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January 5, 2022

Re: FOIA No.: **820-2021-008088**
396 Modernization Project Final Report

Your Freedom of Information Act (FOIA) request, received on 07/20/2021, is processed. Our search began on 08/19/2021. All agency records in creation as of 08/19/2021 are within the scope of EEOC's search for responsive records. The paragraph(s) checked below apply.

- [X] Your request is granted in part and denied in part. Portions not released are withheld pursuant to the subsections of the FOIA indicated at the end of this letter. The comments below explain the use of these exemptions in more detail.
- [X] You may contact the EEOC FOIA Public Liaison Michael L. Heise for further assistance or to discuss any aspect of your request. In addition, you may contact the Office of Government Information Services (OGIS) to inquire about the FOIA mediation services they offer.

The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, email at ogis@nara.gov; telephone at (202) 741-5770; toll free 1-877-684-6448; or facsimile at (202) 741-5769.

The contact information for the FOIA Public Liaison is as follows: Michael L. Heise, EEOC FOIA Public Liaison, Office of Legal Counsel, FOIA Division, Equal Employment Opportunity Commission, 131 M. Street, N.E., Fifth Floor, Washington, D.C. 20507, email to FOIA@eeoc.gov, telephone at (202) 921-2542; or fax at (202) 653-6034.

- [X] If you are not satisfied with the response to this request, you may administratively appeal in writing. Your appeal must be postmarked or electronically transmitted in 90 days from receipt of this letter to the Office of Legal Counsel, FOIA Division, Equal Employment Opportunity Commission, 131 M Street, NE, 5NW02E, Washington, D.C. 20507, email to FOIA@eeoc.gov; online at <https://eeoc.arkcase.com/foia/portal/login>, or fax at (202) 653-6034. Your appeal will be governed by 29 C.F.R. § 1610.11.

Sincerely,

Michael L. Heise, Esq.

Michael L. Heise
Assistant Legal Counsel (Acting)
foia@eeoc.gov

Applicable Sections of the Freedom of Information Act, 5 U.S.C. § 552(b):

Exemption(s) Used:

<input type="checkbox"/> (b)(3)(A)(i)	<input type="checkbox"/> (b)(6)
<input type="checkbox"/> § 706(b)	<input type="checkbox"/> (b)(7)(A)
<input type="checkbox"/> § 709(e)	<input type="checkbox"/> (b)(7)(C)
<input type="checkbox"/> § 107 of the ADA	<input type="checkbox"/> (b)(7)(D)
<input type="checkbox"/> § 207 of the GINA	<input type="checkbox"/> (b)(7)(E)
<input type="checkbox"/> (b)(4)	<input type="checkbox"/> (b)(7)(F)
<input checked="" type="checkbox"/> (b)(5)	

(b)(5)

Exemption (b)(5) to the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(5) (2016), as amended by the FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538, permits withholding documents that reflect the analyses and recommendations of EEOC personnel generated for the purpose of advising the agency of possible action. This exemption protects the agency's deliberative process and allows nondisclosure of "inter-agency or intra-agency memorandums or letters which would not be available to a party other than an agency in litigation with the agency." 5 U.S.C. § 552(b)(5). The exemption covers internal communications that are deliberative in nature. *National Labor Relations Board v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975); *Hinckley v. United States*, 140 F.3d 277 (D.C. Cir. 1998); *Mace v. EEOC*, 37 F. Supp. 2d 1144 (E.D. Mo. 1999). The purpose of the deliberative process privilege is to "allow agencies freely to explore alternative avenues of action and to engage in internal debates without fear of public scrutiny." *Missouri ex. rel. Shorr v. United States Corps of Eng'rs.*, 147 F.3d 708, 710 (8th Cir. 1998). Disclosure of preliminary assessments and opinions would create a chilling effect on the Commission staff's ability to freely and openly deliberate and discuss ideas, strategies, and recommendations, thereby impairing the Commission's ability to effectively and efficiently enforce applicable federal EEO laws by investigating charges and complaints, litigating and adjudicating cases, promulgating regulatory and sub-regulatory guidance, conducting outreach and education activities, and other related activities. Records may be withheld under this exemption if they were prepared prior to an agency's decision, *Wolfe v. Dep't of Health and Human Services*, 839 F.2d 768, 775, 776 (D.C. Cir. 1988) (*en banc*) and for the purpose of assisting the agency decision maker. *First Eastern Corp. v. Mainwaring*, 21 F.3d 465, 468 (D.C. Cir. 1994). See also, *Greyson v. McKenna & Cuneo and EEOC*, 879 F. Supp. 1065, 1068, 1069 (D. Colo. 1995). Records may also be withheld to the extent they reflect "selective facts" compiled by the agency to assist in the decision-making process. *A. Michael's Piano, Inc. v. Federal Trade Commission*, 18 F.3d 138 (2d Cir. 1994). An agency may also withhold records to the extent that they contain factual information already obtained by a requester through prior disclosure. See *Mapother, Nevas, et al. v. Dep't of Justice*, 3 F.3d 1533 (D.C. Cir. 1993).

DOCUMENTS WITHHELD PURSUANT TO EXEMPTION (b)(5) TO THE FOIA:

Page 18 of the document (pg 19 of 27): 14 lines redacted.

Page 19 of the document (pg 20/27): Page withheld in full.

Page 20 of the document (pg 21/27): Page withheld in full.

Page 21 of the document (pg 22/27): Page withheld in full.

Page 22 of the document (pg 23/27): 8 lines redacted.

Comments

This is in response to your Freedom of Information Act (FOIA), request. You request a copy of the April 2021 report issued to the EEOC Data Governance Board on the "396 Modernization Project". Your request is granted in part and denied in part.

Attached for your review is the 396 Modernization Project Final Report, dated April 2021 (27 pages).

For a full description of the exemption codes used please find them at the following URL:

<https://www.eeoc.gov/foia/freedom-information-act-reference-guide>

This response was prepared by Tracy L. Smalls, Government Information Specialist, who may be reached at Tracy.Smalls@EEOC.Gov or (202) 921-2541.

396 MODERNIZATION PROJECT FINAL REPORT

April 2021

EEOC's Office of Enterprise Data and Analytics

396 Modernization Project FINAL Report

EEOC'S OFFICE OF ENTERPRISE DATA AND ANALYTICS

INTRODUCTION

The Equal Employment Opportunity Commission (EEOC) Office of Enterprise Data and Analytics (OEDA) mission is to provide our customers timely, accurate and bias-free data and information. OEDA conducted the 396 Modernization Project, under the auspices of the EEOC Data Governance Board, to assess the current 396 data collection and reporting process as well as to improve and inform both efficiencies and innovation. A secondary goal of this project was to document the various components of the 396 data collection and reporting and provide a product that can serve as an internal reference.

