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FEDERAL CONTRACT COMPLIANCE ACTIVITIES

HEARINGS

BEFORE THE

SUBCOMMITTEE ON FISCAL POLICY

OF THE

JOINT ECONOMIC COMMITTEE

CONGRESS OF THE UNITED STATES

NINETY-THIRD CONGRESS

SECOND SESSION

SEPTEMBER 11 AND 12, 1974

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FEDERAL CONTRACT COMPLIANCE ACTIVITIES

WEDNESDAY, SEPTEMBER 11, 1974

CONGRESS OF THE UNITED STATES,
SUBCOMMITTEE ON FISCAL POLICY OF
THE JOINT ECONOMIC COMMITTEE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room S–407, the Capitol Building, Hon. Martha W. Griffiths (chairman of subcommittee) presiding.

Present: Representative Griffiths.

Also present: Lucy A. Falcone, Sharon S. Galm, Martha G. Grundmann, and Katharine H. Conroy, professional staff members; and Michael J. Runde, administrative assistant.

OPENING STATEMENT OF CHAIRMAN GRIFFITHS

Chairman GRIFFITHS. As chairman of the Subcommittee on Fiscal Policy, I have called these hearings to discuss the findings of an investigation conducted by the General Accounting Office on the effectiveness of Government efforts to fight discrimination. During our hearings last year on the economic problems of women, we received ample documentation that, despite Federal laws and Executive orders prohibiting sex discrimination in employment, there has been little improvement in the economic status of women in the marketplace. In most cases, the occupational distribution of jobs is as sexist as it was 15 years ago. And in that same period, women's earnings as a percent of men's earnings have actually declined, from 64 percent to 57 percent.

Without any further evidence, these statistics would suggest an overwhelming failure on the part of the Federal Government to carry out its mandate. However, the study prepared for this subcommittee by the GAO presents a documented indictment of the Department of Labor's performance in implementing Executive Order 11246 as amended. The Executive order prohibits discrimination on the basis of race, sex, and other criteria by those business firms who either bid for or actually hold Federal contracts. I have long believed that this is potentially one of the Government's strongest tools in its efforts to bring about equal employment opportunity. In the last year alone the Federal Government purchased over $50 billion worth of goods and services. The force which it could exercise in reducing discrimination among those firms which vie for 50 billion dollars' worth of business is tremendous.

Yet, the Government's effort, as directed by the Labor Department's Office of Contract Compliance, can only be described as puny. To mention only a few of the most blatant failures of the program.

1. The Federal Government does not even have a means of identifying all of its own contractors. It is now considering asking an outside firm to prepare for it a listing of all Government contractors. Undoubtedly, they would lose the name of that firm, too, if they let the contract. First, I cannot imagine any private business which would not be able to immediately identify all of the firms it does business with, and second, I question how the Federal Government can do an adequate job of enforcing the Executive order, when, in many cases, it does not even know for whom it is looking.

2. The Office of Federal Contract Compliance is charged with monitoring 11 other agencies which actually review contractors' affirmative action plans and determine whether or not these contractors are complying with the Executive order. During the course of its 9-month investigation, the GAO reviewed 120 of these affirmative action plans and found that almost half of these did not meet criteria established by the Department of Labor. Yet, in the past 2 years, the Office of Federal Contract Compliance has reviewed only 15 approved plans. It appears that these reviews were undertaken only because of complaints from private individuals or public interest groups, and not because OFCC was exercising its monitoring function.

3. The compliance agencies have a number of measures at their disposal for enforcing the Executive order. If a contractor is not in compliance by virtue of an inadequate affirmative action plan, the agency can issue a show-cause notice, requiring correction of the deficiency within 30 days. Furthermore, if the contractor refuses to correct the deficiency, the agency can terminate his contract with the Federal Government. Neither of these measures has been adequately used by the agencies. In the last 3 years, of all the reviews conducted by compliance agencies, only 1.3 percent have resulted in the issuance of show-cause notices. As GAO concluded, this is due not to the fact that most contractors were in compliance but to the fact that the agencies are simply reluctant to impose justified sanctions. Secondly, during the whole history of the compliance program for nonconstruction industries, only a single contract has been terminated, and this, because the owner of a small envelope company failed to show up for a hearing.

These are only a few examples of the problems which GAO uncovered during its investigation. Without further delay, I would like to ask Mr. Ahart to present his findings to the subcommittee. First, I want to congratulate you and your staff, Mr. Ahart, for an excellent study. I cannot say too often that you really are the favorite agency of every Congressman. The data which you have compiled and the conclusions you have reached will aid not only the Joint Economic Committee, but other committees of Congress which have the responsibility of overseeing these agencies and approving their budgets, and also the many public interest groups which are working to bring about equal employment opportunity. Above all, I hope that your findings and recommendations will act as a stimulus to OFCC and the compliance agencies to improve their performance in carrying out Executive Order 11246.

In order to allow OFCC and the compliance agencies to respond to the GAO's findings, the subcommittee has asked their representatives to present testimony today and tomorrow. At 11 o'clock, we will hear from Mr. Edward Mitchell of GSA. Tomorrow, we will receive testimony from OFCC, DOD, and HEW.

Mr. Ahart, please proceed in any way you wish. In the interest of having sufficient time for questions, I ask that you limit your oral statement to about 15 minutes. The entire prepared statement will be printed in full in the record.

Thank you; you may proceed.

STATEMENT OF HON. GREGORY J. AHART, DIRECTOR, MANPOWER AND WELFARE DIVISION, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY FRANKLIN A. CURTIS, ASSOCIATE DIRECTOR; BEN COX, SUPERVISORY AUDITOR; AND JAMES SPANGENBERG, ATTORNEY-ADVISER, OFFICE OF GENERAL COUNSEL

Mr. AHART. I would like to introduce my associates at the table. At my immediate right is Mr. Franklin Curtis, Associate Director, Manpower and Welfare Division, General Accounting Office; Mr. Ben Cox, Supervisory Auditor for that Division; and on my left is Mr. James Spangenberg, from our Office of General Counsel.

We are pleased to be here today to discuss the information which resulted from our review which was undertaken at this subcommittee's request.

The review, which is still underway, is being directed toward an evaluation of compliance agencies' efforts in implementing OFCC guidelines for conducting compliance reviews and complaint investigations, the application of enforcement measures available to compliance agencies, OFCC's guidance to the Federal agencies assigned compliance review responsibility for nonconstruction contractors, and the coordination of compliance review and compliant investigation activities between OFCC and the Equal Employment Opportunity Commission.

Our audit work is being concentrated at OFCC and at two of the largest compliance agencies, the General Services Administration and the Department of Defense. At each of these agencies we are performing audits in connection with the Federal contract compliance program.

We did, as you have cited in your opening statement, find a number of weaknesses in the administration of the program.

The first area to be covered is compliance agency implementation of OFCC's guidance. We find that they are not adequately implementing the guidelines prescribed by the Secretary of Labor and the OFCC. More specifically, only 1 of the 13 compliance agencies has identified all the contractors for which it is responsible. And that one exception was NASA.

Some compliance agencies are not always performing the required preaward reviews.

Most compliance agencies are making periodic compliance reviews at only a small percentage of the total number of estimated contractor facilities for which they are responsibile.

DOD and GSA are approving contractors' AAP's, although these AAP's do not meet OFCC's guidelines, and sanction actions prescribed by the Executive order for noncompliance are seldom imposed.

Officials of GSA and DOD, at the three regions we visited, advised us that they did not have complete information showing all contractor facilities in their regions for which they are responsible.

The headquarters officials at 12 of the 13 nonconstruction compliance agencies gave us similar advice.

As I mentioned, NASA is the exception. They have had a unique situation. They are no longer a compliance agency since August 1, but they were able to identify their contractors because, rather than having a standard industry code responsibility, they were responsible only for NASA contractors at facilities close to NASA installations.

If a compliance agency is unaware that a particular business firm is a Government contractor subject to the requirements of the Federal contract compliance program, it will obviously not review the contractor to determine if it is in compliance.

Concerning preaward reviews, the Department of Labor regulations require that before an agency awards a contract of $1 million or more, the awarding agency must first assure itself that a compliance review of the contractor has been performed within the preceding 12 months and that it was determined that the contractor was in compliance with all provisions of the contract compliance program. If the compliance agency has not performed a compliance review of the contract within the preceding 12 months, preaward clearance may not be granted unless the compliance agency performs a preaward review and finds the contractor in compliance.

In some instances compliance agencies are granting preaward clearances without having performed the required compliance reviews and in other instances contracting officers are apparently awarding contracts in excess of $1 million without requesting a preaward clearance from the responsible compliance agency.

I might cite one example. We selected for review six requests by DOD for preaward clearance received by the Department of the Interior during calendar year 1973. The Department of the Interior issued preaward clearance to DOD in all six instances. Our review showed, however, that in four of the six instances, Department of Labor requirements for preaward reviews were not followed. In these four instances, the contractors had not been reviewed during the preceding 12 months, and a preaward review was not performed.

A Department of the Interior compliance official stated that when a request for preaward clearance is received, a preaward review is not performed even though the prospective contractor had not been reviewed during the preceding 12 months. He stated that preaward clearances are withheld only if there are outstanding show-cause notices against prospective contractors.

I turn now to the number of contractor facilities being reviewed. Again, with one exception, NASA, the compliance agencies are performing compliance reviews at a relatively small percentage of the estimated total number of contractor facilities for which they are responsible.

We have included in my prepared statement, Madam Chairman, a table[1] which shows the performance by each of the 13 compliance agencies in this regard, and percentages of the estimated contractor facilities which were reviewed.

As the table shows, 8 of the 13 nonconstruction compliance agencies reviewed less than 15 percent of their contractor facilities and four agencies reviewed 17 to 28 percent of their contractor facilities in fiscal year 1973.

During fiscal year 1973, about 45 percent of the compliance reviews performed were followup reviews on contractors which had previously been reviewed. Now, this might cause some kind of a problem because many of the reviews are followup reviews, and unless the compliance inspection efforts are increased, many of the other contractors that have not been visited may not be reached.

The contract compliance program centers around the compliance review. Without performing compliance reviews, compliance agencies cannot be certain that contractors are making good faith efforts to meet their equal employment responsibilities under the Executive order and implementing guidelines.

The review of affirmative action programs is often the focus of a compliance review. The compliance review is the basis for approval or rejection of the affirmative action program. We selected for review a random sample of 120 programs approved during the first 9 months of fiscal year 1974. These included 20 approved by each the Department of Defense and the GSA in each of the three regions reviewed.

We analyzed these programs to determine if they met the requirements for acceptable affirmative action programs as established by the Office of Federal Contract Compliance.

Based on our analyses, we believe that 42, or 70 percent, of the 60 GAS-approved AAP's, and 12, or 20 percent, of the 60 DOD-approved AAP's did not meet OFCC's guidelines and should not have been approved.

In a majority of these cases GSA and the Department of Defense regional officials agreed with us.

Again, I have included a table[2] in my prepared statement which shows by region the results of our review of the affirmative action programs.

As I will discuss later, we do not believe that OFCC has adequately monitored the implementation of the Executive order by the compliance agencies. If OFCC had been adequately monitoring and supervising the compliance agencies, we believe it is likely that the failure of GSA and DOD to meet OFCC's standards with respect to reviewing and approving AAP's would have been detected by OFCC and could have been brought to the attention of appropriate GSA and DOD officials for corrective action.

We have also looked at the increases in employment of females by selected contractors.

In connection with our review of the 20 AAP's approved by the San Francisco DOD regional office and 15 AAP's approved by the San Francisco GSA regional office, we made a comparison of the em-

[1] See table 1, p. 15.
[2] See table 2, p. 16.

ployment of females by job category during the current year and the prior year. We had to exclude five of the GSA approved programs included in our sample because the files did not contain sufficient information.

In my prepared statement we have summarized in a table [1] the results of our review with regard to increases in female employment. As the table shows, there was a net increase in employment of 2,808 by the 35 contractors, and females accounted for 1,260 or 45 percent of the net increase in employment. However, there was a net decline of two females holding upper echelon jobs—officials, managers, and professionals—and 89 percent of the increase in female employment was in the office and clerical, craftsman, operative, laborer, and service worker job categories.

We also have looked at the size of the contractor facilities which were being reviewed by GSA and DOD, and find that GSA was performing compliance reviews at contractor facilities which had a relatively small number of employees. For example, in the San Francisco region the average number of persons employed by the 20 GSA-approved contractors whose APP's we selected for review was 122 persons, whereas the average number of persons employed by the 20 DOD-approved contractors whose APP's we selected for review was 909 persons. Similar variations were noted in the Chicago and Philadelphia regions.

The difference in the industries assigned to GSA and DOD may partly contribute to the differences in the sizes of the contractor facilities being reviewed by GSA and DOD. However, we believe that one of the major causes of the differences is that their policies on selecting contractors for review differ.

DOD has a policy that contractor facilities are to be considered for review in descending order of the number of their employees. Based on this policy and the capability of the DOD compliance staff, contractor facilities with less than 200 employees generally will not be selected for review. The GSA Chicago and Washington regions had established a standard that each of its compliance officers should complete six compliance reviews per month, and the GSA San Francisco region had established a standard that each of its compliance officers were expected to complete four reviews per month. In two of the three regions we reviewed, GSA compliance officers indicated that they often selected small contractors which require less time to review, so that they would be more likely to complete the designated number of reviews per month.

While we believe that small contractors should not be excluded from the review process, we believe that the Federal contract compliance program should generally emphasize the selection for review of contractors with the greatest under-utilization of women and minorities and which also offer the most hiring and promotion opportunities, rather than selecting contractors on the basis of achieving a standard or recommended number of reviews per month.

