shows the number of findings of conduct inconsistent with federal antidiscrimination or whistleblower laws and the number of employees disciplined for such conduct in FY 2019. The table shows no findings of such conduct and no employees disciplined for such conduct.

**TABLE
3**

**Employees Disciplined for Conduct Inconsistent with
Federal Antidiscrimination or Whistleblower Laws in FY 2019**

1. Employees Disciplined in Connection with Federal Court Cases

Number of Findings:	0
Number of Employees Disciplined:	0

2. Employees Disciplined Whether or Not in Connection with Federal Court Cases

Number of Employees Disciplined:	0
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D. Final Year-End No FEAR Act Data for FY 2019

Attached as Appendix 1 is EXIM's final year-end No FEAR Act Data for FY 2019.

E. EXIM's Discipline Policy for Conduct Inconsistent with Federal Antidiscrimination or Whistleblower Laws

EXIM is committed to maintaining a workplace that promotes productivity, professionalism, and an environment that protects the dignity of all its workers. EXIM issues policy statements, which periodically are sent to all its employees and contractors. The statements provide that any harassment of, or by, EXIM employees, sexual or non-sexual, is expressly prohibited and will not be tolerated. Further, they provide that employees who engage in discriminatory or harassing behavior may be subject to appropriate corrective action, See EEO Policy Statement, dated March 6, 2020 (Appendix 2) and Anti-Harassment Policy Statement, dated March 10, 2020 (Appendix 3).

F. Data Analysis

During FY 2019, EXIM employees filed 3 formal complaints of discrimination. This is in comparison to 11 formal complaints filed the previous year. The number of people filing complaints decreased to 3 individuals from 11, reflecting the complaint activity. There were no repeat filers this year.

An analysis of the FY 2019 complaint data reveals that the leading bases for formal complaints were *age* (3 cases), *disability* (2 cases) and *reprisal* (2 cases). *Race*, *sex* and *disability* were each raised in one case each.

The leading issue for formal complaints in FY 2019 was *performance evaluation/appraisal* which was raised in 3 cases. The next highest frequency issues in complaints were *harassment(non-sexual)* and *time and attendance*, which were reported in 2 cases each.

1. Trends

- a. The number of complaints has generally been low with spikes in 2016 and 2018. The number of cases this year (3) is the lowest since 2014 and second lowest in the past five years.
- b. The largest decreases in alleged bases were in *race* and *sex*. *Race* dropped from 11 cases to 1 in FY 2019. This represents a 90% decrease in that basis being claimed in discrimination cases. *Sex* dropped from 9 cases in FY 2018 to 1 case in FY 2019. This represents an 88% decrease in occurrence.

The most frequently claimed protected bases in FY 2019 were *age*, *disability*, and *reprisal*. These were among some of the leading bases in the previous year. All three have been among the leading bases in complaints in 4 of the last 5 fiscal years.

- c. During FY 2019, the highest increases in issues alleged was in *performance evaluation*, *harassment (non-sexual)* and *time and attendance*. *Performance evaluation* experienced a 50% increase from its occurrence the previous year.

Harassment (non-sexual) experienced a decrease of 33% the previous year. *Time and attendance* experienced a 100% increase in doubling its occurrence from 1 in FY 2018 to 2 in FY 2019.

- d. For complaint processing, FY 2019 reflected a decrease in the average number of days in the formal complaint investigation stage. The average number days to investigate a formal complaint decreased from 174 in FY 2018 to 147 in FY 2019. No cases were dismissed in FY 2019 in comparison to FY 2018 when 8 were dismissed.

2. Causal Analysis

In FY 2019, EXIM saw a sharp decrease in the number of complaints filed against it. Because EXIM is a small Agency with around 400 employees, it is difficult to determine whether and what systemic issues may have led to the decrease in complaints. EXIM hopes to implement a complaint tracking and reporting system that would allow for ad hoc reporting on complaint matters. EXIM will continue to monitor complaint activity to identify best practices in the processing of EEO complaints.

3. Knowledge Gained

EXIM recognizes reduced participation of Alternative Dispute Resolution (ADR) can potentially contribute to a higher case load in the future. EXIM plans to refocus its efforts to increase participation in ADR during the complaint process, particularly in the early stages. The Agency and its leadership will continue to train managers and employees about the benefits of ADR.

4. Actions Planned to Improve EXIM's Equal Employment Opportunity Program

EXIM initiatives relating to EEO planned for FY 2020 include:

- Expand knowledge of and participation in the EEO Alternative Dispute Resolution program.
- Provide additional EEO training on areas identified through barrier and trends analyses.
- Enhance constructive collaborative departmental partnerships within EXIM to continue integration of EEO into the EXIM's strategic operations.
- Provide targeted training on anti-harassment to be conducted by the Office of Equal Employment Opportunity for managers and supervisors.
- Continue the Affirmative Employment Committees for Hispanics and Women.
- Establish a Disability Affirmative Employment Committee.
- Collaborate with Human Capital on initiatives relating to quality of life issues for employees.