The agency has used the 396 data collection and reporting processes ("the 396") since the 1980s. Its main purpose is to perform a quarterly review, reconciliation and verification of data in EEOC's Integrated Mission System (IMS) and to make accurate data available for reporting purposes. Each office's private-sector activity, mediation, hearings, systemic, and litigation data are archived in IMS.

The collection incorporates data from numerous sources, including staffing data from the Office of Field Programs (OFP) and the Office of General Counsel (OGC) as well as Fair Employment Practice Agency (FEPA) Workload 471 Reports, which are submitted through the 396 reporting process to OFP's state, local and tribal programs. This process is critical because it facilitates a systematic process to correct/validate and improve the quality of data collected in IMS and ultimately, it is used to provide official EEOC workload data and statistics.

The official data are used in many areas of reporting, including the creation of the statistics published on the **EEOC web site**. Official EEOC documents (e.g., Agency Congressional Budget Justification, Agency Performance Report and Agency Financial Report) and internal management reports rely on the data to inform leadership and decision-making. Agency leadership use the reports for workload management, resource allocations, analyses of trends, and development of projections as well as many other decision-making activities.

The 396 data collection and reporting processes involve offices and staff throughout the entire agency in many different roles and capacities. At EEOC headquarters, OEDA, OFP, the Office of

Information Technology (OIT), and OGC are involved in a variety of aspects in issuing guidance, verifying and reconciling submissions, and preparing consolidated report formats and content along with the systems needed to support the data collection, retention and analyses. In addition, district, field, area and local directors, as well as regional attorneys, deputy directors, enforcement managers, district resources managers, information technology (IT) specialists, program analysts and statisticians are also involved in the data review, reconciliation, and collection. EEOC official data is generated during the 396 process, with internal and external stakeholders consuming these data through various reporting products.

Given the range of staff with some level of involvement in the 396 data collection and reporting process, improved efficiencies could have a significant and positive effect on overall productivity. Technological advancements and changes in workload processing procedures and emphases today point to clear benefits to reviewing, modifying and streamlining the 396 process. Over time, data collection and reporting, however, has remained mostly unchanged.

The importance of data collection efficiency remains uncommunicated to field office staff who may believe that other office priorities suffer for no identifiable gain. The critical nature of construction of quality data is not currently being communicated in the present form of 396. Specifically, headquarters leadership and field office staff maintain differing ideas about the data collection process versus its implementation. Given this context, it is essential to conduct a critical review of the 396 reporting mechanism to identify opportunities to increase efficiency and decrease burden. This report presents findings from an assessment of the 396 data collection and reporting process, from information collected from various stakeholders across the agency.

HISTORY OF 396 DATA COLLECTION AND REPORTING

The 396 data collection and reporting began over 30 years ago. The EEOC needed a process to formally quantify its workload, which began with charge management reports, the precursor to the automated 396 reports we use today. In the 1980s, offices tracked charges from receipts through investigation and resolution using charge management reports. A manually produced paper balance sheet, including number and type (EEOC or FEPA charges), served as the accounting process before 1988. During the time of manual data collection, the office's data was typed and submitted to the Office of Program Operations (OPO), now OFP, and program analysts reconciled these paper reports before submitting the data to the staff responsible for data entry into EEOC's database.

After 1988, automation started with the UNIX-based Charge Data System (CDS). IT specialists entered the CDS data using handwritten forms prepared by staff. The Office of Research, Information and Planning (ORIP), formerly a division of OPO, would generate reports from the 396 report extracts—a dataset compiled and stored separately from the transactional system—where it remained unchanged. In 1996, OPO was renamed OFP, and ORIP became a separate, stand-alone department, separate from OFP. OFP establishes all administrative enforcement data requirements outlined in the guidance.

As charge processing and strategies, data collection, statutory laws and regulations evolved, the 396 reports and guidance document received appropriate adjustments. IMS, a transactional database that replaced CDS in FY 2001, documented the initial inquiry through intake and investigation to resolution. The new database required adaptations of the 396 reports, but very few changes have occurred since the initial adaptations.

The purpose of the 396 reports remains unchanged. The process provides the opportunity to reconcile and validate data in IMS, and make it available for reporting and management purposes. However, the data must still be reviewed, revised and reconciled at the field office level where staff subject matter experts know how the database should reflect their workloads. This process is time consuming and tedious, requiring checks of data fields, resolution of discrepancies, and manual updates in the system. What needs to be addressed now is making the process more efficient, mutually understood and beneficial to field office staff and headquarters management.

As we identify ways to modernize the 396 process, it is important to recognize that the process is a specific quarterly activity. However, reconciliation of data in IMS occurs year-round. OEDA is in contact with the field and OIT when data issues create obstacles in normal work activities. The formal 396 data collection process begins with a quarterly request for reconciled data issued from OEDA's Information Products Team (IPT) using guidance from OFP, OGC, Office of the Chief Human Capital Officer (OCHCO) and OEDA's Employer Data Team (EDT).

The guidance provides timeframes, parameters and other instructions, including updates to procedures and clarifications, for the preparation of quarterly data. This data is used to create summaries from each of the 53 field offices. The guidance is then circulated to headquarter offices for a comment period. During this period, the offices provide updates to the field on how to report based on current agency strategies and initiatives. Once comments and changes are incorporated, OEDA issues the guidance to the field, setting the reporting schedule for the quarter.

The automated 396 data collection system requires each field office to submit reports by archiving them to the IMS by the due date. Once reports are archived, they can only be unarchived by OEDA or OIT. Prior to archiving reports, field offices and OEDA work together to identify and correct errors in the database. Errors are corrected in IMS by the field offices and/or OIT. Again, while this activity is more formalized at this juncture, corrections are consistently made by field staff throughout the year based on reconciliation efforts.

There are many ways that data inconsistencies can occur in this model. For example, discrepancies in the count of open and closed charges may result from reopening charges, backdating issues (e.g., charge received in November, and receipt date is entered in February), etc. Field staff recognize correct and incorrect data, and therefore are best suited to correct data errors. Reconciliation of data ensures that discrepancies are identified and addressed by field staff and OEDA (formerly ORIP) during the monitoring process, with a focus on ensuring the integrity and accuracy of data used by the agency.

OEDA consolidates field office summaries into a single national summary. Selected agency managers receive this summary in the quarterly Data Summary Report (DSR). The DSR is a compilation of field office data, grouped by district, then nationally, providing a wide array of data that is used for assessing field performance, trends, and other key metrics. FEPA data is also included in the DSR. (Note: Since the time of this assessment, EEOC has discontinued the DSR and transitioned to the new quarterly Workload Quarterly Report, or WQR. To preserve the integrity of this analysis, the DSR is referenced.) OFP developed the approach to collecting data and using data to draft the guidance, which is shared quarterly with field offices to outline the process they should follow in submitting the 396 data reports.