Turning now to the application of enforcement actions, as you mentioned, if a Government contractor is found in noncompliance with the Executive order or implementing guidelines, a "show-cause notice" is required to be sent to the contractor affording him 30 days

[1] See table 3, p. 17.

to show cause why sanction actions should not be initiated. If the contractor does not respond within 30 days with good reasons why sanction actions should not be initiated, sanction actions are required to be initiated. As shown in the table [1] of my prepared statement, relatively few show-cause notices—less than 2 percent of the reviews conducted—were issued, and even fewer sanction actions were imposed. During fiscal year 1972, 1973 and the first 9 months of 1974 the compliance agencies issued only 536 show-cause notices, which represented only 1.3 percent of the 41,431 reviews performed.

During the same period sanction actions were invoked by only two compliance agencies against a total of 14 contractors.

The data in the table could generally be interpreted in either of two ways: First, the contractors are in compliance and you do not need show-cause notices; or second, that the compliance agencies are reluctant to issue show-cause notices and take sanction actions. We noted indications that the latter seems to be the case. DOD and GSA representatives stated that they attempted to persuade contractors to comply with the Executive order and implementing guidelines through conciliation efforts, rather than invoking formal actions.

Officials of the Department of Commerce and the Department of the Treasury told us that they follow the practice of issuing informal preshow cause notices or warning letters in lieu of show-cause notices to contractors which have not been fully responsive to OFCC requirements. These notices, however, do not automatically initiate further sanction actions if the contractor fails to show good cause why sanction actions should not be imposed. A Department of Transportation official told us that the issuance of a show-cause notice only points to the failure of the compliance agency's conciliation function. Moreover, the Director of AID's compliance program told us that her agency had not found it necesary to proceed to the hearing stage of the sanction process, but that if it had been necessary, she would have had to have OFCC's assistance because she was not familiar with all of the requirements for initiating a hearing. I might mention that regulations seems to make it quite clear, Madam Chairman, that although conciliation efforts are encouraged, they should be carried out during the 30-day show-cause period. There is also provision for extension of that period if efforts at compliance are being made.

Concerning the adequacies of OFCC's guidance to the compliance agencies, we have found that the compliance agencies generally agreed that clarification of certain guidelines and additional guidance was needed in several areas to enable the compliance agencies to more effectively carry out their assigned responsibilities. Two of the most important areas in which additional guidance from the Department of Labor was needed concern (1) employees who are victims of "affected class" discrimination and related remedies; and (2) employee testing and selection procedures.

Concerning the first, the OFCC guidelines and the Department of Labor guidelines include an order called Revised Order No. 4 which, in part, requires that before a contractor is found in compliance, he must first agree to provide relief to "affected class" employees who have been subjected to discrimination in the past and who continue to suffer the present effects of that discrimination. Neither Revised

[1] See table 4, p. 18.

Order No. 4 nor other Department of Labor guidelines establish specific criteria for identifying or remedying affected class problems. Revised Order No. 4 merely states that relief for members of an affected class must be afforded in order for a contractor to be found in compliance. According to an OFCC official, remedies can include (1) revised transfer and promotion systems and (2) financial restitution, or "back pay."

Officials of three compliance agencies (VA, U.S. Postal Service and the Department of Transportation) said that their compliance officers did not include in their reviews a determination whether affected class situations existed, or whether there was a need for backpay relief, because the Department of Labor had not provided sufficient instructions or guidelines to enable such determinations to be made.

OFCC has long recognized the need to provide the compliance agencies with guidelines on affected class identification and related remedies. In November 1971, OFCC prepared draft guidelines on affected class identification and related remedies; however, these guidelines have not yet been finalized or issued because OFCC had not fully resolved all of the issues involved.

OFCC recognizes that the focus of compliance reviews should include the identification and correction of affected class problems, and OFCC plans to publish proposed guidelines for comment by December 31, 1974.

Concerning employee testing and other selection procedures, the Department of Labor has issued a series of special guidelines pertaining to problems relating to the implementation of the order's nondiscrimination clause. One of these special guidelines concerns employee testing and other selection procedures.

The testing and selection procedures apply to those employment selection criteria which have an adverse effect on the opportunities of minorities or women, in terms of hiring, transfer, promotion, training, or retention. If a test or other selection method used by the contractor tends to reject a disproportionate number of minorities or women, then the contractor must show that he has validated the test; that is, that any differential rejection rates that may exist, based on the test, are relevant to performance on the jobs in question.

Whenever agency compliance officers have questions about the adequacy of a testing validation study submitted by a contractor, OFCC guidelines provide that compliance agencies should refer the study to OFCC. As of July 1974 there was only one OFCC staff member assigned to review testing validation studies, and there was a 6- to 8-month backlog of about 32 validation studies to be analyzed.

Further OFCC believes that there will be a substantial increase in the number of validation studies forwarded to it by the compliance agencies during the current fiscal year, and it does plan to hire one additional staff member to review the testing validation studies to reduce the backlog.

OFCC is responsible for monitoring the compliance agencies to insure that they are administering the program in accordance with the Executive order and the implementing guidelines. OFCC has done very little, however, in implementing a program or system for monitoring the compliance agencies responsible for nonconstruction contractors to insure that the program is administered in a uniform and effective manner.

At the three OFCC regional offices we visited—Chicago, Philadelphia, and San Francisco—the staff devoted almost all its efforts to monitoring compliance agencies' enforcement of the Executive order at construction contractors and virtually no effort to monitor the compliance agencies' enforcement of the Executive order at nonconstruction contractors.

OFCC officials told us that since 1972, comprehensive followup reviews had not been performed at 12 of the 13 nonconstruction compliance agencies. Again, NASA was the only exception. These officials stated, however, that OFCC plans to perform comprehensive reviews of each of the nonconstruction compliance agencies during the current fiscal year.

Officials of the 13 compliance agencies advised us that they performed about 25,000 reviews of nonconstruction contractors during fiscal years 1973 and 1974—through March 31, 1974. OFCC reviewed only 15 affirmative action programs during these 2 fiscal years to determine whether the compliance agencies were following OFCC's guidelines in reviewing AAP's. All but one of these AAP's were reviewed following appeals to OFCC from individual complainants and public interest groups. OFCC concluded that not one of these AAP's met OFCC's requirements for acceptable AAP's and that none should have been approved, yet OFCC did not expand its monitoring of the compliance agencies in an attempt to achieve greater conformance with its guidelines.

In December 1973 a supplemental budget request for 26 additional positions was approved. The 26 additional positions increased OFCC's authorized strength from 104 to 130 employees.

The OFCC budget justification for fiscal year 1975 stated that with the additional positions, OFCC would assume the full role of a lead agency and supply the type of direction and leadership necessary for the success of the program. The budget justification further stated that OFCC would implement a compliance review monitoring program and take steps necessary to insure that the programs' guidelines are followed consistently by the compliance agencies.

OFCC believes that its role as a lead agency must be improved if the total contract compliance program is to be effective. We agree. To this end, we believe that it is essential that OFCC's monitoring of compliance agencies' performance should be an integral part of the anticipated expansion of OFCC's role.

Turning now to coordination between OFCC and the Equal Employment Opportunity Commission, contractors which OFCC has responsibility for under Executive Order 11246 also fall within EEOC's responsibilities under title VII of the Civil Rights Act of 1964. The act prohibits discrimination in hiring, upgrading, and other conditions of employment on the basis of race, color, religion, sex, or national origin.

A memorandum of understanding between EEOC and OFCC was signed on May 20, 1970. The objective of this memorandum was to reduce the duplication of compliance activities, to facilitate the exchange of information, and to establish procedures for processing cases against Government contractors subject to the provisions of the Executive order. Our review showed, however, and representatives of most of the compliance agencies stated that the provisions of the memorandum were not being fully followed.

The memorandum provides, in part, that OFCC would check with EEOC prior to conducting compliance reviews to determine if there were outstanding discrimination complaints filed with EEOC against Government contractors whose facilities were being reviewed. Representatives of five compliance agencies—the U.S. Postal Service and the Departments of Defense, Interior, Treasury, and Transportation—informed us that their compliance officers, acting on behalf of OFCC in making compliance reviews, were not routinely checking with EEOC before conducting these reviews. As a result, these compliance agencies were approving contractor's AAP's without considering as a part of their compliance reviews whether complaints had been registered with EEOC.

We reviewed complaint listings at EEOC to determine whether there were outstanding complaints against those individual contractors whose AAP's we reviewed. We found that 18 of the 60 DOD contractor facilities and 14 of the 60 GSA contractor facilities had outstanding complaints filed against them with EEOC at the time the compliance reviews were performed. DOD and GSA regional officials could not provide us with information showing that the complaints on 14 of the 18 DOD contractor facilities and 13 of the 14 GSA contractor facilities were considered at the time the compliance reviews were conducted.

We noted that as early as March 1972 AID had requested guidance from OFCC concerning the approval of AAP's when there were outstanding complaints on file with EEOC against the contractors. As of July 1974, however, OFCC had not yet issued any written guidance to AID on this subject.

We also noted an instance in which DOD had made at least two compliance reviews of a contractor and in each instance found the contractor to be in compliance with the Executive order. The most recent compliance reviews were completed during October 1973 and May 1974.

As early as October 1970, however, EEOC had determined that this contractor was following a number of employment practices which discriminated against female employees. For example, according to EEOC, the company discriminated against females by paying males more than females for performing equal work.

As a result of its findings, EEOC is presently in the process of bringing suit charging the contractor with unlawful employment practices in violation of title VII of the Civil Rights Act of 1964.

We are informed, Madam Chairman, that OFCC and EEOC are in process of redefining and clarifying this memorandum.

After having discussed these weaknesses in the contract compliance program, I believe it should be pointed out that OFCC recognizes there is a need for improvement in various aspects of the program. In its fiscal year 1976 contract compliance planning guidance memorandum, OFCC sets forth certain planned improvements in the contract compliance program which we have put in my prepared statement. OFCC will probably discuss this when they appear before the subcommittee.

That concludes a summary of my prepared statement, Madam Chairman. And I will be happy to respond to any questions you may have.

Chairman GRIFFITHS. Thank you, Mr. Ahart. It is an excellent statement.

[The prepared statement of Mr. Ahart follows:]

PREPARED STATEMENT OF HON. GREGORY J. AHART

Madam Chairman, I am pleased to be here today to discuss the information developed to date in our review of the administration of the Federal contract compliance program. This program is divided into two segments—construction and non-construction—and in accordance with your request, our review is being limited to the non-construction segment of the program.

Several weaknesses exist in the administration of the program which we believe are reducing the program's effectiveness. Before I discuss these weaknesses, I would like to highlight some of the major objectives and provisions of the Federal contract compliance program and comment on the scope of our review.

BACKGROUND

The Federal contract compliance program is carried out pursuant to Executive Order 11246, signed in 1965. The Order forbids discrimination in employment by Government contractors and subcontractors on the basis of race, color, religion, or national origin, and the Order was amended in 1967 to also forbid discrimination in employment on the basis of sex. It requires Government contractors to take affirmative action to insure that job applicants and employees are not discriminated against on the basis of race, color, religon, national origin, or sex.

Contractors subject to the requirements of the program must insure that equal employment opportunity principles are followed at all company facilities, including those facilities not engaged in work on a Federal contract. For example, if a Government agency enters into a contract with a contractor in Washington, D.C., and that contractor has other facilities scattered throughout the United States, each of the contractor's facilities is required to comply with the provisions of the Federal contract compliance program.

Each non-construction contractor that has 50 or more employees and a Government contract of $50,000 or more is also required to prepare a written affirmative action plan (AAP) applicable to each of its facilities.

To meet the standards for acceptability set forth in regulations issued by the Secretary of Labor, the AAP must include specific types of data including (1) goals for improving the employment of minorities and females in those cases where the contractor is found to be deficient, i.e., where the contractor is presently employing fewer minorities and/or females than would reasonably be expected considering their avilability within an area where the contractor can be expected to recurit, and (2) timetables for achieving those goals. Following this plan the contractor should be able to increase materially the utilization of minorities and women, at all levels and in all segments of its work force where deficiencies exist.

Various sanctions are authorized if a Government contractor fails to prepare an acceptable AAP or to exercise good faith in implementing it. These include contract suspension, contract cancellation, debarment from future Government contracts and referral to the Department of Justice for court action under Title VII of the Civil Rights Act of 1964.

Responsibility for administration of the Executive Order is assigned to the Secretary of Labor. The Secretary has redelegated some of his authority (including the authority to designate agencies to act as compliance agencies) to the Director of the Office of Federal Contract Compliance (OFCC), within the Department's Employment Standards Administration.

OFCC's responsibilities include:

Establishing policies, objectives, priorities and goals for the program,

Providing leadership, coordination and enforcement of the program,

Reviewing and evaluating the capability and performance of each contracting agency to assure maximum progress to achieve the objectives of the Executive Order, and

Developing and recommending such standards, rules, and regulations (referred to as guidelines in this statement), for issuance by the Secretary of Labor as are necessary for the administration or the Executive Order.

The primary responsibility for enforcing the Executive Order and related guidelines rests with the Federal agencies designated as compliance agencies,

which at the time we began our review numbered 13 for non-construction contractors. These were:

Agency for International Development (AID).
Atomic Energy Commission (AEC).
Department of Agriculture.
Department of Commerce.
Department of Defense (DOD).
Department of Health, Education, and Welfare (HEW).
Department of the Interior.
Department of the Treasury.
Department of Transportation.
General Services Administration (GSA).
National Aeronautics and Space Administration (NASA).
United States Postal Service (USPS).
Veterans Administration (VA).

OFCC assigns to each of the compliance agencies the responsibility for contractors in specified industries. This assignment is made primarily on the basis of standard industrial classification codes, irrespective of which Government agency has entered into the contract. For example, GSA is responsible for the utilities and the communications industries, Treasury is responsible for banking institutions, and HEW is assigned universities and hospitals.