G. No FEAR Act Training Plan

During FY 2020, EXIM will ensure No FEAR Act training for all new employees brought on board. EXIM will also continue to deploy biennial training for current employees as required.

EXIM

Complaint Activity	Comparative Data					2019 Thru 30-Sep
	Previous Fiscal Year Data					
	2014	2015	2016	2017	2018	
Number of Complaints Filed	2	3	9	2	11	3
Number of Complainants	2	3	9	2	11	3
Repeat Filers	0	0	1	0	0	0
Complaints by Basis	Comparative Data					2019 Thru 30-Sep
	Previous Fiscal Year Data					
	2014	2015	2016	2017	2018	
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>						
Race	0	1	3	1	11	1
Color	0	1	1	0	1	0
Religion	0	0	1	1	2	0
Reprisal	0	4	5	1	6	2
Sex	1	0	3	1	9	1
POA	0	0	0	1	0	0
National Origin	0	2	4	0	4	1
Equal Pay Act	0	0	0	0	0	0
Age	1	2	3	2	6	3
Disability	0	0	3	3	7	2
Genetics	0	0	0	0	0	0
Non-EEO	0	0	2	0	0	0
Complaints by Issue	Comparative Data					2019 Thru 30-Sep
	Previous Fiscal Year Data					
	2014	2015	2016	2017	2018	
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>						
Appointment/Hire	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	4	0
Awards	0	0	0	0	0	0
Conversion to Full Time/Perm Status	0	0	0	0	0	0
Disciplinary Action						
Demotion	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0
Suspension	0	0	1	0	0	0
Removal	0	0	0	1	1	0
Other	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0
Perf. Eval. / Appraisal	0	1	3	0	2	3
Examination/Test	0	0	0	0	0	0
Harassment						
Non-Sexual	0	0	3	0	3	2
Sexual	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0
Pay including overtime	0	1	0	0	0	0
Promotion/Non-Selection	1	0	2	0	4	0
Reassignment						
Denied	1	0	0	0	0	0
Directed	0	0	0	0	1	0
Reasonable Accommodation Disability	0	0	1	2	3	0
Reinstatement	0	0	0	0	0	0
Religious Accommodation	0	0	0	0	0	0
Retirement	1	0	1	0	0	0
Sex-Stereotyping	0	0	0	0	0	0
Telework	0	0	0	0	0	0
Termination	0	0	0	0	1	0
Terms/Conditions of Employment	0	2	2	1	5	0
Time and Attendance	3	0	0	0	1	2
Training	3	0	1	0	0	0
Other						
User Defined - Other 1	0	0	0	0	0	0
Other	0	0	0	1	3	0
User Defined - Other 3	0	0	0	0	0	0
User Defined - Other 4	0	0	0	0	0	0
Processing Time	Comparative Data					2019 Thru 30-Sep
	Previous Fiscal Year Data					
	2014	2015	2016	2017	2018	
Complaints pending during fiscal year						
Average number of days in investigation	259	362.9	218	218	174.93	147
Average number of days in final action	0	0	0	0	68.29	0
Complaint pending during fiscal year where hearing was requested						
Average number of days in investigation	0	0	1205	171	177.8	181.75
Average number of days in final action	0	0	1205	86	24.25	120
Complaint pending during fiscal year where hearing was not requested						
Average number of days in investigation	259	90.5	0	541	173.5	0
Average number of						

[illegible]

Findings Without Hearing	0		0		0		0	0	0	0	0	0
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time/Perm Status	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Perf. Eval / Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay including overtime	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation Disability	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Religious Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Sex-Stereotyping	0	0	0	0	0	0	0	0	0	0	0	0
Telework	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other - User Define												
User Defined - Other 1	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 3	0	0	0	0	0	0	0	0	0	0	0	0
User Defined - Other 4	0	0	0	0	0	0	0	0	0	0	0	0
Comparative Data												
Pending Complaints Filed in Previous Fiscal Years by Status							Previous Fiscal Year Data					
							2014	2015	2016	2017	2018	2019 Thru 30-Sep
Total complaints from previous Fiscal Years							12	25	47	55	22	15
Total Complainants							12	22	40	48	19	15
Number complaints pending												
Investigation							2	2	13	2	0	1
ROI issued, pending Complainant's action							0	0	0	0	0	1
Hearing							9	22	31	49	19	8
Final Agency Action							1	0	0	1	3	0
Appeal with EEOC Office of Federal Operations							6	7	10	9	9	5
Comparative Data												
Complaint Investigations							Previous Fiscal Year Data					2019 Thru 30-Sep
							2014	2015	2016	2017	2018	
Pending Complaints Where Investigations Exceed Required Time Frames							1	0	1	1	0	0