Figure 1. 396 Flow of Data Collection

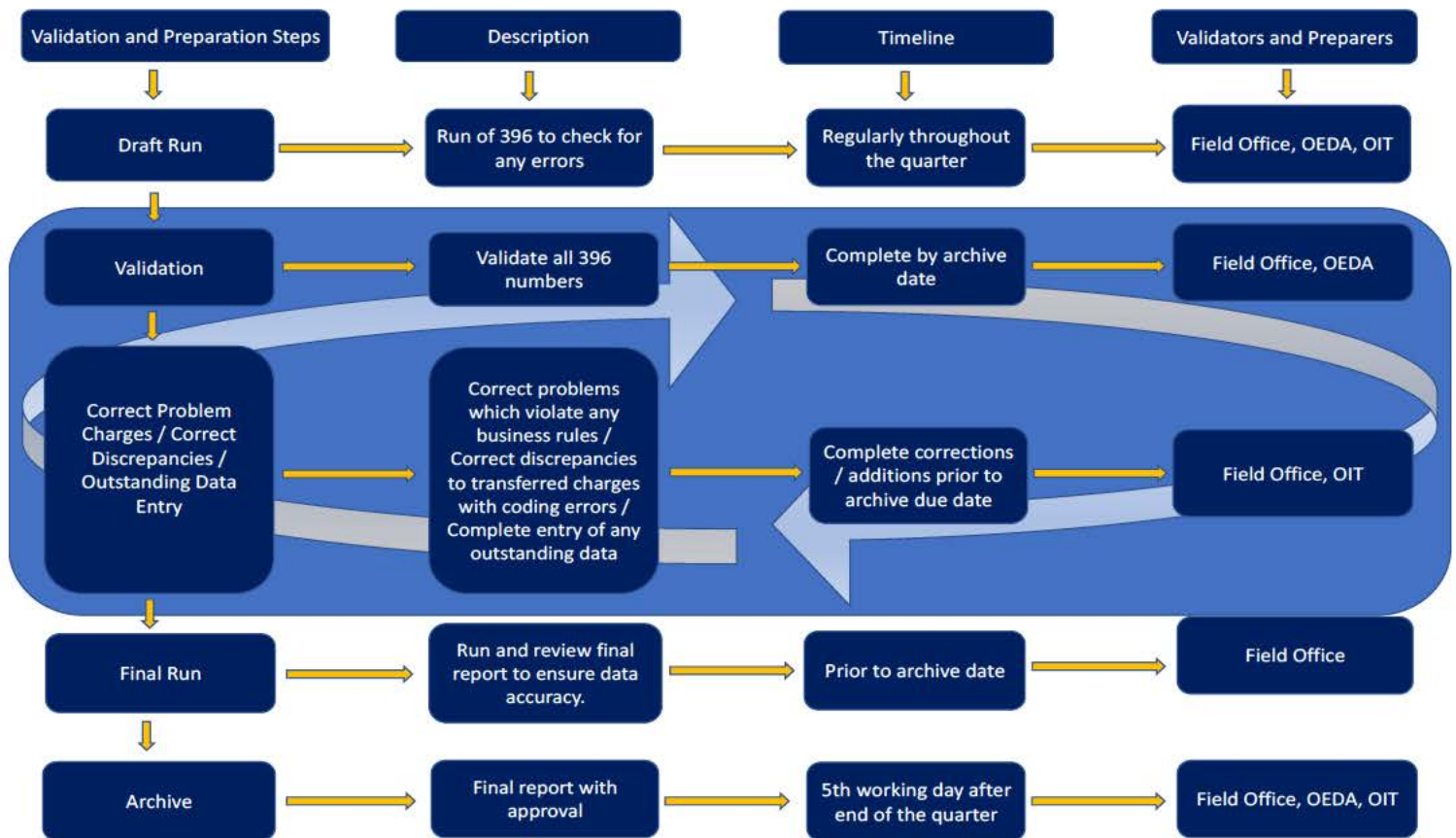


Figure 1 depicts the flow of data collection for the 396 report. Some parts of the process, such as validation and correcting problem charges/discrepancies, can occur anytime within the field offices, OEDA and OIT. However, corrections must be completed by the archive due date. (The deadline is usually the fifth working day after the end of the quarter). Much of the process involves running 396 reports multiple times to check and correct violations in business rules and coding errors, or missing data entry. Communication between the field offices, OEDA and OIT is usually necessary as the errors are researched and corrected.

Specifically, the validation step provides offices the opportunity to enter missing data, correct data with errors, and approve their final report. During this time, OEDA IPT contacts offices to address issues identified in the quarter prior to the reporting period during which IPT executes preliminary data runs on data that must be verified before the archiving deadline. This may involve or require consultation with OFP. The office workloads are combined to create the DSR, which includes district and nationwide totals. The existing process allows offices to “sign off” on their reported workload before submitting the results to headquarters.

Currently, the 396 process results in each office reporting the details on their own workloads. This includes charges entering the office workload (pending beginning, receipts, transfers in, reopened charges, and undeleted charges), charges leaving the office workload (pending end, resolutions, transfers out, and deleted charges), along with work products (onsite investigations, fact finding conferences for enforcement, mediation impasses and successful mediations, etc.), and detailed total benefit information (total dollars, total persons benefitted monetarily and non-monetarily, total dollars per benefit type, etc.).