Effective August 1, 1974, OFCC reduced the number of compliance agencies responsible for non-construction contractors from 13 to 11. AID's compliance responsibility was transferred to GSA and NASA's was transferred in part to AEC and in part to DOD.

The compliance agencies are responsible for performing compliance reviews of Government contractors within the industries assigned to them. Compliance reviews (including preaward reviews, initial compliance reviews, follow-up reviews, and complaint investigations) consist of investigations during which the compliance officer conducts an in-depth and comprehensive analysis of each aspect of the contractor's employment policies, systems and practices to determine adherence to the non-discrimination and affirmative action requirements. Where the review discloses that the contractor has not prepared a required AAP, has deviated substantially from his approved AAP or has a program which is unacceptable, a "show cause notice" is required to be issued.

The show cause notice affords the contractor a period of 30 days to show cause why enforcement procedures should not be instituted. If the contractor fails to show good cause for his failure to comply with the program or fails to remedy that failure, debarment or other appropriate sanction actions are required to be initiated and the contractor must be given the opportunity of having a formal hearing before sanction actions are imposed.

On July 2, 1974, after most of the audit work requested by this Subcommittee had been performed, the Comptroller General responded to a request from OFCC for a decision whether the Illinois equal opportunity regulations for public construction contracts were in violation of the basic principles of Federal procurement law. We advised the Secretary of Labor that we believed that the Illinois regulations, insofar as they concerned federally assisted projects in which there is a grant requirement for open and competitive bidding, were in violation of Federal procurement law, in that award could be withheld from an otherwise low responsive and responsible bidder on the basis of an unacceptable AAP without provision being made for informing prospective bidders of definite minimum requirements to be met by the bidders' programs and any other standards or criteria by which the acceptability of such programs would be judged.

In view of the fact that these regulations were apparently roughly patterned after OFCC's AAP guidelines for Federal non-construction contracts, we commented that the OFCC guidelines also seemed to be in violation of the basic principles of Federal procurement law in that a contractor could be defaulted for its failure to submit an acceptable AAP despite the fact that these guidelines do not seem to contain any definite minimum standards and criteria apprising the prospecitve bidders of the basis upon which their compliance with the OFCC guidelines would be judged. We further indicated that some action should be taken to established definite minimum standards.

Representatives of the Department of Labor have advised us that our suggestion concerning the need for minimum standards for contractors is under active consideration.

SCOPE OF REVIEW

Even though we believe there is a need for definite minimum standards and criteria to apprise bidders of the basis upon which their compliance with OFCC guidelines will be judged, we are evaluating the implementation of the Federal contract compliance program under existing guidelines issued by the Secretary of Labor and OFCC.

Our review, which is still underway, is being directed, at the Subcommittee's request, toward an evaluation of:

compliance agencies' efforts in implementing OFCC guidelines for conducting compliance reviews and complaint investigations,

application of enforcement measures available to the compliance agencies,

OFCC's guidance to the Federal agencies assigned compliance review responsibility for non-construction contractors, and

the coordination of compliance review and complaint investigation activities between OFCC and the Equal Employment Opportunity Commission.

Our audit work is being concentrated at OFCC and at two of the largest compliance agencies—GSA and DOD. At each of these agencies, we are performing audit work at the headquarters offices and at the regional offices in Chicago, Philadelphia, Washington, D.C., and San Francisco. Also, we are performing limited work at the headquarters offices of the other compliance agencies responsible for the administration of the contract compliance program for non-construction contractors.

COMPLIANCE AGENCIES IMPLEMENTATION OF OFCC'S PROGRAM GUIDANCE

We found that compliance agencies are not adequately implementing the guidelines prescribed by the Secretary of Labor and OFCC for carrying out the contract compliance program. More specifically:

1. only one of the 13 compliance agencies has identified all contractors for which it is responsible,
2. some compliance agencies are not always performing the required preaward reviews,
3. most compliance agencies are making periodic compliance reviews at only a small percentage of the total number of estimated contractor facilities for which they are responsible,
4. DOD and GSA are approving contractors' AAPs although these AAPs do not meet OFCC's guidelines, and
5. sanction actions prescribed by the Executive Order for noncompliance are seldom imposed.

UNIVERSE OF CONTRACTORS

OFCC guidelines provide that each compliance agency is responsible for assuring that the contractors in its assigned area of responsibility comply with the Executive Order and implementing guidelines. However, OFCC has not developed a centralized system to identify all contractor facilities for which each compliance agency is responsible.

Officials of GSA and DOD at the three regions we visited advised us that they did not have complete information showing all contractor facilities in their regions for which they were responsible. Headquarters officials at 12 of the 13 non-construction compliance agencies also advised us that they did not have complete information showing the identity of all contractor facilities under their responsibility. Officials of the other non-construction compliance agency—NASA—stated that they had complete information on all contractor facilities for which NASA was responsible. They also stated, however, that NASA, unlike the other compliance agencies, is only responsible for contractors having NASA contracts and located on or near NASA installations.

If a compliance agency is unaware that a particular business firm is a Government contractor subject to the requirements of the Federal contract compliance program, it will obviously not review the contractor to determine if it is in compliance. Without knowledge of the identity of all contractor facilities for which it is responsible, the compliance agency can not systematically select for review those contractor facilities which offer the most potential for improving equal employment opportunity.

We believe that there are opportunities for more accurate identification of the total universe of contractor facilities under each compliance agency's responsibility. For example, the Manpower Administration of the Department of Labor

entered into a contract effective June 1, 1973 with a private firm under which the firm provides periodic listings to the Department of Labor and to State employment services offices of current contractors holding Government contracts of $2,500 or more. These listings are used in assisting veterans in obtaining employment with Government contractors, but are not presently used in identifying Government contractors subject to the Executive Order. An OFCC official informed us that OFCC is considering using these listings as an aid in identifying contractors subject to the Executive Order.

PREAWARD REVIEWS

DOL regulations require that before an agency awards a contract of $1 million or more, the awarding agency must first assure itself that a compliance review of the contractor has been performed within the preceding 12 months and that it was determined that the contractor was in compliance with all provisions of the contract compliance program. If the contracting agency is not the responsible compliance agency for a particular contractor, the contracting agency is required by DOL regulations to request preaward clearance from the responsible compliance agency. If the compliance agency has not performed a compliance review of the contractor within the preceding 12 months, preaward clearance may not be granted unless the compliance agency performs a preaward review and finds the contractor in compliance.

In some instances compliance agencies are granting preaward clearances without having performed the required compliance reviews and in other instances contracting officers are apparently awarding contracts in excess of $1 million without requesting a preaward clearance from the responsible compliance agency. For example:

In November 1973, AEC requested preaward clearances from HEW for two proposed AEC contract awards each in excess of $1 million to two large universities in California. HEW advised AEC that its records indicated that each of the universities appeared to be able to comply with the requirements of the Executive Order and were therefore eligible for contract awards.

HEW officials advised us in May 1974 that neither university had an approved AAP, that reviews of the schools had not been performed in the 12 months prior to the preaward clearances, and that preaward reviews were not performed. If HEW had been following OFCC guidelines it would have had to (1) perform preaward compliance reviews and (2) find the schools in compliance before notifying AEC that the schools were eligible for the proposed contract awards.

HEW officials informed us in July 1974 that because only 16 colleges and universities had currently approved AAP's, it was HEW's policy to grant a preaward clearance to a school unless HEW had reviewed the school's AAP, found it deficient and found that the school was not, in a timely manner, revising the AAP to correct the deficiencies noted.

We selected for review six requests by DOD for preaward clearance received by the Department of the Interior during claendar year 1973. The Department of the Interior issued preaward clearances to DOD in all six instances. Our review showed, however, that in four of the six instances, DOL requirements for preaward reviews were not followed. In these four instances, the contractors had not been reviewed during the preceding 12 months, and a preaward review was not performed.

A Department of the Interior compliance stated that when a request for preaward clearance is received, a preaward review is not performed even though the prospective contractor had not been reviewed during the preceding 12 months. He stated that preaward clearances are withheld only if there are outstanding show cause notices against prospective contractors. DOL regulations require that compliance agencies must respond to requests for preaward clearances within 30 days, but the Department of the Interior compliance official stated that as a practical matter, it is not possible to perform an in-depth preaward compliance review and persuade contractors to resolve deficiencies within the 30 day period.

In another case, an AID official advised us that AID requires contractors, during a compliance review, to list their current Government contractors. As a result, AID found instances in which contracts in excess of $1 million had been awarded by other Government agencies to contractors for which AID has compliance responsibility and these agencies had not requested preaward clearances from AID.

NUMBER OF CONTRACTOR FACILITIES BEING REVIEWED

Our review showed that with one exception—NASA—the compliance agencies are performing compliance reviews at a relatively small percentage of the estimated total number of contractor facilities for which they are responsible. However, on August 1, 1974 NASA's compliance responsibility was transferred in part to DOD and in part to AEC. In April and September 1973 OFCC reviewed NASA's enforcement of the Executive Order and implementing guidelines and found that (1) NASA was not consistently following OFCC's standards and requirements, and (2) NASA was apparently reluctant to issue show cause notices or take sanction actions.

We have included as part of my statement a table which shows for each compliance agency the number of compliance reviews performed during fiscal years 1973 and 1974 (through March 31, 1974) expressed as a percentage of the total number of contractor facilities for which those agencies estimate they are responsible.

TABLE 1.—SMALL PERCENTAGE OF GOVERNMENT CONTRACTOR FACILITIES REVIEWED

Compliance agency	Estimated universe of contractor facilities (as of March 1974)[1]	Reviews performed expressed as a percentage of est. universe	
		Fiscal year 1973	Fiscal year 1974 (to Mar. 31, 1974)
AEC	4,140	14	12
Agriculture	21,200	4	2
AID	1,200	12	4
Commerce	780	28	20
DOD	36,000	17	11
GSA	23,000	13	10
HEW	3,420	13	7
Interior	4,000	19	10
NASA	260	100	79
Postal Service	19,000	21	3
Transportation	380	8	7
Treasury	6,000	8	6
VA	12,480	1	1
Total	131,860	13	7

[1] With 1 exception neither OFCC nor the compliance agencies have data showing (1) the identity of all of the Government contractors for which they have compliance review responsibility nor (2) the total number of employees of Government contractors in their assigned industries.

As the table shows, eight of the 13 non-construction compliance agencies reviewed less than 15 percent of their contractor facilities and four agencies reviewed 17 to 28 percent of their contractor facilities in fiscal year 1973.

During fiscal year 1973, about 45 percent of the complaince reviews performed were follow-up reviews on contractors which had previously been reviewed. If the compliance agencies were to perform annual follow-up reviews at each of their contractors' facilities which had previously been reviewed to determine if the contractors were meeting their equal employment responsibilities, the compliance agencies would not perform compliance reviews at many of their contractor facilities. For example, during fiscal year 1973 the Department of Agriculture performed compliance reviews at about 4 percent of its contractor facilities. If the Department of Agriculture were to perform follow-up reviews in subsequent years at the same facilities which were reviewed in fiscal year 1973, and if no additional contractor facilities were reviewed, the other 96 percent of the contractor facilities for which the Department of Agriculture is responsible would not be subjected to compliance reviews.

The contract compliance program centers around the compliance review—including preaward reviews, initial compliance reviews, follow-up reviews and complaint investigations. Without performing reviews, compliance agencies cannot be certain that contractors are making good faith efforts to meet their equal employment responsibilities under the Executive Order and implementing guidelines. For example, OFCC guidelines require certain Government contractors to prepare and keep on file a current written AAP but GSA and DOD compliance officers told us that in some instances when they contact a contractor to

make arrangements to perform a complaince review, they find that no AAP has been prepared or a previously approved AAP has not been updated.

REVIEW OF AAP'S

Compliance reviews are often directed towards an evaluation of, and approval or rejection of, contractors' AAPs. In this regard, OFCC has specified certain requirements which must be included in AAPs.

To determine the consistency of application of OFCC regulations and the adequacy of approved AAPs we selected for review a random sample of 120 AAPs approved during the first 9 months of fiscal year 1974. The sample consisted of 20 approved by DOD and 20 approved by GSA in each of the three regions reviewed. We analyzed each of the AAPs to determine if they met the requirements for acceptable AAPs as established by OFCC.

Based on our analyses, we believe that 42, or 70 percent, of the 60 GSA-approved AAPs, and 12, or 20 percent, of the 60 DOD-approved AAPs did not meet OFCC's guidelines and should not have been approved. In most instances, GSA and DOD regional officials agreed with us.

One deficiency frequently noted was that the AAPs did not contain a sufficient breakdown of job categories. For example, the job category of "salesworkers" might include highly paid salesmen selling expensive merchandise on a commission basis and over-the-counter sales clerks earning the minimum wage. If a contractor were to discriminate against females and limit them to sales clerk positions and if the data on these two types of jobs were combined in the AAP, it would not be possible by reviewing the AAP to discern a possible pattern of discrimination against females for further investigation. Other deficiencies noted included inadequate workforce utilization analyses and the lack of goals and timetables as required by OFCC regulations.

In one regional office, GSA representatives were unable to provide for our review copies of several AAPs that their records showed as having been approved. The GSA representatives informed us that errors had been made in reporting these cases as approved AAPs because GSA had not reviewed nor approved the AAPs in question.

The table included at this point in my statement shows the results of our review.

TABLE 2

Region	General Services Administration			Department of Defense		
	Number reviewed	Not meeting OFCC criteria		Number reviewed	Not meeting OFCC criteria	
		Number	Percent		Number	Percent
Chicago	20	13	65	20	3	15
Philadelphia/Washington	20	16	80	20	4	20
San Francisco	20	13	65	20	5	25
Total	60	[1] 42	70	60	[2] 12	20

[1] GSA regional officials agreed that 25 of these AAP's did not meet OFCC criteria.
[2] DOD regional officials agreed that 10 of these AAP's did not meet OFCC criteria.

