TO THE IMLS STAFF AND APPLICANTS FOR FEDERAL EMPLOYMENT

FROM: Susan H. Hildreth SHH
Director

DATE: November 13, 2014

RE: INSTITUTE OF MUSEUM AND LIBRARY SERVICES
NO FEAR ACT NOTICE

On May 15, 2002, Congress enacted the ``Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," which is now known as the "**No FEAR Act**." One purpose of the Act is to ensure that Federal agencies are accountable for violations of antidiscrimination and whistleblower protection laws. In support of this purpose, Congress found that ``agencies cannot be run effectively if those agencies practice or tolerate discrimination." Public Law 107-174, Section 101(1), 116 Stat. 566.

The Act also requires each Federal agency to provide this notice to Federal employees, former Federal employees and applicants for Federal employment to inform them of the rights and protections available to them under Federal antidiscrimination, whistleblower protection, and retaliation laws.

Antidiscrimination Laws

A Federal agency cannot discriminate against an employee or applicant with respect to the terms, conditions or privileges of employment on the basis of race, color, religion, sex, national origin, age, disability, marital status or political affiliation. Discrimination on these bases is prohibited by one or more of the following statutes: 5 U.S.C. 2302(b) (1), 29 U.S.C. 206(d), 29 U.S.C. 631, 29 U.S.C. 633a, 29 U.S.C. 791 and 42 U.S.C. 2000e-16.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin or disability, you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action, before you can file a formal complaint of discrimination with the agency. See, e.g., 29 CFR part 1614. If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO counselor as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 calendar days of the alleged discriminatory action. If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) at 1730 M Street, N.W., Suite 218, Washington, DC 20036-4505 or online through the OSC Web site--

http://www.osc.gov. In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through the agency's administrative or negotiated grievance procedures, if such procedures apply and are available.

Whistleblower Protection Laws

A Federal employee with authority to take, direct others to take, recommend or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. 2302(b) (8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC-11) with OSC at 1730 M Street, N.W., Suite 218, Washington, DC 20036-4505 or online through the OSC Web site www.osc.gov.

Retaliation for Engaging in Protected Activity

A Federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protection laws listed above. If you believe that you are the victim of retaliation for engaging in protected activity, you must follow, as appropriate, the procedures described in the Antidiscrimination Laws and Whistleblower Protection Laws or, if applicable, the administrative or negotiated grievance procedures in order to pursue any legal remedy.

Disciplinary Actions

Under the existing laws, each Federal agency retains the right, where appropriate, to discipline a Federal employee for conduct that is inconsistent with Federal Antidiscrimination and Whistleblower Protection Laws, up to and including removal. If OSC has initiated an investigation under 5 U.S.C. 1214, however, according to 5 U.S.C. 1214(f), agencies must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination.

Additional Information

For further information regarding the No FEAR Act regulations, please refer to 5 CFR part 724. You may also contact the appropriate offices and officers within the IMLS (e.g., EEO Program Director, Office of Human Resources, or the Office of the General Counsel). Additional information regarding Federal antidiscrimination, whistleblower protection and retaliation laws can be found at the EEOC Web site--www.eeoc.gov and the OSC Web site--www.osc.gov.

Existing Rights Unchanged

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands or reduces any rights otherwise available to any employee, former employee or applicant under the laws of the United States, including the provisions of law specified in 5 U.S.C. 2302(d).