Figure 2. Data Products and Reports

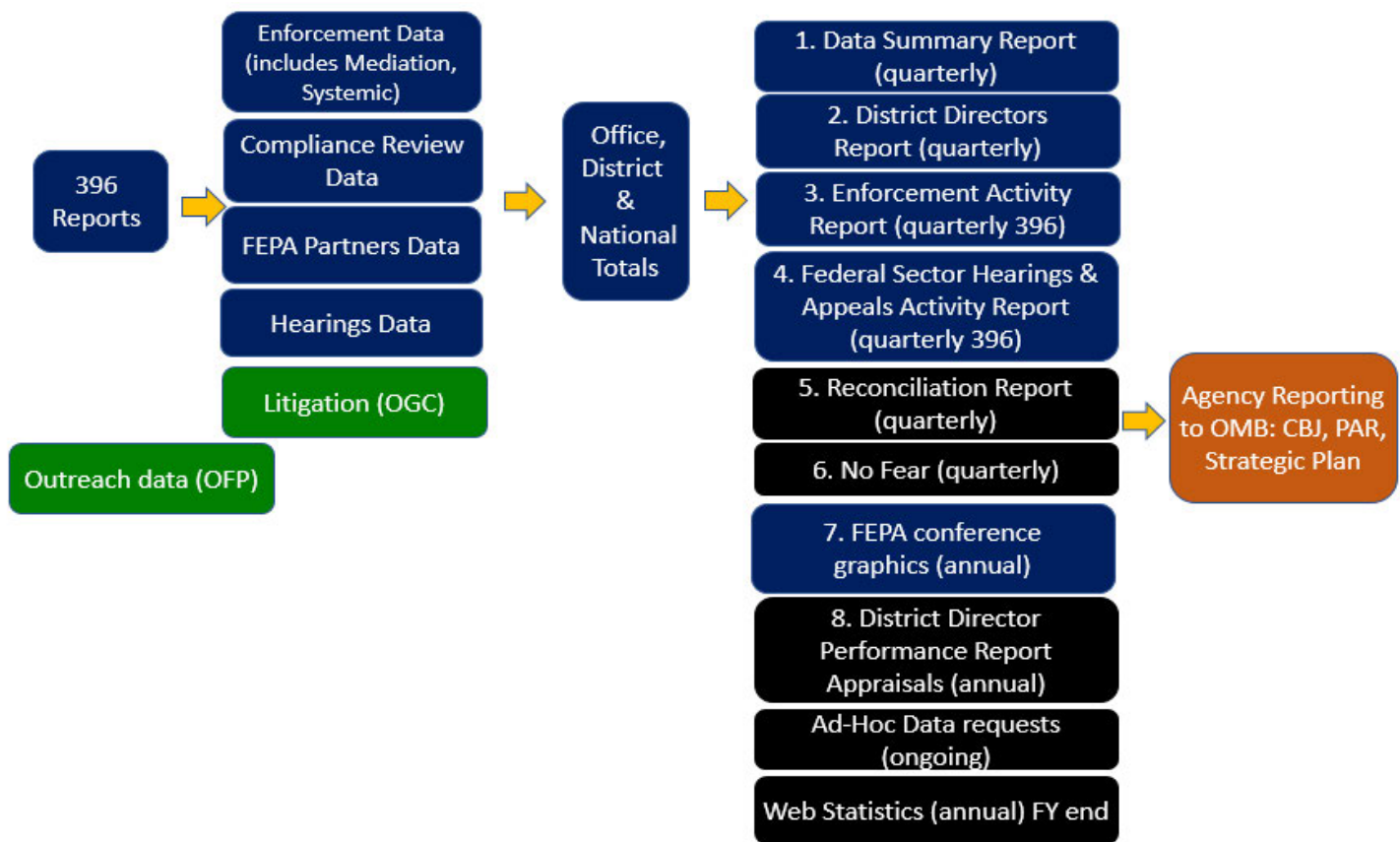


Figure 2 displays the data elements validated and submitted through the IMS 396 reporting process as well as the products that use the IMS 396 data.

Once OEDA ensures that charges have been entered accurately and conform to accepted business rules, the individual field office reports are combined to produce the overall data by office, district and nationwide. Select data resulting from the 396 process and compiled in the DSR are published on the [EEOC website](#) and in official agency reports to the Office of Management and Budget (OMB), the Congressional Budget Justification (CBJ) and the Agency Financial Report (AFR). EEOC decision-makers use this validated data to inform their actions. This data also serves as the source for responses to data requests received under Freedom of Information Act (FOIA) and from the media and other stakeholders.

Notes: The boxes above do not include all data products that are produced. Since the time of this assessment, EEOC has discontinued the DSR and implemented the quarterly Workload Quarterly Report, or WQR. The Enforcement and Hearings reports no longer to use 396 data (effective April 2021). To preserve the integrity of this analysis, however, the DSR and monthly reports are referenced here. The Reconciliation Quarterly Report is an internal report used by OEDA to support data verification and validation.

METHODS

The 396 modernization project began after a project summary presentation to the EEOC Data Governance Board and core project team members from OEDA, OFP and OIT in March 2019. The project was conducted in two phases:

- (1) historical information-gathering and inquiry, and
- (2) data collection (interviews, focus groups, survey).

An in-depth analysis and assessment followed the historical review and data collection.

Historical information-gathering and inquiry

Historical research and data collection were conducted between May and December 2019, and the analysis was completed between January and May 2020. OEDA conducted an informational interview in May 2019 with experienced staff who related the historical changes in case management reports, from tracking on paper before the late 1980s, to the more automated data summary reports in EEOC's UNIX-based CDS.

For this project, OEDA also requested and reviewed archive research completed by its Library and Information Services in May 2019. The historical background focused on the origins of the 396 report, changes over time, and any predecessor documents. Next, the core project team (OEDA, OFP and OIT members) identified stakeholders and coordinated the best method to capture stakeholder experiences.

Data collection

The team chose stakeholder interviews (August to September 2019), focus groups (October 2019) and an online survey (November to December 2019) as the methods to showcase stakeholder perspectives. EEOC staff of all levels were added to the invitation lists for these three methods, discussing the topics of 396 guidance, the data call, data collection processes, and the reports and products developed and disseminated afterwards by OEDA. Each method used consistent introduction and question wording. The introduction included definitions of the terms being used (for example, "396 guidance" or "396 data reporting and submission") to increase shared understanding during the interviews and focus groups.

Key stakeholder interviews

In August 2019, OEDA held mostly in-person interviews with seven senior EEOC staff and/or leaders. Each was provided an overview of the project along with a template of roughly 20 questions to gauge the participant's familiarity with the 396 processes. This semi-structured format was used to allow participants to explain their 396 roles in their own words and share additional information and feedback on other elements associated with the 396 process. For each topic, participants were asked to share what was working well, what challenges or areas of improvement exist, and how

much time and effort was involved in the 396 process. During the interview, individual participants would also be asked to suggest additional individuals from their office to participate in the focus group. Participants also received invitations to the survey. These interviews were transcribed and analyzed using NVivo software and data was assessed for broad trends, narrow themes and patterns.

Focus Groups

OEDA planned eight virtual focus groups on different dates in October 2019 with EEOC employees across the country. Two focus groups were planned for district directors, two for regional attorneys, two for IT specialists (field), and two for field, area, and local directors. Five focus groups were held in October with 45 EEOC staff participating. Key stakeholders and the core project team selected all participants. Invitations were sent to participants by email, grouped by job classification.

Two focus groups were held for district directors, one focus group was held for IT specialists, one for regional attorneys and one for field, area and local office directors. The focus groups were conducted via Skype, where participants had the option to dial in or participate using the desktop Skype platform. On the desktop version, participants had the ability to view the questions, definitions and documents (for example, 396 Guidance) from screen-shared MS PowerPoint slides. All focus groups were transcribed and analyzed using NVivo software. Data was then assessed for broad trends, narrower themes and patterns.