As the table shows, the proportion of deficient AAPs ranged from a low of 15 percent in the DOD Chicago region to a high of 80 percent in the GSA Washington region.

As I will discuss later, we do not believe that OFCC has adequately monitored the implementation of the Executive Order by the compliance agencies. If OFCC had been adequately monitoring and supervising the compliance agencies, we believe it is likely that the failure of GSA and DOD to meet OFCC's standards with respect to reviewing and approving AAPs would have been detected by OFCC and could have been brought to the attention of appropriate GSA and DOD officials for corrective action.

INCREASES IN EMPLOYMENT OF FEMALES BY SELECTED CONTRACTORS

In connection with our review of the 20 AAPs approved by the San Francisco DOD regional office and 15 AAPs approved by the San Francisco GSA regional

office, we made a comparison of the employmept of females by job category during the current year and the prior year. We did not make this comparison for five of the GSA-approved AAPs because GSA files did not contain sufficient information. The results of this comparison are shown in the next table.

TABLE 3.—REVIEW OF 35 AAP'S APPROVED BY DOD AND GSA IN SAN FRANCISCO REGION

Job category	Females (percent of workforce)		Increase (decrease) in female employees	
	Prior year	Current year	Number	Percent of total increase
Officials, managers, and professionals	5.7	5.4	(2)	
Technicians	12.6	14.3	132	10
Salesworkers	8.0	10.8	8	1
Office and clerical craftsmen, operatives laborers, service workers	38.4	41.7	1,122	89
Total	27.3	29.8	1,260	100
	Prior year	Current year	Increase	Percent increase
Total number of employees	16,981	19,789	[1] 2,808	17
Total number of female employees	4,638	5,898	[1] 1,260	27

[1] Females accounted for 45 percent of the net increase in jobs.

As the table shows, there was a net increase in employment of 2,808 by the 35 contractors, and females accounted for 1,260 or 45 percent of the net increase in employment. However, there was a net decline of two females holding upper echelon jobs (officials, managers and professionals) and most of the increase in female employment was in the office and clerical, craftsman, operative, laborer and service worker categories.

SIZE OF CONTRACTOR FACILITIES BEING REVIEWED

We found that GSA was performing compliance reviews at contractor facilities which had a relatively small number of employees. For example, in the San Francisco region the average number of persons employed by the 20 GSA-approved contractors whose AAPs we selected for review was 122 persons, whereas the average number of persons employed by the 30 DOD-approved contractors whose AAPs we selected for review was 909 persons. Similar variations were noted in the Chicago and Philadelphia regions.

The difference in the industries assigned to GSA and DOD may partly contribute to the differences in the sizes of the contractor facilities being reviewed by GSA and DOD. However, we believe that one of the major causes of the differences is that their policies on selecting contractors for review differ.

DOD has a policy that contractor facilities are to be considered for review in descending order of the number of their employees. Based on this policy and the capability of the DOD compliance staff, contractor facilities with less than 200 employees generally will not be selected for review. The GSA Chicago and Washington regions had established a standard that each of its compliance officers should complete six compliance reviews per month, and the GSA San Francisco region had established a standard that each of its compliance officers were expected to complete four reviews per month. In two of the three regions we reviewed, GSA compliance officers indicated that they often selected small contractors which require less time to review, so that they would be more likely to complete the designated number of reviews per month.

While we believe that small contractors should not be excluded from the review process, we believe that the Federal contract compliance program should generally emphasize the selection for review of contractors with the greatest underutilization of women and minorities and which also offer the most hiring and promotion opportunities, rather than selecting contractors on the basis of achieving a standard or recommended number of reviews per month.

In this regard, OFCC has developed a system to be used by the compliance agencies to identify those contractor facilities where compliance with the Executive Order is below that which could be expected by the presence of minorities and

women in the labor area work force. OFCC guidelines state that compliance agencies are to use this method as a primary criteria to select contractors for review. Our review showed, however, that the non-construction compliance agencies were not fully implementing the OFCC system for selecting contractor facilities for review, but rather were relying on internally developed selection criteria which varied among agencies.

The compliance agencies cited numerous reasons for not using the OFCC selction system. While we have not evaluated the validity of the reasons cited by the compliance agencies for not using OFCC's selection system, we believe that OFCC should discuss these reasons with the compliance agencies. If OFCC finds the agencies' reasons are valid or that an alternate system would be more effective, then OFCC should revise its system as necessary or provide other guidance to the agencies to insure that those contractors selected for review are those with the greatest underutilization of women and minorities and which also offer the most hiring and promotion opportunities.

APPLICATION OF ENFORCEMENT ACTIONS

When a Government contractor is found in non-compliance with the Executive Order or implementing guidelines, a "show cause notice" is required to be sent to the contractor affording him 30 days to show cause why sanction actions should not be initiated. If the contractor does not respond within 30 days with good reasons why sanction actions should not be initiated, sanction actions are required to be initiated.

The next table shows that the compliance agencies issued relatively few show cause notices—in less than 2 percent of the reviews conducted—and they imposed fewer sanction actions.

TABLE 4.—SMALL NUMBER OF SHOW CAUSE NOTICES AND SANCTIONS IMPOSED BY COMPLIANCE AGENCIES DURING FISCAL YEARS 1972, 1973, AND 1974 (TO MAR. 31, 1974)

Compliance agency	Reviews conducted	Showcause notices issued		Sanctions imposed [1]
		Number	Percentage of reviews conducted	
AEC	1,596	41	2.6	0
Agriculture	1,820	19	1.0	0
AID	287	13	4.6	0
Commerce	604	1	.2	0
DOD	15,855	127	.8	0
GSA	7,071	276	3.9	[4] 1
HEW [2]	974	4	.4	0
Interior [3]	1,012	34	3.4	0
NASA	714	1	1	0
Postal Service	9,684	0	0	[5] 13
Transportation	109	10	9.1	0
Treasury	1,112	0	.0	0
VA	593	10	1.7	0
Total	41,431	536	1.3	14

[1] Does not include proposed sanction actions or preaward clearances withheld.
[2] Excludes data for the 1st month of fiscal year 1972 since this data was not available.
[3] Excludes enforcement data for fiscal year 1972 since this data was not available.
[4] One company was debarred after the firm declined to request a hearing.
[5] Thirteen trucking companies were referred to the Department of Justice for appropriate legal action and a consent decree has been entered into with the companies under which the companies have agreed to stop their discriminatory practices.

The data in the table could generally be interpreted either of two ways: (1) most contractors are complying with the requirements of the Executive Order and there is little need for show cause notices or sanction actions, or (2) the compliance agencies are reluctant to issue show cause notices and to take sanction actions against contractors who are not in compliance.

During our review we noted indications that the latter is ture. DOD and GSA representatives stated that they attempted to persuade contractors to comply with the Executive Order and implementing guidelines through conciliation efforts rather than by invoking formal sanction actions.

Officials of the Department of Commerce and the Department of the Tresaury told us that they follow the practice of issuing informal pre-show cause notices or

warning letters in lieu of show cause notices to contractors which have not been fully responsive to OFCC requirements. These notices, however, do not automatically initiate further sanction actions if the contractor fails to show good cause why sanction actions should not be imposed. For the fiscal years 1973 and 1974 (through March 31, 1974), these two agencies performed about 1,200 compliance reviews and issued no show cause notices and had not initiated any sanction actions. A Department of Transportation official told us that the issuance of a show cause notice only points to the failure of the compliance agency's conciliation function. Moreover, the Director of AID's compliance program told us that her agency had not found it necessary to proceed to the hearing stage of the sanction process, but that if it had been necessary, she would have had to have OFCC's assistance because she was not familiar with all of the requirements for initiating a hearing.

OFCC'S GUIDANCE TO THE COMPLIANCE AGENCIES

The Secretary of Labor and OFCC have established and published certain guidelines to assist the compliance agencies in carrying out their compliance review and enforcement responsibilities under the Executive Order. Despite this, however, our review showed, and the compliance agencies generally agreed, that clarification of certain guidelines and additional guidance was needed in several areas to enable the compliance agencies to more effectively carry out their assigned responsibilities. Two of the most important areas in which additional guidance from DOL was needed concern (1) employees who are victims of "affected class" discrimination and related remedies and (2) employee testing and selection procedures.

AFFECTED CLASS IDENTIFICATION AND RELATED REMEDIES

One of the guidelines issued by DOL is known as Revised Order No. 4 which, in part, requires that before a contractor is found in compliance, he must first agree to provide relief to "affected class" employees who have been subjected to discrimination in the past and who continue to suffer the present effects of that discrimination. Neither Revised Order No. 4 nor other DOL guidelines establish specific criteria for identifying or remedying affected class problems. Revised Order No. 4 merely states that relief for members of an affected class must be OFCC official, remedies can include (1) revised transfer and promotion systems and (2) financial restitution, or "back pay."

Officials of three compliance agencies (VA, USPS and the Department of Transportation) said that their compliance officers did not include in their reviews a determination whether affected class situations existed, or whether there was a need for back pay relief, because DOL had not provided sufficient instructions or guidelines to enable such determinations to be made.

The following case illustrates the need for DOL guidance on this area. In December 1973, the Maritime Administration of the Department of Commerce sent a letter to the Director of OFCC stating that (1) it had identified an affected class problem existing at a Government contractor, and (2) the contractor questioned the Department's authority to deal with the back pay issue.

In February 1974 another letter was sent to OFCC by the Department of Commerce stating that negotiations with the contractor had reached the point of discussing the payment of back pay which could amount to over $1 million but that additional technical and policy guidance was needed from OFCC on the matter. Shortly thereafter Commerce officials met with representatives of OFCC concerning the matter and were advised that OFCC would respond in the very near future to the questions raised on the back pay question. Commerce officials told us in August 1974 that OFCC had not yet responded although eight months had elapsed since their December 1973 letter and about six months had elapsed since their meeting with OFCC.

OFCC has long recognized the need to provide the compliance agencies with guidelines on affected class identification and related remedies. In November 1971 OFCC prepared draft guidelines on affected class identification and related remedies; however, these guidelines have not yet been finalized or issued because OFCC has not fully resolved all of the issues involved.

OFCC recognizes that the focus of compliance reviews should include the identification and correction of affected class problems, and OFCC plans to publish their proposed guidelines for comment by December 31, 1974.

We believe that until the compliance agencies are provided with adequate guidelines, the compliance agencies will be reluctant to utilize back pay orders as a remedy under the Executive Order, notwithstauding the fact that back pay relief could act as a strong deterrent to discrimination.

EMPLOYEE TESTING AND OTHER SELECTION PROCEDURES

In addition to setting forth guidelines explaining the affirmative action requirements of the Executive Order, DOL has issued a series of special guidelines pertaining to problems relating to the implementation of the Order's nondiscrimination clause. One of these special guidelines concerns employee testing and other selection procedures.

The testing and selection procedures apply to those employment selection criteria which have an adverse affect on the opportunities of minorities or women, in terms of hiring, transfer, promotion, training or retention. If a test or other selection method used by the contractor tends to reject a disproportionate number of minorities or women, then the contractor must show that he has validated the test; that is, that any differential rejection rates that may exist, based on the test, are relevant to performance on the jobs in question.

Whenever agency compliance officers have questions about the adequacy of a testing validation study submitted by a contractor, OFCC guidelines provide that compliance agencies should refer the study to OFCC. As of July 1974, there was only one OFCC staff member assigned to review testing validation studies, and there was a six to eight month backlog of about 32 validation studies to be analyzed.

Further, OFCC believes that there will be a substantial increase in the number of validation studies forwarded to it by the compliance agencies during the current fiscal year.

In July 1974 we discussed the backlog problem with OFCC officials and were advised that OFCC plans to hire one additional staff member to review testing validation studies to reduce any backlog. These officials stated further that the one staff member assigned to perform testing validation studies had worked on other matters during the past several months and that he had just recently started to again perform this work.

NEED FOR IMPROVED MONITORING OF THE COMPLIANCE AGENCIES

As previously stated, OFCC is responsible for monitoring the compliance agencies to insure that they are administering the program in accordance with the Executive Order and the implementing guidelines. OFCC has done very little, however, in implementing a program or system for monitoring the compliance agencies responsible for non-construction contractors to insure that the program is administered in a uniform and effective manner.

At the three OFCC regional offices we visited—Chicago, Philadelphia, and San Francisco—the staff devoted almost all its efforts to monitor compliance agencies' enforcement of the Executive Order at construction contractors and virtually no effort to monitor the compliance agencies' enforcement of the Executive Order at non-construction contractors.

In fiscal year 1972 OFCC evaluated the non-construction contract compliance programs of all 13 non-construction compliance agencies to determine the effectiveness with which the agencies were carrying out the program. However, according to OFCC officials, the scope of these evaluations was restricted to work performed at the compliance agencies headquarters offices. As a result of these limited evaluations, certain deficiencies in the areas of staffing, training, conducting compliance reviews and issuance of show cause notices were noted and recommendations for corrective actions were directed to the compliance agencies.

OFCC officials told us that since the 1972 evaluations, comprehensive follow-up reviews had not been performed at 12 of the 13 non-construction compliance agencies; NASA was the only agency that has been reevaluated. These officials stated, however, that OFCC plans to perform comprehensive reviews of each of the non-construction compliance agencies during the current fiscal year.

In April and September 1973 OFCC reevaluated NASA's contract compliance program and found several deficiencies including (1) evidence that the NASA space center program directors, who have been delegated contract compliance responsibility by NASA headquarters, follow their personal views as to appropriate compliance policies and procedures rather than the requirements and standards of OFCC, and (2) an apparent aversion by NASA to issuing show cause notices or involving appropriate enforcement procedures against non-complying Government contractors. As previously noted, effective August 1, 1974, NASA's compliance responsibility has been transferred in part to DOD and in part to AEC.

