

**§ 28.95**

**4 CFR Ch. I (1–1–04 Edition)**

(3) Quarterly statistical reports of pre-complaint counseling and of pending complaints, in a manner prescribed by the Board;

(4) An annual report on its equal employment opportunity affirmative action program and its Federal Equal Employment Opportunity Recruitment Program; and

(5) Any other information regarding equal employment opportunity within the GAO that may be required by the Board, in the time frame and format established by the Board after consultation with the Comptroller General or his or her designee.

(b) The Board shall review and evaluate the regulations, procedures and practices of the GAO, including the information filed with it in accordance with paragraph (a) above, and shall:

(1) Require the GAO to make any changes the Board determines are needed due to violations of or inconsistencies with Subchapters III and IV of Chapter 7 of Title 31, U.S.C. or equal employment opportunity laws, and

(2) Report to the Congress on the overall progress being made in effectuating the purposes of Subchapters III and IV of Chapter 7 of Title 31, U.S.C.

**Subpart D—Special Procedures; Equal Employment Opportunity (EEO) Cases**

**§ 28.95 Purpose and scope.**

The procedures in this subpart relate to charges filed against any GAO policies or specific actions which are alleged to involve prohibited discrimination. Prohibited discrimination is defined as any action in violation of:

(a) Section 717 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-16), prohibiting discrimination based on race, color, religion, sex or national origin;

(b) Sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a) prohibiting discrimination on account of age;

(c) Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), prohibiting discrimination in wages on the basis of sex;

(d) Title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) and sections 501 and 505 of the Re-

habilitation Act of 1973 (29 U.S.C. 791, 794a) prohibiting discrimination on the basis of disability; or

(e) Any other law prohibiting discrimination in Federal employment on the basis of race, color, religion, age, sex, national origin or disability. 31 U.S.C. 732(f)(2).

[58 FR 61992, Nov. 23, 1993, as amended at 68 FR 69302, Dec. 12, 2003]

**§ 28.96 Applicability of general procedures.**

Except where a different procedure is provided for in this subpart, the procedures to be followed by all parties in cases arising under this subpart shall be the general procedures as prescribed in subpart B of this part.

**§ 28.97 Class actions in EEO cases.**

(a) Prior to invoking the Board's procedures in a case alleging prohibited discrimination on behalf of a class of GAO employees or applicants for employment, a complaint must first be filed with GAO in accordance with GAO Order 2713.2.

(b) An appeal from GAO's disposition of any EEO class complaint may be submitted to the Board at the following times:

(1) Within 20 days of receipt of a GAO determination rejecting or canceling the class complaint;

(2) Within 20 days of receipt of a GAO determination accepting the class action, but with modifications that are not satisfactory to the agent of the class;

(3) When a period of more than 180 days has elapsed since the formal class complaint was filed and the GAO has not issued a final decision; or

(4) Within 20 days of receipt of a final GAO decision resolving the complaint if that decision, in whole or in part, has not satisfied the agent for the class.

(c) In EEO class actions, employees shall not file charges with the Board's Office of General Counsel and that Office shall not undertake an independent investigation of a class complaint that has been filed with GAO. However, the General Counsel may request permission to intervene with regard to any issue in which the General