Survey

A cross-sectional online survey obtained feedback from EEOC employees who were involved (in any capacity) with the 396 reports. The core project team (OEDA, OFP, OIT members), key stakeholders (interviews), and results of the focus groups helped to identify candidates for the survey. The key stakeholders and focus group participants were also invited to take the survey. These same participants were encouraged to name any other employees in their offices who were involved in any part of the 396 data collection. A total of 157 EEOC employees were invited to take the survey between November 18, 2019 and December 13, 2019, including district directors, deputy directors, field, area and local directors, acting directors, district resources managers, mediators, administrative judges, enforcement managers, secretaries, office automation assistants and headquarters directors.

ANALYSIS AND ASSESSMENT

Historical Review

During the May 2019 review of its archive research, OEDA determined that when an office needed a certain type of data that was not available, requirements to collect that data were added to the 396 guidance document. Notably, the 1995 Priority Charge Handling Procedures (PCHP) was approved to triage charges where PCHP assigned a category based on the assessment of preliminary

information and evidence associated with the charge. The PCHP remained the current categorization standard during the research period, though it has been modified over the years.

The data collection process changed again when the mediation program was piloted in 1998 and fully implemented in 1999. In 2001-2002, IMS replaced CDS and allowed employees more direct and greater access to enter information about actions taken on the charges, from intake to resolution. This access contrasted greatly from the more previously limited access (e.g., data entry by field IT specialists, etc.).

EEOC's Library and Information Services were unable to find any formal definition or reference for the origin of the "396" term. However, they did confirm that "396 Report" is a term used as early as the 1980s that refers to the important metrics compilation that provides the basis for the quarterly report. The term "396" could be a reference to an early form used to compile data, or a rule, regulation or other authority that required the data.

Data collection

Data collection began with stakeholder interviews, followed by focus groups and surveys. The interviews and focus groups supplied themes that informed the survey questions.

Key stakeholder interview findings

- 1) *Interview participants perceive the 396 data reporting process as inefficient and time-consuming, in part because they do not have a clear understanding of the reasons for their efforts.*

Participants expressed that the process of reporting data is time-consuming. Although time and resources are dedicated to the submission of correct data in 396, the perception is that little to no helpful information is received after the dedicated effort. The nature of the tasks are time-consuming and due dates often coincide with other priorities or holidays, resulting in additional stress to staff. Participants suggest improving efficiency of the process, and better explaining the uses and importance of the data to make the process less burdensome.

Additionally, a lot of work is being done by OIT behind the scenes to make corrections and "clean up data" regularly, due to errors in the application, interactions between the legacy application and the newer database, or releases/updates. Errors are also reported by phone, email or ServiceNow when users run reports and notice that numbers are not matching. Errors include single charges having incorrect or missing information, user error (not understanding the business rules/process) and incorrect commitment of entered information.

Some fixes require research, manual entry, workarounds, approval, or repopulating information to make corrections. There are tips and tricks to doing the steps correctly, but they are neither shared nor consistently offered in training. Some offices try to make corrections before they submit their data for collection, and some submit their data with errors. Another factor is that, up until the due date, there are constant changes being made to the data. Since IMS is a live database, it is more difficult for OIT to make corrections because the data is being updated continuously.

2) ***Interview participants use the products that result from the 396 data reporting process.***

When asked about the data products and reports, some participants noted the usefulness of the information contained in the District Directors Report (DDR) and how DSR can be used to answer many questions. One interviewee appreciated “the directors report, because she finds the summary useful because it gives her a quick snapshot so she can take a look at where the agency is. She also noted the usefulness of the DDR in comparing offices of similar size and scope.

Another participant also said he regularly utilizes the products that result from the 396 data reported. He highlighted that he “is always eagerly awaiting the DSR data points” and utilizes the DSR to answer a number of questions. He said he is “surprised” by how often he gets questions that can be easily answered by the DSR, suggesting that the DSR is perhaps being underutilized by his colleagues.

3) ***Interview participants perceive the 396 products to be ineffective for their needs.***

Not everyone is satisfied with the 396 products for their needs. The DSR’s current format makes it difficult to parse out information, according to one stakeholder. As a recipient of the report, he indicated it offers field offices little assistance for inventory planning, management, case reviews, or status checks. One respondent said, “You end up with a book of data that you just put on the shelf.”

One interviewee cited a need for greater communication with the field offices to understand how each district submits data and to ensure submissions are provided error-free. He added, “Communicating differently might help the field with understanding how people look at this process and that others care about how they are doing and the result.”

To that end, a separate interviewee questioned the 396's accuracy because (1) staff has the ability to backdate certain records, (2) they have “trouble understanding requests for certain data/charges” with the removal of the action item requirement, and (3) they can massage data for reporting purposes.

Also, the inability to customize and manipulate the data left some interview participants dissatisfied. Currently, the DDR is released as a PDF to district directors and regional attorneys, but participants expressed interest in an MS Excel format. Further, some participants run their own reports or request help through OIT because the DSR does not provide them with information they find helpful.

What's important to note is that the DSR was never intended to be a sole document for participants to use for reporting purposes. It provides fixed data that meets the needs of some reporting functions, however there are other data repositories that provide a real-time approach to data fields.

One interviewee suggested offices want live data, and while certain reports are provided each week, data is not stored historically—“breaking down in quarters can help them make comparisons” and assess whether they're tracking against their goals.

Focus Groups

1) *Focus group participants perceive 396 data reporting as a tool for ensuring data accuracy.*

The focus groups—five groups with 41 employees participating—stressed the importance of the 396 process as their opportunity to “clean the data,” verify accuracy and resolve errors. Some participants explained how the 396 is a method for measuring progress and workloads and informing headquarters about how the field is doing. Some participants expressed discontent with the process and do not understand the usefulness. At minimum, they want to know if the process can be streamlined, offer some value or use to them, and require fewer resources.

Focus groups identified enforcement managers and IT specialists as the employees predominately managing or reporting the data. Many focus group participants noted that the staffing reports can be tedious and cumbersome, especially within the required time frames. Participants indicated concern for newer employees with less understanding of the process, due to lack of training and written guidance (though some offices have created their own guides). Participants also expressed a desire to better understand the

purpose of these tasks and the audience for the data. Participants explained the time and resource consuming nature of the process.

According to the participants, the most time-consuming component of 396 data reporting is data errors and corrections. Participants described the scenario of discovering mistakes as “getting a manager to contact somebody in headquarters and taking half the day to figure out what went wrong.” Some offices do not have designated IT employees and many participants expressed their crucial role in resolving problems created by 396.

Some participants must coordinate with other districts, offices or IT specialists for assistance. Participants know their problems can be fixed, but they must wait in line and fear a lack of IT assistance to go around. Many participants praised the assistance they do get, but suggested modifying the IT process to make more corrections locally. Generally, interviews with key stakeholders and focus groups found that employees involved with the process understand the importance of data integrity, but do not understand how the data is used to inform others.

