

**“Passionate Partnerships”**  
Facilitating a Partnership Between HR, EEO and GC to Fulfill  
the MD-715 Goal of a Model Agency

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**Features of a Model EEO Program**

- Commitment from Agency Leadership
- Management and Program Transparency
- Proactive Prevention of Unlawful Discrimination
- Legal Compliance and Oversight
- EEO is a Part of the Agency Culture
- Efficiency



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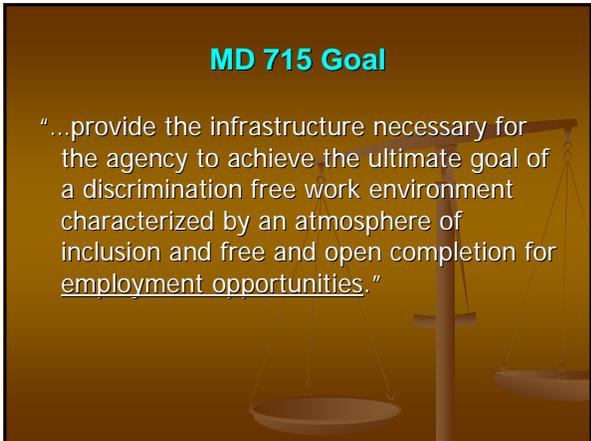
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**MD 715 Goal**

“...provide the infrastructure necessary for the agency to achieve the ultimate goal of a discrimination free work environment characterized by an atmosphere of inclusion and free and open completion for employment opportunities.”



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## Operative Word: Partnership

"A relationship between individuals or groups that is characterized by **mutual cooperation** and **responsibility**, as for the achievement of **a specific goal.**"

The American Heritage Dictionary

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## Human Resources Areas of Responsibility

- Recruitment and Staffing
- Benefits
- Training
- Labor/Employee Management Relations
- Classification

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## EEO Areas of Responsibility

- Affirmative Employment Programs
- Diversity Outreach
- Complaints Management
- Training
- Regulatory Compliance
- Diagnostic Reports

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## GC Areas of Responsibility

- Ensure timely compliance with complaint processing and EEOC reports.
- Ensure full and timely compliance with EEOC orders on relief and corrective action.
- Review findings of discrimination for appropriate disciplinary actions and for proactive prevention of future complaints.

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## GC Areas of Responsibility

- Provide legal guidance in developing and implementing plans to eliminate barriers/triggers in human capital policies and practices
- Provide input and guidance on the Development of the Table of Penalties
- Provide input and guidance on the development of Exit Interviews
- Provide input and guidance on the Development of Reduction in Force Policies and Plans
- Provide guidance to ensure that data collected for HR purposes are used and maintained appropriately for the purpose of developing and monitoring affirmative employment programs.

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## Top Three Common Areas of Discord

- "Turf" Battles
- Lack of Understanding
- Lack of Engagement

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### How Can We Partner?

- Identifying, sharing, and disseminating training opportunities throughout workforce
- Knowing workforce distribution in key categories (e.g., promotions, attritions, separations, awards, etc.) to advise Selecting Officials
- Using tracking systems that meet partners' needs, whenever possible
- Identifying, addressing, and developing and implementing plans to eliminate barriers/triggers in human capital policies and practices
- Developing Table of Penalties
- Developing Exit Interviews
- Developing Reduction in Force Policies and Plans

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### How Can We Partner Some More?

- Developing of Recruitment Plans (including SES)
- Developing of Recruitment Literature
- Developing of Targeted Recruitment Plans
- Developing Additional Metrics, as necessary
- Funding Recruitment Events, Advertisement, etc.
- Identifying Sources of Recruitment (Internal/External)
- Conducting Agency Census
- Partnering with EEO to choose members of Selection Panels'
- Sharing EEO complaint activities' metrics; examining and addressing root causes
- Working with the Unions, Special Emphasis and Employee Advocacy Groups

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### Role of Office of General Counsel in Addressing Identified Barriers under MD-715

- If a federal agency desires to develop numerical objectives or goals, the agency's General Counsel should carefully review the plan and provide recommendations.
- Before a federal agency uses ethnicity or race as a basis for an employment decision, the agency must satisfy strict scrutiny to ensure that the decision promotes "compelling" government interests and that it is "narrowly tailored" to serve those interests. Again, the agency's General Counsel should be a part of the planning and implementation process.

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**Will recent legal decisions affect the way we collect/review data under MD-715?**

- Short Answer – No
- There may be some changes in how identified barriers are addressed.
- The Ricci vs. DiStefano case will affect how agencies/employers who use testing address barriers. Agencies will need to be able to rule out other alternatives that it might have used to make its hiring and promotional decisions.

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**Ricci vs. DiStefano**

- In holding that the City's decision was racially discriminatory, the Court analyzed two principles that govern employers' actions in the racial discrimination arena: "disparate impact" and "disparate treatment." Under a "disparate treatment" analysis, it is unlawful for employers to treat people differently because of a protected characteristic without proper justification. Under a "disparate impact" analysis, employers are prohibited from engaging in practices that are not meant to be discriminatory but that in fact have a disproportionately negative effect on a protected group.

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**Bottom line....**

- *Ricci* will probably not affect the status of most diversity groups, awareness programs, anti-discrimination training sessions, and other actions in the workplace motivated by a protected characteristic that are designed to promote the inclusion and fair treatment of traditionally under-represented groups generally rather than remedy a particular situation of possibly disparate impact.

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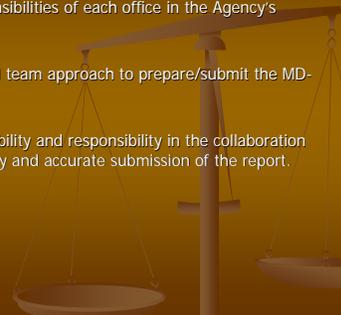
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### Collaboration Between HR, EEO and OGC “Best Practices”

- Understand roles/responsibilities of each office in the Agency's mission.
- Utilize a cross-functional team approach to prepare/submit the MD-715 Report.
- Vest equitable accountability and responsibility in the collaboration team members for timely and accurate submission of the report.



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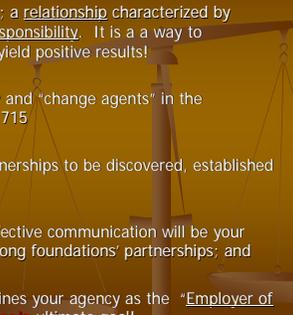
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### Summary

- Partnership is a way of life; a relationship characterized by mutual cooperation and responsibility. It is a way to accomplish goals that will yield positive results!
- HC, EEO, and OGC are key and “change agents” in the implementation of the MD 715
- There are many more partnerships to be discovered, established and effectively used!
- Open, transparent, and effective communication will be your best ally in establishing strong foundations' partnerships; and
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- Creating a culture that defines your agency as the “Employer of Choice” should be **everyone's** ultimate goal!



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