Officials of the 13 compliance agencies advised us that they performed about 25,000 reviews of non-construction contractors during fiscal years 1973 and 1974

(through March 31, 1974). OFCC reviewed only 15 AAPs during these two fiscal years to determine whether the compliance agencies were following OFCC's guidelines in reviewing AAPs. All but one of these AAPs were reviewed following appeals to OFCC from individual complainants and public interest groups. OFCC concluded that not one of these AAPs met OFCC's requirements for acceptable AAPs and that none should have been approved, yet OFCC did not expand its monitoring of the compliance agencies in an attempt to achieve greater conformance with its guidelines.

The Assistant Secretary for Employment Standards, Department of Labor, stated in November 1973 during hearings on a supplemental appropriation request, that:

"The Employment Standards Administration is aware that the contract compliance program is not meeting all of the goals established for it. We have determined that the most significant obstacle is the lack of resources for ESA to provide the leadership for the compliance agencies envisioned in Executive Order 11246. We must develop our lead agency role if the total contract compliance program is to be effective. To do this, we are requesting 26 positions and $351,000 for this function."

In December 1973 a supplemental budget request for the 26 additional positions was approved. The 26 additional positions increased OFCC's authorized strength from 104 to 130 employees.

The OFCC budget justification for fiscal year 1975 stated that with the additional positions, OFCC would assume the full role of a lead agency and supply the type of direction and leadership necessary for the success of the program. The budget justification further stated that OFCC would implement a compliance review monitoring program and take steps necessary to insure that the program's guidelines are followed consistently by the compliance agencies.

The following table shows OFCC's authorized strength and the actual number of OFCC employees at selected recent dates.

TABLE 5

Date	Authorized strength	Actual employees
Mar. 31, 1973	104	98
June 30, 1973	104	91
Dec. 31, 1973	130	87
Mar. 31, 1974	130	83
June 30, 1974	130	[1] 126

[1] Includes 23 persons temporarily detailed to OFCC from other parts of the Employment Standards Administration.

OFCC officials said that they were making progress toward hiring qualified persons to fill the newly authorized 26 positions, but that delays had been encountered in writing job descriptions, advertising the job openings, and selecting and processing qualified applicants.

We agree with OFCC that its role as a "lead agency" must be improved if the total contract compliance program is to be effective and, to this end, we believe that it is essential that OFCC's monitoring of compliance agencies' performance should be an integral part of the anticipated expansion of OFCC's role.

COORDINATION BETWEEN OFCC AND THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Contractors which OFCC has responsibility for under Executive Order 11246 also fall within EEOC's responsibilities under Title VII of the Civil Rights Act of 1964. The Act prohibits discrimination in hiring, upgrading and other conditions of employment on the basis of race, color, religion, sex or national origin.

A memorandum of understanding between EEOC and OFCC was signed on May 20, 1970. The objective of this memorandum was to reduce the duplication of compliance activities, to facilitate the exchange of information, and to establish procedures for processing cases against Government contractors subject to the provisions of the Executive Order. Our review showed, however, and representatives of most of the compliance agencies stated that the provisions of the memorandum were not being fully followed.

The memorandum provides, in part, that OFCC would check with EEOC prior to conducting compliance reviews to determine if there were outstanding discrimination complaints filed with EEOC against Government contractors whose facilities were being reviewed. Representatives of five compliance agencies (DOD, USPS, Departments of the Interior, Treasury, and Transportation) informed us that their compliance officers, acting on behalf of OFCC in making compliance reviews, were not routinely checking with EEOC before conducting compliance reviews. As a result, these compliance agencies were approving contractor's AAPs without considering as a part of their compliance reviews whether complaints had been registered with EEOC.

We reviewed complaint listings at EEOC to determine whether there were outstanding complaints against those individual contractors whose AAPs we reviewed. We found that 18 of the 60 DOD contractor facilities and 14 of the 60 GSA contractor facilities had outstanding complaints filed against them with EEOC at the time the compliance reviews were performed. DOD and GSA regional officials could not provide us with information showing that the complaints on 14 of the 18 DOD contractor facilities and 13 of the 14 GSA contractor facilities were considered at the time the compliance reviews were conducted.

We noted that as early as March 1972 AID had requested guidance from OFCC concerning the approval of AAPs when there were outstanding complaints on file with EEOC against the contractors. As of July 1974, however, OFCC had not yet issued any written guidance to AID on this subject.

We also noted an instance in which DOD had made at least two compliance reviews of a contractor and in each instance found the contractor to be in compliance with the Executive Order. The most recent compliance reviews were completed during October 1973 and May 1974.

As early as October 1970, however, EEOC had determined that this contractor was following a number of employment practices which discriminated against female employees. For example, according to EEOC, the company discriminated against females by paying males more than females for performing equal work.

As a result of its findings, EEOC is presently in the process of bringing suit charging the contractor with unlawful employment practices in violation of Title VII of the Civil Rights Act of 1964.

EEOC's Chief Compliance Officer told us that the memorandum of understanding has been inoperative for several years. He stated that he believes EEOC no longer needs OFCC's enforcement power since EEOC now has litigation authority. He stated that he believed that EEOC's litigation authority is more effective than OFCC's enforcement powers. He also stated that EEOC no longer sends OFCC any information on its activities, but EEOC still receives and incorporates charges from the compliance agencies in its employment discrimination settlements.

We were informed that OFCC and EEOC are in process of redefining and clarifying this memorandum.

After having discussed these weaknesses in the contract compliance program, I believe it should be pointed out that OFCC recognizes there is a need for improvement in various aspects of the program. In its fiscal year 1976 contract compliance planning guidance memorandum, OFCC sets forth certain planned improvements in the contract compliance program including the following:

OFCC plans to establish an audit review system to review the compliance agencies and prepare annual formal evaluations of each agency,

New or revised regulations on affected class, back pay relief, sex discrimination, testing and selection, and religious discrimination will be issued during fiscal year 1975,

Requests by compliance agencies for specific guidance, interpretation and clarification from OFCC will normally be responded to within 10 days of receipt,

OFCC will prepare and issue guidelines for performing compliance reviews and issuing show cause notices, and

OFCC would attempt to execute a memorandum of understanding with the Department of Justice and EEOC which would include coordination of target selections, data exchange, and enforcement procedures.

This concludes my prepared statement Madam Chairman. We will be happy to respond to any questions you or members of your Subcommittee may have.

Chairman GRIFFITHS. Mr. Ahart, you referred to the fact that there is no guidance as to how the employees were victims of affected class discrimination and the remedies, and the employment testing

and selection procedure. The failure of OFCC to give such guidance does not actually help the contractors. It is hurting them by its failure.

There has been a recent case brought under title VII of the Civil Rights Act against a public utility in the State of Michigan. And a very sweeping decision was rendered in which the utility was told that they would have to locate those people who had never applied for a job because they knew they would be discriminated against, and that those people were entitled to an award, a monetary award.

Now, the truth is that the failure of OFCC to act—and obviously, when they have had 20 years, and reviewed only 15 affirmative action plans, and you in your investigation reviewed 120 in two agencies, and only two agencies, in a year, you really make out a case of malfeasance or nonfeasance against OFCC right on its face. Would you not say that is right, that is poor performance?

Mr. AHART. I think malfeasance may be a pretty strong word. Nonfeasance, certainly in certain areas. You are right, concerning the need for guidance and affected class situations, and also in other situations, this is harmful to both the contractors and the agencies that are doing the compliance reviews. There needs to be a framework within which the compliance agencies can operate, and standards against which the contractor can test its own performance if we are going to have evenhandedness and fairness in the whole process.

Chairman GRIFFITHS. A contractor needs fair notice of what he is supposed to be doing. And the failure of OFCC is not giving them that notice.

In my initial request to the General Accounting Office I asked that your investigation focus on enforcement of the Executive order as it relates to women. However, you have little specific mention of women in your prepared statement. Could you explain why?

Mr. AHART. We found at the time that we received the request from the subcommittee that if we were going to do this kind of a review, it would be very difficult to deal separately with the sex discrimination situation versus the other kinds of discrimination. We felt it might be more useful to take the broader look, and probably easier to do that. As a result of that approach, we do have very little that specifically relates to sex discrimination. But I feel that the findings that we did make in terms of the way the whole program is being administered certainly show that not all is being done that should be done.

So I think even though there is very little specifically directed to it, that the general comments and general findings apply to all types of discrimination that might be covered by the Executive order.

Chairman GRIFFITHS. You have found that 42 percent of the affirmative action plans which you have reviewed were deficient. In general, what deficiencies did you find?

Mr. AHART. I can describe in general the areas in which they were deficient in most cases. The largest number of deficiencies were found in the area of not making an adequate work force utilization analysis; that is, relating the utilization of people in the contractor facilities to the employees available, or the potential employees available, in the work force in the area.

The second most frequent area in which deficiencies were noticed was in the area of an adequate breakdown of the jobs which are available in the contractor's facilities by job type and the skills, et cetera, the requisite skills necessary for them.

The third one was in the area of the adequacies of the goals and timetables which were established in the affirmative action program against which the contractor was supposed to make his best efforts to perform.

So those were three predominant areas in the plans that we reviewed. And I might say that many of them had deficiencies in more than one of these.

Chairman GRIFFITHS. Did you discuss your findings with the agencies that you checked?

Mr. AHART. Yes, in all cases we discussed these findings.

Chairman GRIFFITHS. Did they inform the contractor of the deficiencies and require a revised affirmative action plan?

Mr. AHART. I will have to turn to my colleagues on that, Madam Chairman.

Mr. Cox, could you respond to that?

Mr. Cox. They did not indicate to us, Madam Chairman, that they were going to take any action with respect to these programs. Now, it is possible that they may have, but they did not so indicate to us.

Chairman GRIFFITHS. Can you find out if they have done it since then?

Mr. Cox. Certainly. We would be happy to supply this information for the record.

[The following information was subsequently supplied for the record:]

As of September 13, 1974, there was only one instance in which a compliance agency had followed-up with a contractor concerning the deficiencies which GAO found in its review of selected affirmative action programs. The DOD San Francisco regional office contacted one of the contractors and persuaded that contractor to modify its affirmative action program to include goals and timetables for hiring females. A representative of the DOD San Francisco regional office said that within the next six months, they plan to review the remaining four affirmative action programs which GAO questioned and if appropriate require corrective action by the contractors.

Regional officials in the DOD Philadelphia regional office and the GSA Washington regional office said they planned to follow-up soon with the contractors in those cases in which it appeared that the reported deficiencies in the approved affirmative action programs might have a serious adverse effect on minorities and females (e.g., instances in which the contractors had not established goals and timetables for hiring minorities and females). In other instances in which regional officials considered the reported deficiencies less serious, they indicated that they would follow-up on these matters during the next regularly scheduled compliance review.

Officials of the other regional offices included in our review (the GSA San Francisco regional office and the GSA and DOD Chicago regional offices) stated that they did not plan to follow-up on the deficiencies GAO found in the affirmative action programs until the next regularly scheduled compliance reviews.

Chairman GRIFFITHS. In the cases where GSA or DOD did not agree with your findings, what reasons did they give?

Mr. AHART. They did agree with us in the majority of cases. I am not sure we have the specifics here. I think the General Services Administration, out of the 42 cases which involved them, agreed with us in 25 cases. In the Department of Defense I believe they agreed with 10 out of 12.

Perhaps Mr. Cox knows the areas of disagreement.

Mr. Cox. One of the most frequent sources of disagreement was the requirement for the breakdown of job categories. In the prepared statement we have an illustration of the importance of this in the affirmative action program. And one of the primary reasons the GSA did not agree with us is that we believe the programs should have required more detailed iuformation in the way of a description of the job categories.

Chairman GRIFFITHS. I was astounded to learn that the agencies did not even know all the contractors whom they were supposed to monitor. Why don't they?

Mr. AHART. There is really no central source in Government at the present time, Madam Chairman, to keep track of all the Government contracts which are awarded. There is a requirement in the regulations under the Executive order that in cases of contract awards of a million dollars or more, that the compliance agencies be advised. But, of course, that excludes a great number of contracts which are less than that amount.

The Manpower Administration, in administering its responsibilities to see that veterans get preference in employment by Government contractors, has resorted to a contract—which I think you alluded to in your opening statement—with Dun and Bradstreet which does the service of collecting information on all contract awards, furnishing that to the Department of Labor, the Manpower Administration, and then it goes out to its regional offices and the employment service offices at the State and local level, so that they are aware of what contractors have contracts. And I think OFCC is going to explore the possibility of tying into the same system.

Chairman GRIFFITHS. In your opinion, what would be the best approach for identifying all Government contractors and for determining which agencies are responsible for obtaining Government compliance?

Mr. AHART. I think we have not had that good of a test of a Dun & Bradstreet service, but I think it is probably as economic as any. They pick up the information from various sources, they compile it, and it could be done in-house in Government as well as being done by Dun & Bradstreet. And that is probably as good as any way. You could have a system which required specific notification of the compliance agencies in each case. I am not sure the expense involved in that would be justified, because of the number of very small contracts that are awarded.

Chairman GRIFFITHS. What would the expense be, writing a letter?

Mr. AHART. It would be a notification procedure, yes.

Chairman GRIFFITHS. Would that not be pretty simple?

Mr. AHART. Well, you have not only the problem of the interagency things but the different geographic areas and the different procurement offices and the regional compliance offices to get the system working.

To directly answer your question, we really have not sat down at this point and tried to structure in our mind the best kind of a system. We do think the Dun & Bradstreet approach has potential.

Chairman GRIFFITHS. I am not a strong supporter of contracting out things we can do for ourselves. And it seems to me that it would be

comparatively simple to give notice to agencies which award the contract, and that they are responsible for the compliance procedures, at least I would think it would be.

You said in your prepared statement that in some cases the agency awarding a contract does not request clearance from the agency which is responsible for monitoring that contractor's affirmative action plan. As a result, contractors who have no affirmative action plan or who have a deficient plan are being awarded contracts. How widespread is this problem, and how can it be corrected?