2) *Focus group participants perceive 396 data reporting as a tool for measuring progress.*

Focus group participants defined 396 data reporting as a method for measuring progress and workloads. One participant explained “it is a reporting mechanism that lets headquarters know how we’re doing out in the field...it’s like a checkup.” Despite this participant’s statement, many participants were unfamiliar with products developed from the 396 data collection and reporting. District directors were familiar with the DDR, but only because they regularly received it. Participants indicated they would like to be included on the distribution list for reports because the information would be interesting and helpful for their work.

“I look at it as a workload planning tool. I kind of like that I can look at it on any given day and I can also look at it from a historical perspective to see what usually can happen in the future.”

- Focus Group Participant on 396 Reports

Some participants explained they rely on other reports or dashboards because they are more relevant, summarize the information they desire in a more digestible way and are generally more useful. Finally, focus group participants believe the reports can be improved and made more appealing than numbers and “just a bunch of data tables.” Other suggestions included changing to a different format like MS Excel or developing

easier to understand charts that show trends and other conclusive data.

3) *Focus group participants generally do not read the Guidance document in full.*

Echoing the key stakeholder interviews, the focus group participants explained they “skim” the 396 Reporting Guidance Document for changes, because most of the content is repeated from previous quarters. Some agreed the document is “just too long” and they don’t “use much of it.” One participant suggested adding a helpful “what’s new” section or creating a clickable table of contents to help locate sections relevant to their role in 396 reporting. The focus groups perceived the guidance document as outdated, citing references to documents from the 1990s. The complaints also addressed EEOC’s internal intranet, InSite, where the participants could not find the referenced documents and/or encountered broken links. The focus groups agreed they use the guidance document to view the deadlines and important dates.

Survey

Between November and December 2019, 82 participants completed the survey through the online Verint platform. Invitations were sent to 157 participants by email, and an additional eight participants were forwarded the invite (not on the original invite list). Eleven invitees were ineligible due to retirement (email invitations bounced back) and three invitees were ineligible because they self-identified as having no role in the 396 data collection and reporting. The survey participants had varied roles and a range of years of EEOC experience, as shows in the table below.

Table 1. Characteristics of EEOC Employees who Participated in the Survey

Participant Responses	Percent
Total Participants (N=82)	100%
Role at EEOC	
Supervisor/Management	64.6%

Table 1 displays the details of the survey participant characteristics. More than half were supervisors or managers (64.6%) and the rest identified as non-supervisors or non-managers (35.4%). More than eight out of 10 participants worked at EEOC more than five years (88.8%), and 11.3% worked at EEOC less than five years. The diverse sample of EEOC employees also shows self-reported length of time in their current role or position. More than half of the participants (53.7%) worked in their current role less than or equal to five years, 36.6% have been in their roles 6 - 20 years, and 9.8% have served 20 years or more, in their current roles. The table also displays time spent on the 396 process, divided into three categories for comparison. More than 75% of the participants spent an average of less than or equal to five hours a month on the 396 process (78.1%), compared to participants who spent more than five hours on the data collection and reporting (14.6%).

Non-Supervisors/Non-Management	35.4%
Length of Employment at EEOC (Years)	
<= 5	11.3%
6 - 20	43.8%
>= 21	45.0%
Length of Time in Current Role or Position (Years)	
<= 5	53.7%
6 - 20	36.6%
>= 21	9.8%
On average, amount of time spent on 396 data collection and reporting per month (Hours)	
<= 5	78.1%
> 5	14.6%
Not Involved with 396	7.3%

The survey participants who shared their title include (in order of frequency): IT specialists (20), field, area and local directors (11), district (and deputy) directors (7), enforcement managers (7), headquarters managers (6), secretaries and office automation assistants (5), and district resource managers (3). Other individual participants identified as regional attorney, mediator, and administrative judge and three directors who did not more specifically self-identify. Other participants with identifiable titles are not listed to maintain confidentiality.

The 29 survey questions included multiple choice (e.g., select one answer or select multiple answers) and open-ended questions. OEDA generated descriptive statistics using SAS software.

The survey highlighted the disconnect between the current reporting process and the usefulness, purpose and importance of the validated data. The questions revolved around three main topics: the 396 Reporting Guidance Document, 396 data collection, and the data products that are created after the data is submitted.

1) Most survey participants use the 396 Reporting Guidance Document, but half are not familiar with the resulting data products and reports.

Most participants (82%) were involved with 396 data reporting and indicated that they were familiar with the 396 Reporting Guidance Document (82%), but only 32% were familiar with the associated data products and reports. Fifty-three percent (53%) of the survey respondents were not familiar with the data products, and 15% chose “not sure.”

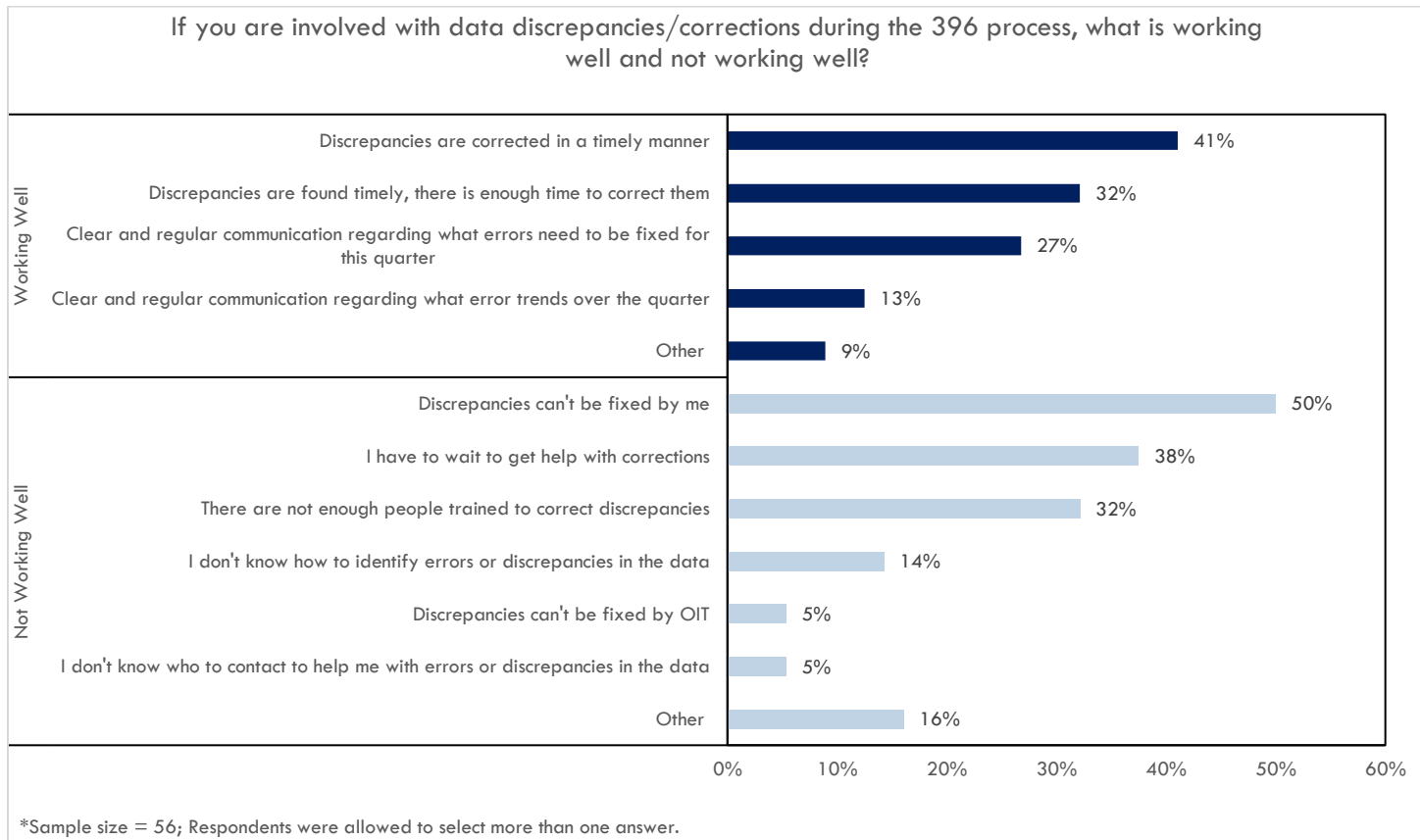
Of the 25 respondents familiar with the data products and reports (created after the 396