MEMORANDUM

DATE: March 6, 2020
TO: All Export-Import Bank of the United States Employees
FROM: Kimberly A. Reed, President and Chairman *KAR*
SUBJECT: Equal Employment Opportunity (EEO) Policy Statement

The Export-Import Bank of the United States (EXIM) is the official export credit agency of the United States. EXIM is an independent, self-sustaining federal agency that exists to support American jobs by facilitating the export of U.S. goods and services. For EXIM to do its job well, we must strive for inclusion, cooperation, and respect for the talents that a diverse workforce can bring to a successful agency.

EXIM is committed to ensuring that its employees and applicants for employment are treated fairly in an environment that is free from discrimination based on race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability, or genetic information. Employees and applicants who believe they may have been discriminated against based on their membership in any of these protected classes, or who believe they may have been retaliated against for participation in the Equal Employment Opportunity (EEO) process or opposing any practice made unlawful under EEO laws, should contact the Office of Equal Employment Opportunity as discussed below.


If you believe you may have been subject to discrimination or retaliation, you should contact EEO Director Craig Cassidy at extension x3331 or at Craig.Cassidy@exim.gov immediately. If you decide to initiate the EEO complaint process, you must do so within 45 calendar days of the incident or the date you became aware of the incident. When an aggrieved person elects to initiate the complaint process and where the EEO Office deems it appropriate, alternative dispute resolution (ADR) may be used to attempt resolution of the matter.

All EXIM employees are responsible for exhibiting professional conduct and behavior in the workplace and cooperating in the enforcement of this policy. Individuals engaging in conduct or behavior that violates this policy may be subject to appropriate disciplinary action up to, and including, removal from Federal service.

It is EXIM's goal to maintain avenues for full participation in its mission to support American exporters and the U.S. economy, and to hold true to our values of: integrity, stewardship, accountability, inclusivity, and leadership.



MEMORANDUM

DATE: March 10, 2020
TO: All Export-Import Bank of the United States Employees
FROM: Kimberly A. Reed, President and Chairman 
SUBJECT: Anti-Harassment Policy Statement

The Export-Import Bank of the United States (EXIM or agency) is the official export credit agency of the United States. EXIM is an independent, self-sustaining federal agency that exists to support American jobs by facilitating the export of U.S. goods and services. For EXIM to do its job well, we must ensure a professional working environment, engage in respectful behavior and maintain the highest standard of conduct. This includes refraining from committing as any harassing and discriminatory behavior and reporting such behavior in the event it occurs. EXIM does not permit harassing conduct by anyone in the workplace.

Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy, sexual orientation or gender identity), national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful when it alters the conditions of employment either by: 1) culminating in a tangible employment action, or 2) the harassing conduct is severe or pervasive enough to create a hostile work environment.

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people. Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance.

Any employee who experiences or witnesses harassing conduct should promptly report the matter to their supervisor, another manager or supervisor, the Chief of the Human Capital Division or the Office of Inspector General (OIG). In addition, employees may initiate an equal employment opportunity (EEO) complaint based on their membership in one or more protected bases by contacting the Office of Equal Employment Opportunity Director and initiating the EEO process within 45 days of the alleged harassment.

Upon receipt of a report of harassment, the supervisor or manager will consult with the appropriate office and ensure that a prompt, thorough, impartial and appropriate inquiry is

conducted; and recommend appropriate action to stop any harassing conduct and prevent further harassment. If the inquiry determines that harassment occurred, the agency will take immediate and proportionate corrective action.

The identity of the individual who submits a report, a witness who provides information regarding a report, and the target of the complaint, will be kept confidential with a thorough and impartial inquiry. Any information gathered as part of an inquiry will be kept confidential consistent with a thorough and impartial inquiry.

An individual who submits a report (either of harassment experienced or observed) or a witness who provides information regarding a report will be protected from retaliation. Any employee who retaliates against any individual who submits a report or provides information regarding a report will be disciplined appropriately.

All EXIM employees are responsible for exhibiting professional conduct and behavior in the workplace and cooperating in the enforcement of this policy. Individuals engaging in conduct or behavior that violates this policy may be subject to appropriate disciplinary action up to, and including, removal from Federal service.

It is an important goal at EXIM to maintain avenues for full participation in its mission to support American jobs by facilitating U.S. exports, and to hold true to our agency's values of: integrity, stewardship, accountability, inclusivity, and leadership.