Mr. AHART. I know we have at least two cases in the Agency for International Development where this took place. I do not know how widespread it is, because we did not go beyond what the Agency had already found out. The Agency for International Development found this out when they made a compliance review of contractors. They asked the contractor to list all of its Government contracts. In this way they found contracts in which they should have been notified about and asked for a preaward clearance. AIO's records showed that no request was made for preaward clearance. This is important, I think, if we are going to have proper administration of the program. If the regulations are followed there should be no problem, because you would automatically have the request for preaward clearance, and if the compliance review had not been made, it should be made before the award is made to the contractor.

Chairman GRIFFITHS. Your prepared statement studies the results achieved during the past year under a sample of affirmative action plans. You point out that women accounted for 45 percent of the net increase in employment under the plans and none of the increase in female employment was among officers, managers, or professionals. Since women already represent 40 percent of the labor force and are already heavily represented in most nonmanagerial and nonprofessional job categories, do the results achieved under these plans represent any real improvement in women's employment status?

Mr. AHART. Well, as I mentioned in my oral summary of the prepared statement, most of the increase was in the jobs which in the past have typically been held by women, clerical and jobs of that type. So I do not think you could say that there has been a real increase in the status of women even though the numbers employed did increase presumably as a result of the contractors' efforts. There was a slight decline in the number at the upper echelon levels.

Chairman GRIFFITHS. In your investigation, you have found many flaws in the enforcement of the Executive order. Would you be willing to go far enough to say that the current program is really a farce?

Mr. AHART. No; I do not think I would be prepared to say it is a farce at this point, Madam Chairman.

Chairman GRIFFITHS. But it is certainly not effective?

Mr. AHART. Certainly not effective to the extent that we would like to see it effective, and everybody would like to see it effective, and I think the agencies themselves would like to see it effective.

Chairman GRIFFITHS. Do you have faith in the basic idea of assigning of Federal agencies the responsibility for achieving equal employment opportunity among the Federal contractors?

Mr. AHART. I think certainly the leverage that attaches to the fact that the person is a Government contractor does give perhaps more

force and effect than you could do generally. So tying it to a Government contract seems to make sense in terms of the philosophy of that and getting real action where it counts.

Chairman GRIFFITHS. Is the OFCC the best agency to supervise this enforcement responsibility?

Mr. AHART. We have not made a judgment on that. You have to raise the question as to whether you need the Equal Employment Opportunity Commission, which has the broad mandate in this area regardless of the Government contract program and the separate agency to administer the Government contract program. But we have not reached a judgment on that. And I am not sure we will.

Chairman GRIFFITHS. The truth is that the Department of Labor is there to take care of those people who are already part of labor, they are the protectors of the status quo, whether they want to admit it or they do not. And the very idea of the Executive order and of the Civil Rights Act is to help those who never have been a part of the status quo. So that in reality, it seems to me that to give this to the Department of Labor is to relegate it to a very back spot in the functions of the Department of Labor. And I think we ought to consider that.

You have pointed out that in November 1973, OFCC requested funds for 26 additional contract compliance positions, and in December this request was granted. Yet, by the end of March, these 26 positions plus 21 other OFCC positions remained vacant. OFCC had a vacancy rate approaching 40 percent. By the end of June, OFCC had reached its authorized strength only because of the temporary reassignment of 23 employees from other branches of the Department of Labor. Is there any good reason for OFCC's delay in filling the positions that they requested?

Mr. AHART. I do not think we have evaluated the validity of the reasons. They have cited to us delays in writing position descriptions, advertisement of job openings, and the selection and processing of qualified applicants. I do not think, unless one of my colleagues would like to make that judgment, that we have reached a judgment on the validity of that at this point.

Chairman GRIFFITHS. How many women are in that Department?

Mr. AHART. In the Department or in the Office of Federal Contract Compliance?

Chairman GRIFFITHS. I have just found out. There are no white women. There are 12 black women, and only 1 has a rating as high as a GS–14.

Labor Department guidelines require that before a contractor is found in compliance, he must agree to provide relief to employees who suffer the present effects of past discrimination. You have said that during reviews, three compliance agencies do not even determine whether such relief is warranted. What practice do the other agencies follow?

Mr. AHART. Well, it is mixed. Certain of the agencies told us—and I do have information on that here—that they did include it in their reviews.

Let me see if I can get the specific information for you. In DOD we found affected class determinations were often included as a part of compliance reviews. In GSA some officers stated that they did

include it and others said they did not. At the headquarters of three other compliance agencies, the AEC, Interior, and Commerce, officials stated that they did include affected class determinations as part of the reviews. We did not obtain this information from the other compliance agencies. However, most of the compliance agencies, I should add, agreed that they did need additional OFCC guidance if they are going to do a proper job in this area.

Chairman GRIFFITHS. To what extent have victims of past discrimination actually obtained backpay relief under the Executive order?

Mr. AHART. I do not know if my colleagues have that information or not. I do not have it here.

Mr. COX. We do not.

Chairman GRIFFITHS. I wonder if you could get that information and supply it for the record?

Mr. AHART. We will see if it is available.

[The following information was subsequently supplied for the record:]

Based on information provided by the compliance agencies, the back pay settlements achieved during fiscal years 1973 and 1974 were as follows:

BACK PAY SETTLEMENTS ACHIEVED UNDER THE CONTRACT COMPLIANCE PROGRAM

Compliance agency	Fiscal year 1973		Fiscal year 1974	
	Number of settlements	Amount of back pay	Number of settlements	Amount of back pay
Atomic Energy Commission	11	$111,863	39	$102,518
Department of Agriculture	0	0	0	0
Agency for International Development	0	0	0	0
Department of Commerce	1	100,000	4	286,800
Department of Defense	3	4,100	5	2,486
General Services Administration	0	0	5	11,007
Department of Health, Education, and Welfare	2	39,105	7	[1] 473,121
Department of the Interior	9	[2] 29,026	10	[3] 368,076
National Aeronautics and Space Administration	0	0	0	0
U.S. Postal Service	0	0	0	0
Department of Transportation	0	0	1	1,118
Department of the Treasury	0	0	0	0
Veterans' Administration	0	0	0	0
Total	26	284,094	71	1,245,126

[1] Includes a $409,298 joint settlement achieved with the Wage and Hour Division, Department of Labor.
[2] Includes a $15,336 joint settlement achieved with the Wage and Hour Division, Department of Labor and a $2,100 joint settlement achieved with the Equal Emplo ment Opportunity Commission.
[3] Includes a $275,558 joint settlement achieved with the Equal Employment Opportunity Commission

Chairman GRIFFITHS. You have said in fiscal 1973 almost half of the compliance reviews performed were followup reviews. Is the purpose of the followup review to determine what progress the contractor has made in providing equal opportunities?

Mr. AHART. Yes. This is basically to determine progress in achieving the objectives, the goals, and the timetables included in affirmative action programs, and to see whether any changes need to be made in that affirmative action program.

Chairman GRIFFITHS. If that is the purpose, then, should an agency such as GSA be able to tell us what improvement in women's employment status has been made by each contractor for whom the agency has conducted a followup review?

Mr. AHART. They should have that information for those contractors where they have made followup reviews, yes. I might mention, though, as I mentioned as a part of my prepared statement, in 5 of the 20 cases that we looked at in San Francisco, the GSA cases, sufficient information was not available to show the progress in the employment of females at the contractor facilities.

Chairman GRIFFITHS. You have said that OFCC relieved NASA of its compliance responsibilities because NASA officials were not following OFCC instructions, and because NASA was not taking strong enough enforcement action. And yet, your table 4 of your prepared statement shows that NASA had no more aversion to taking enforcement action than did several other compliance agencies. And your table 1 of your prepared statement shows that during the past 2 years NASA reviewed a much higher percentage of its contractors than did any other compliance agency. In your opinion, is NASA's loss of compliance responsibility justified?

Mr. AHART. I am not sure I would like to state an opinion on it. I would say this, If you are going to divest a compliance agency of its responsibility and assign it to other agencies you should have also made the same kind of review of the other agencies' programs to make sure that you are making progress.

Chairman GRIFFITHS. From looking at the facts of the thing, it appears that NASA could have been relieved of their responsibilities because they were trying to enforce them?

Mr. AHART. I would not want to speculate on that.

Chairman GRIFFITHS. I will speculate further that the Labor Department was not making clear all of its orders.

As a result of lack of coordination, what duplication of effort occurs between the Equal Employment Opportunity Commission and the agencies responsible for enforcing the Executive order—duplication in testing validation, in analysis of company employment practices—and to what extent does such duplication occur?

Mr. AHART. We have not tried to measure the extent to which the duplication occurs. I think there undoubtedly is some that would be already a duplication. Perhaps a consideration that might be more important is the fact that they are not coordinating their actions with respect to particular contractors.

So you have two Government agencies dealing with the same kind of a situation with the same contractor, one of them saying one thing, such as the case I have mentioned in my prepared statement, and taking the contractor to court for discriminatory practices, where the other Government agency has reviewed the contractor's affirmative action program, and finds them in compliance. I think that is a rather inexcusable kind of a situation to have, regardless of how much effort might be lost in the duplication of effort situation. I think it is unfair to the contractor to have to deal on two different bases.

Chairman GRIFFITHS. It is, of course, ridiculous. It would be far better if this whole thing were handed over to the EEOC; do you not think?

Mr. AHART. Again, we have not made that judgment. It is certainly a legitimate question to be raised.

Chairman GRIFFITHS. Your investigation has found that affirmative action plans often do not contain a sufficient breakdown of job categories. To be more effective, how should job categories be broken down?

Mr. AHART. I can comment on it generally, and perhaps Mr. Cox can comment on it more specifically.

Certainly, the idea of getting a job category breakdown to find out just what skills, what kinds of qualifications are necessary to fill the contractor's work force, is a good one. Only in this way can you determine whether or not they can be filled by people with such and such educational requirements, by women versus men, and all these other requirements. I think that is a very important part of it.

Mr. Cox might want to talk specifically as to just what these breaks should be, to the extent that he knows.

Mr. COX. One of the main problems which we encountered in the review of the affirmative action programs was that the programs did not contain sufficiently detailed breakdown and explanation of the individual jobs. Now, the hypothetical example which we referred to in the prepared statement was just a hypothetical example. But we, nevertheless, encountered situations in which the contractors would combine different types of jobs into broad categories of jobs in the detailed analysis of their work force. When this was done, it was not possible for the compliance agencies to analyze this data properly to determine if there were indications of possible discrimination against females or minorities for further investigation.

Chairman GRIFFITHS. Has the OFCC distributed compliance responsibilities among compliance agencies in a sensible fashion, in your opinion?

Mr. AHART. I think there is certainly some merit to using basically the standard industrial classifications, because the more familiar an agency can be, or the compliance office can be with the type of industry involved, the more attuned they can be to what kind of jobs are available. They can also do some kind of cross-fertilization, I would expect, between what one contractor in that industry has been able to do versus what another contractor should be expected to do. So I think it has some merit to it.

There are other breaks that can be made, such as a straight geographical break, and that has advantages, too. My colleagues might like to comment. But I would not raise at this point a basic question on the validity of that.

Would you have any other views?

Mr. COX. No; I would not have anything to add.

Chairman GRIFFITHS. You have compared the compliance agencies in their performance of compliance functions. Have you been able to compare the resources available to the various compliance agencies in carrying out these functions?

Mr. AHART. We do have statistics available, which Mr. Cox might want to comment on, which show the number of professional staff which is available in each agency. And we can supply those for the record, if you would like.

Chairman GRIFFITHS. All right.

[The following information was subsequently supplied for the record:]

Information showing the estimated nonconstruction contractor universe and professional staff as of fiscal year 1974 is shown as follows:

Compliance agency	Number of nonconstruction contractors	Professional staff-years on nonconstruction, fiscal year 1974	Contractor facilities per professional staff member
AEC	4,080	47.0	87
Government owned contractor operated facilities	60	24.0	3
Agriculture	21,200	33.0	642
AID	1,200	8.5	141
Commerce	780	16.0	49
DOD	36,000	420.0	86
GSA	23,000	94.0	245
HEW	3,420	133.0	26
Interior	4,000	41.0	98
NASA	260	14.0	19
Postal service	19,000	7.2	2,639
Transportation	380	15.6	24
Treasury	6,000	21.0	286
VA	12,480	9.0	1,387

Chairman GRIFFITHS. Would you like to comment now?

Mr. Cox. Yes. We did observe, Madam Chairman, that among the compliance agencies there seems to be a striking contrast between the number of contractors for which the agencies were responsible and the staff available to the compliance agencies. Now, this comparison is not the best comparison that can be made, because we do not know how many employees are employed by each of these contractors. But nevertheless, this data does give some indication of the emphasis given the program by the compliance agencies.

For example, to take one agency, the Postal Service. They estimate that they are responsible for about 19,000 contractors. They have had a professional staff of about seven persons to work on these contractors. And that comes out to about 2,600 contractors per professional staff member. Now, that is an extreme example on the one hand.

And on the other hand, you have a situation in which the Department of HEW estimated that they are responsible for a total of about 3,400 contractors, and that comparies with a professional staff of about 133 perople, which figures to about 26 contractors per staff member. So there are wide fluctuations here in the resources allocated to the program in relation to the number of contractors for which the compliance agencies are responsible.

A word of caution is necessary, though, as I indicated. This is a comparison of staffing in relation to number of contractors, and this does not consider the size of the contractors or the inherent difficulties which may exist in evaluating one type of contractor in relation to another. This does, nevertheless, give some indication of the wide range of differences in the efforts which are applied to this program.

Chairman GRIFFITHS. The Post Office has been in recent years a large employer of women, too, has it not?

Mr. Cox. Yes, ma'am.

