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POINT PAPER

30 August 2002

SUBJECT: The No FEAR Act

PURPOSE: Provide an introduction to the **Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002**.

FACTS:

- The No FEAR Act, P.L. No: 107-174, was enacted 15 May 2002.
- The effective date is 1 October 2003 (beginning of FY 04).
- The legislation grew out of a GAO report that the number of discrimination complaints filed by federal employees grew tremendously in the 1990's and a House investigation finding a "disturbing pattern of intolerance, harassment and discrimination at the EPA."
- The Act emphasizes notification of employees, increases the accountability of agencies, and establishes reporting requirements:
  - **Reimbursement Requirement:** Each Federal agency will be required to reimburse the Judgment Fund out of agency operating expenses for the payment of judgments, awards and settlements attributable to discrimination or to reprisal for whistleblowing or for the exercise of appeal rights.
  - Agencies have a "reasonable time" to reimburse the Judgment Fund and may extend payments over several years to avoid reductions in force, furloughs, reductions in pay or benefits, or an adverse effect on the mission of the agency.
  - In FY 2000, Federal agencies paid about \$26 million in discrimination complaint settlements and judgments

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during the administrative process; an additional \$43 million was paid out of the Judgment Fund.

- **Notification Requirement:** Federal employees and applicants must receive written notice of rights and remedies under anti-discrimination and whistleblower protection laws, the information must be posted on the Internet, and employees must receive training.
- **Reporting Requirement:** Each agency must submit an annual report to Congress including
  - the number and status of cases arising under anti-discrimination and whistleblower protection laws,
  - the amount of money required to be reimbursed in connection with each case,
  - agency policy relating to disciplinary actions against employees who discriminate or commit other prohibited personnel practices,
  - the number of employees disciplined,
  - year-end statistical data on the number and type of complaints filed, the processing time for complaints, and the number and type of final agency actions involving a finding of discrimination, and
  - an analysis of all such information.

The Act also requires GAO to study the effects of eliminating the requirement that Federal employees exhaust administrative remedies before filing complaints with the Equal Employment Opportunity Commission (EEOC) and the effects on Federal agency operations of the reimbursement requirements of the No FEAR Act and the Contract Disputes Act of 1978.

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