data collection), familiarity ranged by report:

- a) Enforcement Activity Report - 44%
- b) District Directors Report - 52%
- c) Data Summary Report and Fact Sheet - 24%
- d) Reconciliation Report - 56%
- e) Federal Hearings and Appeals Activity Report - 24%, and
- f) WebStats on EEOC.gov (20%).

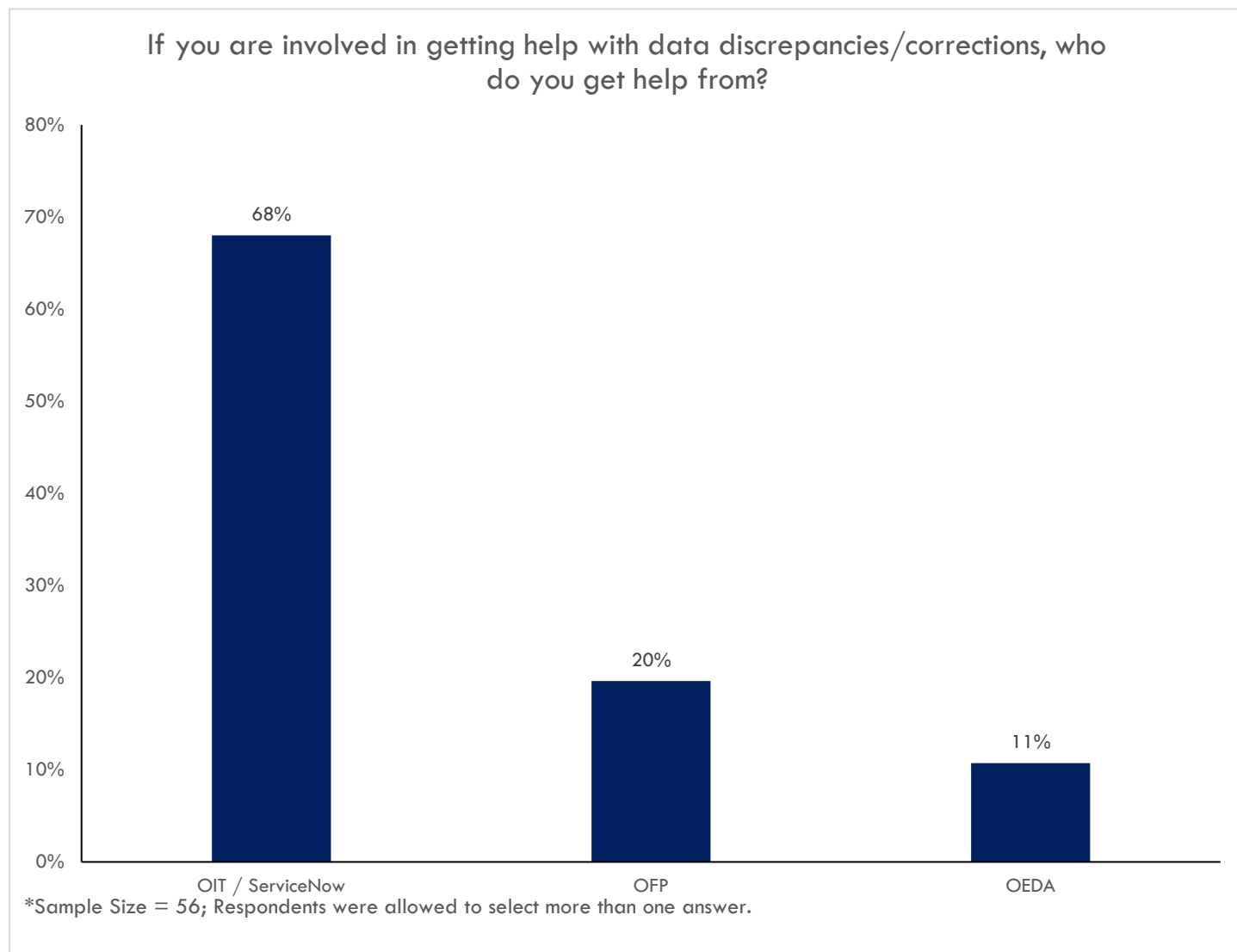
2) *Most respondents don't think the 396 Data Collection is straightforward or adequately supported.*

When those involved with the 396 data collection and reporting were asked what was working well, most participants indicated they are able to run reports quickly or timely (62%). Fewer responded that the process helps with regularly checking data errors or inaccuracies (46%). Only 35% thought the process is straightforward or easy, and even fewer (24%) indicated they thought the process is adequately supported by headquarters. The responses for “what is working well” also reflect the frustration with this part of the process.



Access to an IT specialist is strongly correlated with feeling that the process is supported because 100% of the respondents who believe the process is adequately supported by headquarters have an IT specialist. Respondents were more likely to say the process is straightforward or easy (71%) if they had an IT specialist, compared to 29% who did not have an IT specialist for support.