Chairman GRIFFITHS. And I doubt that they put very many of them in the supervisory capacity.

Mr. Cox. I do not have information on that right at the moment.

Chairman GRIFFITHS. What do they buy? Who are their contractors?

Mr. Cox. Mostly these are transportation contracts, contracts with airlines and trucking companies for the transportation of the mails.

Chairman GRIFFITHS. That is great. There would be a lot of openings in those industries. Maybe we should question some of them.

How do the staff contractor ratios of GSA and Defense compare to that of HEW?

Mr. Cox. Well, Defense has a staff contractor ratio of 86; that is, 86 contractors per compliance officer. And GSA has a ratio of 245 contractors per compliance officer. And HEW has a ratio of 26 contractors per compliance officer.

Chairman GRIFFITHS. So GSA is really the worst.

In your investigation you found that records in one GSA regional office showed several affirmative action plans as having been approved when they had not even been reviewed. Could erroneous recordkeeping of this kind have happened on a larger scale?

Mr. AHART. I think certainly it could have.

To fill out the story on that, we did have statistics from GSA which showed that they had approved 228 affirmative action plans. When we got behind those statistics, we could only find the basis for 175. Now, we drew our sample of 20 from that 175, and the 6 that we found had not been approved were within that 20. So even the 175 is inflated. So there could be a fairly large-scale problem. And it does have implications to it.

If the compliance agency does not know which ones it has approved and which ones it has not, obviously, it cannot do its job well.

Secondly, if a compliance agency does not furnish the proper statistics to the Office of Federal Contract Compliance, it would hinder any evaluation efforts that the Office might want to make of a compliance agency's program. So it could be a significant problem, and a broader one than we have indicated in the prepared statement. And certainly, it is one that has implications for the effectiveness of the program.

Chairman GRIFFITHS. How did GSA explain when you discussed it with them?

Mr. AHART. I do not personally know. Mr. Cox might know what explanation they gave.

Mr. Cox. We did not pursue that in depth with them. But the way we did arrive at these statistics is pretty hard to explain. We took the number of affirmative action programs which GSA reported to OFCC as having been approved, and then we went through them and asked for a listing of individual contractors. GSA was able to furnish us only a listing of the 175. I do not believe we really attempted to obtain in any detail an explanation for the difference.

Chairman GRIFFITHS. Maybe I can.

I would like to thank all of you. You haye been just wonderful, and we deeply appreciate your assistance. Thank you very much.

Mr. Mitchell, you are our next witness and the House has just gone into session. I have read your prepared statement. There is no one else here to ask any questions. I would like to begin by just questioning, and we will put your prepared statement in just as it occurs. Is that all right?

TESTIMONY OF HON. EDWARD E. MITCHELL, DIRECTOR OF CIVIL RIGHTS, GENERAL SERVICES ADMINISTRATION

Mr. MITCHELL. Whatever you wish to do.

Chairman GRIFFITHS. If you have any change to make in your prepared statement that you would like to put in the record, we would be glad to do that.

Mr. MITCHELL. I have no change.

Chairman GRIFFITHS. That will be fine. We will place your prepared statement in the record at this point.

[The prepared statement of Mr. Mitchell follows:]

PREPARED STATEMENT OF HON. EDWARD E. MITCHELL

I am extremely pleased, and wish to thank you for giving me the opportunity to discuss with you the General Services Administration's (GSA's) contract compliance activities. These activities are a major part of GSA's efforts to assist in the attainment of our society's goal to provide equitable job opportunity to all American citizens.

You and I, as well as all our fellow citizens, are blessed to be living in an era of accelerating change.

The difficulties we as individuals and organizations encounter as we adjust, and adapt to ever increasing change and newness in our society severely tax our personal and organizational capabilities for survival—if an attempt is made to maintain the status quo.

If, however, we welcome this period of history as a time when creative and innovative ideas will be received in an atmosphere of receiptiveness and cooperation, not only will necessary adjustments to accelerating change be easier, but the affirmative results obtained from our efforts will be significantly more far-reaching and satisfying.

Our joint, cooperative efforts to alleviate some of the gargantuan problems associated with providing increased opportunities for all our fellow citizens to participate equally in making the promise of America a reality can provide personal, economic, and societal benefits greater than those accruing from any other personal or organizational activity.

It is my belief that today is not a time for utopian, wishful dreaming. It is not the time for academic-type theorizing. It is not the time for bigotry, whether cultural, unconscious or deliberate.

It is the time for effective, pragmatic, affirmative action.

I am sure that all of us here today agree that all Americans should have a fair and just opportunity to seek, and to achieve their highest potential and productivity in employment situations of their choice.

But such is not the situation today in this our land of opportunity.

America's 163 economic ghettos have not been eliminated, but recently their population increased by some 300,000 blacks contrasted to the one million whites that fortunately, during the same period of time, rose above the poverty level.

While, regrettably, 14% of all American families exist below the poverty level, some experience inequity to a much greater degree. Approximately 32% of the black families and 40% of American Indian families are below the poverty level.

Nor can much hope be gained from a study of current trends, for the gap between the income of minority families and white families is increasing rather than decreasing.

Of all forms of discrimination, sex discrimination appears to have most completely permeated our society.

Women in American today are unable to exchange education and occupational status into earning at the same high rate as men, even when they are full-time workers with considerable lifetime work experience.

Further, the sex discrimination disease, I believe, is reaching epidemic levels if one projects that trend of the past three years, when over one million additional females became heads of American families.

Approximately 12% or 6.6 million American families were headed by women in 1973, and according to the Census Bureau, nearly 40% are existing below the government defined poverty level, and median income of these families is only about half the national median.

The access to employment opportunities is vital to the economic and personal fulfillment of the individual and to the well-being of his or her family.

Yet, far too many jobs are moving beyond the geographic-economic reach of those who need them most.

If minorities and women employed in government and the private sector were to receive the same average pay as white males having the same education, experience, and potential, the annual personal income of minorities, women and the nation would be billions of dollars higher. Industry would earn extra profits and the entire economy would benefit.

Therefore, the nation's civil rights program's goals and objectives are not only humanitarian, but are economically necessary as well.

Further, the danger to our society of such a large portion of our labor force being alienated because of legitimate past and present grievances cannot be overstated.

GSA has been, and is continuing to take effective, affirmative action to significantly alleviate the conditions I have described.

GSA's Equal Employment Opportunity Program is based upon, and controlled through the execution of an Affirmative Action Plan (AAP) developed by supervisors at all levels, approved by the Administrator and the Civil Service Commission, and executed to the benefit of all employees or prospective employees and the citizenry GSA serves. Our major goal is to make equitable job opportunity for all a reality in GSA—whether male or female; red, yellow, brown, black or white; handicapped or not; young or older.

In addition to our internal program to which our AAP is principally addressed, the GSA Civil Rights Program encompasses other socioeconomic areas.

As a major Contract Compliance Agency of the Federal government, GSA personnel ensure that thousands of contractors doing business with the Federal government provide equality of opportunity to all employees or prospective employees.

As a facilities manager for the Federal government, GSA uses as a prime consideration in selecting sites for new construction projects, as well as for leased space, the availability of low and moderate income housing on a non-discriminatory basis, public transportation, and the like. For if, as is too often the case in the private sector, these items are not available, many persons—minorities and females—yes, even many young white families find that because of the high housing costs and paucity of public transportation, they are in fact denied the available jobs.

Last, but certainly not the least of our four major civil rights efforts to provide equal opportunity for all is our continuing, expanding effort to assist the disadvantaged, most often minority entrepreneur in obtaining and executing non-competitive contracts with the Federal government, so that they can later obtain a fair share of our competitive, private enterprise system.

We in GSA, I believe, can be justifiably proud of our record of accomplishments since 1969, that are a result of efforts of so many dedicated individuals not only in the Executive, Legislative and Judiciary branches of the Federal government, but the private sector as well.

From a humble beginning when there was no formal civil rights budget or organization, and most of the persons involved in civil rights activities were part time and scattered throughout GSA, we have progressed to the point where we have full-time trained personnel in established organizations in the central office and each of our ten regions. Further, these civil rights offices are located in the Office of the Administrator and the offices of each Regional Administrator. This enables the heads of civil rights activities to report direct to the overall head and regional heads of all GSA activities. There is also a formal Office of Civil Rights budget whose level of resources has been steadily increased by the Congress and for this year, Fiscal Year 1975, provides 275 permanent positions and $4,245,000.

Internally, minorities and women currently constitute approximately 41% and 31% of GSA's total work force, respectively, and are located in most job categories. Upward mobility is given due consideration as reflected by the fact that during the past fiscal year minorities received 37% of the appointments and 39% of the promotions.

In the area of assistance to the disadvantaged, most often minority business entrepreneur, GSA continued its record of annual increases in the value of awards made under section 8(a) of the Small Business Act. This section under the Act permits GSA, acting through the Small Business Administration (SBA) as prime contractor, to have a non-competitive contract awarded to an SBA-qualified

disadvantaged firm. Hopefully, the business persons receiving these awards will later become able to competitively win government contracts. During the past fiscal year, 367 contracts valued at $43,887,121 were awarded for GSA by the SBA.

The Contract Compliance Program that is administered by GSA has its basis in Executive Orders 11246 and 11753, which dictate that contractors with federal, or federally-assisted contracts shall take affirmative action to prevent discrimination in employment on account of race, color, religion, national origin or sex. Executive Order 11246 delegated the responsibility of enforcing the order to the Department of Labor, and the Office of Federal Contract Compliance (OFCC) within the Department of Labor currently has assigned to GSA the responsibility for monitoring and evaluating the equal employment practices of 25 private industries in addition to GSA's own construction program that is included in Standard Industrial Codes 17 and 19.

The Standard Industrial Classification Codes (SIC), through use of a unique 9-digit code assigned and maintained by Dun and Bradstreet, indicate the primary and secondary lines of business of approximately 2,613,000 U.S. business establishments. A recent communication from Dun and Bradstreet reported that, included in the SIC's assigned GSA, are over 1,100,000 business establishments. Of course, all of these establishments do not have Federal government contracts. In fact, to my knowledge, Dun and Bradstreet, although working to develop a total universe listing of Federal government contractors, does not at present have such a list. Nor is such a listing by SIC's available anywhere in the Federal government.

OFCC has made available outputs from the McKersie Method. The McKersie Plan is basically a statistical formula used to analyze minority wage and employment data contained in EEO–1 reports furnished the Federal government by government contractors. A computer translates and organizes the data to show:

1. that within a certain industry,
2. in a specified geographic area,
3. a certain government contractor,
4. has a specific number of employees,
5. and that a specified number of minority employment opportunties (promotional and hiring) exist,
6. and specifies for which minority groups these jobs might be available.

The purpose of the McKersie Plan is to reveal which government contractors have the most minority job opportunities, and to assist supervisors in the establishment of priorities in scheduling those contractors for post award compliance reviews. At present, using all sources available, including our records since 1970, we have identified a base work load of approximately 24,000 major government contractors.

Our personnel resources for contract compliance activities have been increased each fiscal year from 51 positions in FY 1971, to 212 positions this FY 1975. However, these limited resources will permit us to conduct complete reviews of only approximately one-fourth of our currently identified major government contractors. We therefore have increased our efforts to develop, in cooperation with corporate level personnel, model plans that can, with minimal adjustment due to local conditions, be implemented at all establishments of the corporation. We believe that the overall result will improve even though we will not be able to review all establishments on a yearly basis in the foreseeable future.

Contract compliance activities may easily be sub-divided into two categores, construction and non-construction, because of differing basic characteristics and established compliance review methods. Construction contractors seldom have more than a small nucleus of permanent workers and goals and time tables are, in many areas, established by either "Hometown Plans," OFCC Imposed Plans or Court Imposed Plans. Non-construction industries usually have permanent work forces and usually there are no local or area established goals or time tables.

During the past few years, GSA has averaged about 500 construction projects in being at any given time, although presently there are over twice this number. We are extremely proud of the EEO record of our construction contractors.

On GSA construction projects, nationwide, minority manhours worked have averaged over 30% of the total on all projects. Minorities have held approximately 38% of the skilled craft jobs and over 40% of the apprentice positions. Further, and I believe this information will surprise many persons, as of August 12, 1974 there were females employed on construction projects in nine of our ten regions in sixteen different professions or trades, including Assistant Superintendents,

Architects, Draftspersons, Estimators, Engineers, Electricians, Plumbers, Carpenters, Welders, Apprentices and Laborers.

In the industry/utilities area, many large corporations that previously were either only marginally in compliance, or did not provide equitable opportunities to minorities and women, now are demonstrating not only good faith efforts but tangible, quantitative evidence of accomplishments. As an example, GSA has been able to obtain voluntary agreements from certain major corporations. Those agreements correct, without long, drawn-out costly court actions, practices that historically had denied minorities and women an equal job opportunity. Current affirmative action plans call for tens of thousands of minorities and women to be able to enter previously denied job classes, including those of officials and managers.

We in GSA believe that the successes we have had to date result from our expressed desires to work cooperatively with the contractors in analyzing whatever problems there are and jointly devising a solution, including goals and time tables and back pay, where indicated, that is both reasonable and feasible. At times, when persuasion and conciliation have proven ineffective we have taken other appropriate actions, including the issuance, since 1971, of hundreds of show cause notices, a few pass-overs for contracts, cancellation of contracts, debarment and court actions. One recent action is of particular interest.

On July 10, 1974, the U.S. District Court for the Eastern District of Louisiana ruled that unwritten contracts for gas and electricity between GSA and the defendant utility were subject to the equal employment opportunity provisions of Executive Order 11246, even though the utility had consistently refused to enter into a written contract with GSA containing EEO provisions on the theory that it could avoid compliance with the equal opportunity provisions of Executive Order 11246 by billing GSA for gas and electricity in the same manner that it would an ordinary householder. If this decision is affirmed on appeal, it will create a binding precedent in the entire Fifth Circuit (Louisiana, Texas, Mississippi, Alabama, Georgia and Florida), and will greatly facilitate GSA's efforts to enforce Executive Order 11246 and other civil rights provisions with many regional contractors who refuse to sign contracts to avoid the equal employment opportunity provisions contained therein.