Figure 4. Who do employees get help from, if they are involved in correcting data discrepancies? (survey responses)



Additionally, 69% of respondents with an IT specialist said they were able to run reports regularly or in a timely fashion, compared to 31% who did not have an IT specialist for support. As the survey results show above in Figure 4, most (68%) employees rely on OIT/ServiceNow to help when making corrections to data discrepancies, 20% seek help from field office contacts, and 11% reach out to OEDA.

As detailed in figure 5, though most employees spend fewer than 4 hours on the 396 data collection each quarter, some employees spend more than 10 hours.

Figure 5. Hours Spent on 396, per Quarter, per Participant (survey responses)

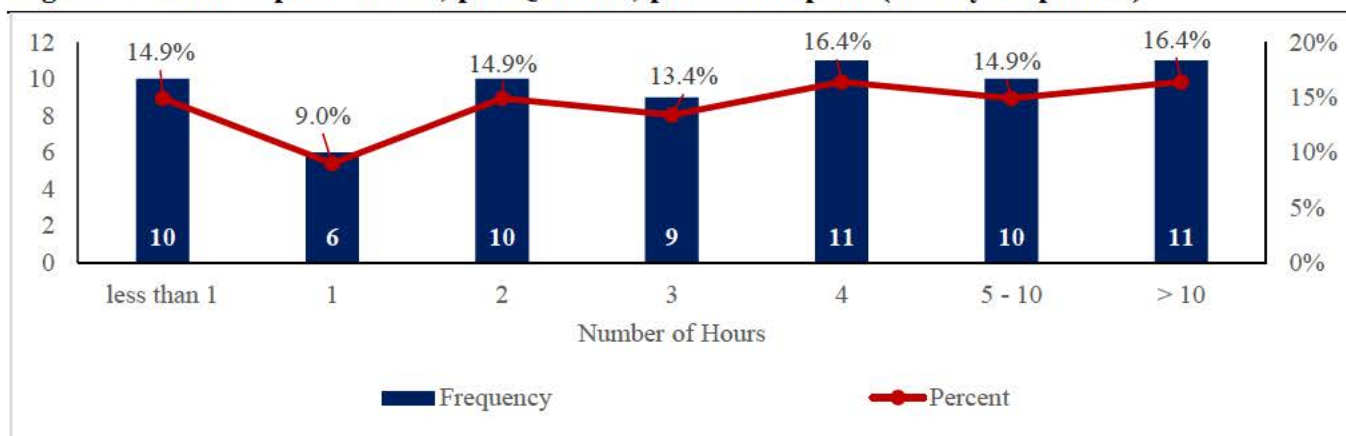


Figure 5. The above graph displays the number and percentage of participants reporting how many hours they individually spend on the 396 process each quarter. Overall, of those who are involved with 396 data collection and reporting, 69% spend 5 hours or less each quarter on the data collection and reporting processes, and 31% spend more than 5 hours each quarter. Of the 43 supervisors and managers involved, 11 (26%) spend more than 5 hours each quarter. Of the 24 non-supervisors or non-managers involved, 9 (38%) spend more than 5 hours each quarter on the reporting process.

CONCLUSION

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APPENDIX

Definitions

396 – 396 is a “catch-all” term that refers to a quarterly process and set of reports.

396 data collection and reporting (or, data reporting and submission) - a quarterly procedure that starts with updating and sending the 396 guidance document and ends with data validation and distribution of reports.

396 guidance - a document sent out before the end of the quarter to contacts in all field offices reiterating or introducing parameters for reporting select categories of data.

Action – an event on a charge which shows work done, information on where the charge is (office, function, and unit), or who is working on it.

Archive – The term used for signing off on and submitting an office’s quarterly reports and data.

Contract 471 – a report showing the overall workload of each contract for each FEPA in an office or district; although this report does show some charge information, it mostly shows contract information (credit requested/granted, substantial weight reviews, etc.).

Data Governance Board (DGB) – a group of senior leaders in EEOC who focus on improving data governance within the agency.

Data Summary Report (DSR) - a product of the 396 process. This is an administratively restricted to agency headquarters senior leaders report compiled from office, district and national data showing overall administrative enforcement workload by major indicators.

District Directors Report - a compilation of data distributed to field directors pulling from the DSR 396 data as well as data provided from headquarter program offices.

Extracts - a set of data that is compiled and stored separately from the transactional system so that it does not change.

Field Office (Users) – refers to users in the field who use the 396 tools, run the 396 reports, and validate the charges; offices differ but this usually includes ADR coordinators, enforcement managers, and IT specialists. In some offices, a director, an investigator, mediator, or other staff are designated to manage 396 reports.

Function – a term which refers to a sector of work or a group of staff which do work on a specific sector. These sectors include Intake/Charge Receipt (CRITU), Enforcement, ADR Process/Mediation, Systemic, State and Local, Legal, and others.

Integrated Mission System (IMS) – the Integrated Mission System and IMS NextGen comprise the portals and applications which make up the EEOC mission critical systems for storing charge data, hearings data, Litigation data, and Outreach data.

Mediation – refers to the agency’s Alternative Dispute Resolution (ADR) program. Each district and most offices have a unit devoted to mediation of the eligible charges in their office.

Mediation 396 – a quarterly report showing workload and work products for each office’s mediation unit.

OEDA – EEOC Office of Enterprise Data and Analytics. Refers to the staff in OEDA who deal directly with the quarterly 396 and DSR.

OIT – EEOC Office of Information Technology. Refers to the staff in OIT who respond to helpdesk requests regarding problem charges, discrepancies, and 396 problems.

Private-Sector Activity 396 (PSA 396) – the quarterly report which shows workload and work products for each office’s Private sector including intake, systemic, class, enforcement, and ADR functions.

Processing Category – Under the Priority Charge Handling Procedures (PCHP), the level of investigation varies based on the categorization (processing category) of the charge. Under the PCHP, Category “A” charges, including “SA,” are identified as having potential merit and will be investigated receiving priority treatment; Category “B” charges are identified as requiring additional investigation and will be investigated to determine their merit; and Category “C” charges are identified as being suitable for dismissal and will be dismissed without further investigation.

Reconciliation – The process that includes collaboration between field offices, OIT, and OEDA to identify and correct errors in IMS. OEDA performs automated and manual data reviews to identify errors and coordinates correction with field offices and OIT. Field offices perform their own checks and make corrections as needed.

Systemic – the agency’s program for focusing on charges which have a wider impact or are related to system wide discrimination.

Systemic 396 – the quarterly report which shows workload and work product for each office’s systemic program to include systemic, class systemic, pattern and practice systemic, and directed charges.

Validate – a process by which reports are used to both find and correct business rule violation and poor data entry.