Though some companies have been prodded into their present posture because of the fear of government censure, many more have made improvements in their EEO posture as a result of taking a pragmatic look at these facts.

It is in the public interest, and is morally, ethically and legally right to provide equitable job opportunity to all our citizens.

The black consumer market, previously largely ignored, is currently estimated to exceed $50 billions per year.

There is a necessity to retain and upgrade minority and female workers because of the corporate investment they represent.

There is reason to believe that the improvements already achieved by corporations will continue to multiply, though not without continued prodding from government agencies and community groups.

I believe that the principal objective of this hearing is to increase the magnitude of the affirmative results obtained through the execution of the Federal government's contract compliance program. I further believe that to attain this worthy objective, consideration should be given to the identification and recommended solutions to the major problems that have hindered the achievement of maximum desirable results.

In this context, I would appreciate your consideration of a few of my personal thoughts and conclusions.

The success or lack of success of any endeavor in the final analysis is dependent upon the quality of the people involved, their actions and interactions. Within GSA we ascribe to the belief that there are basically two dimensions of leadership—"the skills that make people respond, and the skills that make things work."

I personally believe that the greatest problem hindering full accomplishment of the goals and objectives of the Federal contract compliance program is the limited availability of fully qualified, motivated people. This fact is the result of two conditions over which none of us in this room today has full control.

1. There currently is no formalized career or, academic training program in any of America's colleges or universities leading to the development of professionally qualified Contract Compliance Officers.

2. With the passage of the Civil Rights Act of 1964 and the strengthening amendments in 1972, it became a necessity for all departments and agencies of federal, state and local governments, as well as over a million business establishments to have at least one or more "qualified" EEO specialists.

In the civil rights area of internal Equal Employment Opportunity, the Federal government provides centralized interagency training through the Civil Service Commission. In the contract compliance area, each contract compliance agency must provide staff and facilities to meet its training requirements since there are no currently available labor pools of fully qualified personnel, or formal training courses available. In GSA, we have in being a formal Career Intern Program, approved by the Civil Service Commission, that enables us to provide training from the GS–5, 7 and 9 level to the target level of GS–11 in the EEO Specialist, Series 160. While this system of training has met and is meeting our needs, we recognize it is not the most desirable.

A solution I propose for consideration is as follows: that the U.S. Civil Service Commission be authorized to provide the necessary basic, advanced, and executive level interagency contract compliance training.

The increasing sophistication of civil rights programs demands unique skills that each agency teach, thereby incurring the predictable diseconomies of duplicative, non-uniform training. CSC interagency training, an on-going program has research resources and facilities, and already mounts training efforts that disseminate much of the knowledge, skills, and techniques required for successful contract compliance work. Such centralized training would help to:

1. Ensure maximum productive use of available training facilities;

2. Reduce substantially the cost per contract compliance trainee;

3. Achieve centralized planning and standardized execution, as well as evaluation, of the contract compliance training effort and;

4. Establish a minimum acceptable quality of training for a well defined and steadily increasing training demand.

Another problem of significance is the fact that there is no single individual or organization in the Federal government specifically responsible or accountable for the operational planning and monitoring of execution of the total Federal Civil Rights Program. Internal EEO is under the Civil Service Commission; Contract Compliance (Executive Order 11246, as amended) is under the Department of Labor; Title VII is under the Equal Employment Opportunity Commission; Title VI is under the Justice Department; numerous "Contract Compliance Agencies" have specific responsibilities for contract compliance and all departments and agencies have inherent responsibilities for their internal EEO programs.

Further, many Federal departments or agencies do not have a full-time, top-echelon official assigned solely the responsibility and authority to manage all civil rights activities of the department or agency. Frequently since there are specific requirements that department or agency Directors of EEO and Contract Compliance Officers report direct to the department or agency head, assignments are given on a part-time basis with the work actually done at lower echelons by individuals without the requisite status or authority.

I believe that a small organization should be established in the Executive branch of the government with responsibility for, and authority over, the planning, programming, developmental budgeting and evaluation of the total Federal Civil Rights Program. This would, among other benefits, provide an office that could adjudicate differences and, above all, provide timely guidance and decisions in todays most critical problem area of America's domestic affairs. This solution should greatly accelerate affirmative actions and the results therefrom since it should significantly alleviate the current problems related to peer group policy and operations differences.

Further, as an ancillary item, each Federal department or agency of sufficient size should have an Office of Civil Rights headed by a top-level executive (Assistant Secretary, Assistant Administrator, or their equivalent) whose sole and full-time responsibility would be managing the Civil Rights Program. This person would be under the direction of and report to the head of the department or agency but would also be accountable to the head of the Federal governments Office of Civil Rights.

In spite of the problems, GSA has made significant progress over the past few years in all phases of its civil rights program. Some selected examples from the contract compliance area are as follows:

A contractor, dissatisfied with isolated instances of short-falls in the execution and results of its "good faith efforts" to reach its intermediate and long-range goals and timetables, instituted, internally, a Mandatory Achievement of Goals (MAG) Program for 1974. This new procedure reduces short-range goal-setting to a simple proportion of available openings. Under the MAG Program, this corporation will reach its previously determined long range affirmative action goals at a rate dependent only on availability of job openings. The basic policy is, at the minimum, to fill one out of every two openings with minority men or women of whatever races are present in the particular trading/hiring area.

One of our major contractors with over 1,000 establishments, Sears, Roebuck and Company, in its Annual Report for 1973, provided data that reflected excellent results from their affirmative actions to increase the numbers of minorities and women in the critical area of management. During 1973, half of all college graduates selected for Sears management training were minorities or women. While the total number of Sears officials and managers increased 21.4 percent from February 1969 to August 1973, minorities increased 178.3 percent and women increased 70.2 percent in this category. As of April 1, 1974, 5.8 percent of Sears officials and managers were minorities and 27.6 percent were women.

It is the policy of the Federal Government that the maximum practicable opportunity to participate in the performance of government contracts be provided to minority business enterprises as subcontractors and suppliers to contractors performing work or rendering services as prime contractors or subcontractors under government procurement contracts. GSA's objective is to fully use this process to assist the disadvantaged in becoming viable, taxpaying citizens as they strive for a more equitable share of this country's affluence. GSA has emphasized the program commonly known as 8(a), which authorizes noncompetitive consideration of disadvantaged contractors in the awarding of Federal contracts in the hope that these businesses will later be capable of acquiring contracts competitively. During Fiscal Year 1974, a total dollar value of $15,600,000 in construction contracts was awarded through the Small Business Administration under this authority. What is extremely encouraging is the fact that also during fiscal year 1974 regular construction contracts totaling $36,592,507 were awarded to disadvantaged contractors and subcontractors.

Another specific affirmative action by GSA aimed at further solidifying the position of small business nationwide is the Property Rehabilitation Program. Under this program, GSA sets aside 95 percent of its requirements for maintenance and repair of personal property for performance by small business firms. Items serviced under the contracts range all the way from typewriters and furniture to aircraft loaders, and sophisticated heavy construction equipment. The program is aimed at all small business firms, but it also helps to foster and promote businesses in the service industry which are owned by the socially and economically disadvantaged. Working closely with the SBA, GSA is able to identify minority contractors that have the potential to meet government requirements for participation in the program.

I wish once again to thank you on behalf of Arthur F. Sampson, Administrator of General Services, and myself, for providing me the opportunity to participate in this hearing.

In conclusion, I'd like to state that we believe one of the reasons we are able to persuade contractors to take affirmative actions related to job equality for women and minorities in the fact that they know that within GSA we practice what we preach. As an example, in the GSA Office of Civil Rights nationwide, approximately 54 percent of the personnel are females. Nor are these women located only in lower level jobs, for 21 percent of the positions at $17,591 and above are occupied by women.

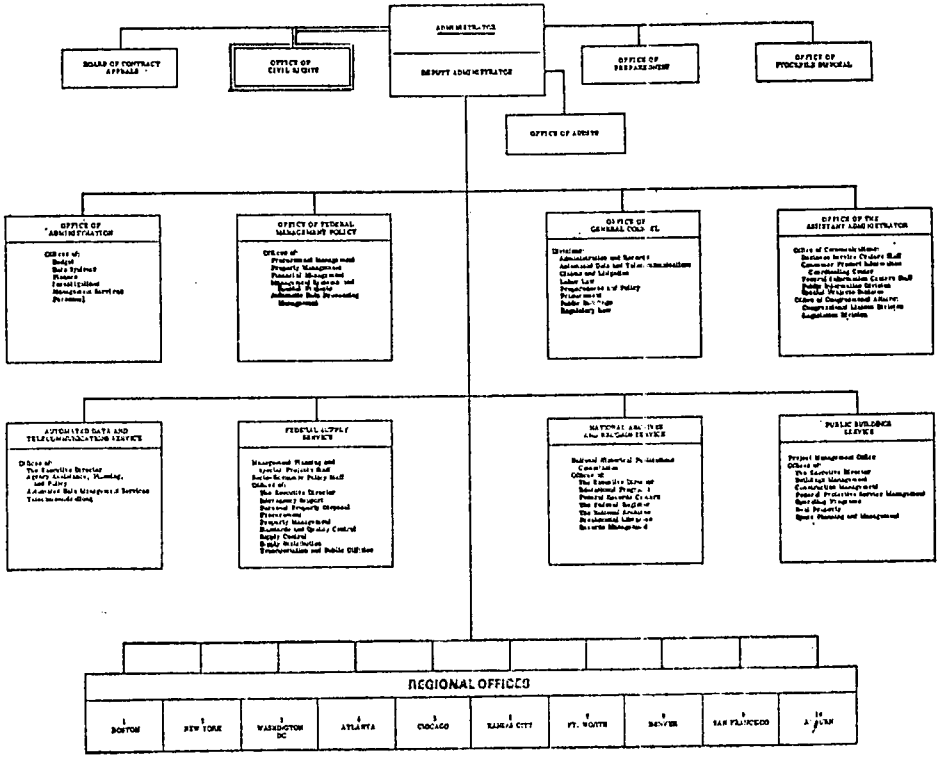
Particular assignments include Division Directors and Assistant Division Directors in the Central Office, Regional Directors of Civil Rights, Equal Employment Opportunity Officers and Branch Chiefs, Contract Compliance.

Thank you.

EXHIBIT A

OAD 216

GENERAL SERVICES ADMINISTRATION



JANUARY 1974

EXHIBIT B

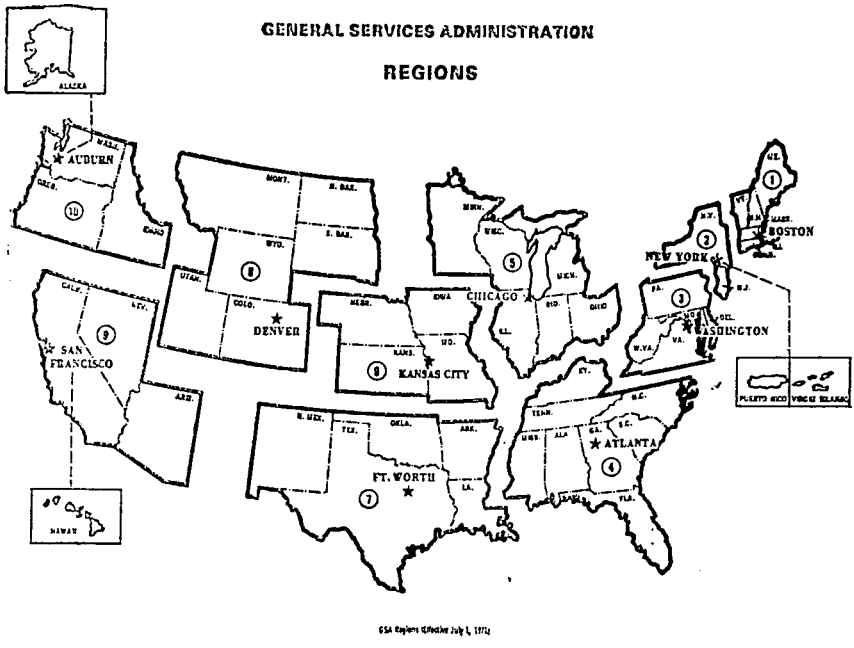


EXHIBIT C

Civil Rights Program Policy, Responsibilities, Resources

It is the policy of GSA that the same Equal Employment Opportunities provided Federal employees or prospective employees shall be provided by governmental contractors to their employees or prospective employees.

To maximize the effectiveness of this policy, the Administrator combined the responsibilities and authority for both the internal Equal Employment Opportunity (EEO) Program and the external Contract Compliance Program assigned to GSA by the Office of Federal Contract Compliance (OFCC), Department of Labor, under a Director of Civil Rights, who is both the GSA Contract Compliance Officer and the Director of Equal Employment Opportunity, and who reports directly to the Administrator. In the regions, similar organizations are located in the Office of Regional Administrators.

Positions	Fiscal year 1971			Fiscal year 1972			Fiscal year 1973			Fiscal year 1974			Fiscal year 1975		
	C.O.	Regions	Total	C.O.	Regions	Total	C.O.	Regions	Total	C.O.	Regions	Total	C.O.	Regions	Total
Total	33	34	67	45	76	121	55	146	201	67	185	252	47	228	275
EEO	5	11	16	6	21	27	6	21	27	13	50	63	13	50	63
Contract compliance	28	23	51	39	55	94	49	125	174	54	135	189	34	178	[1] 212
Total performance cost			$974,000			$1,850,000			$2,839,393			$3,923,000			[1] $4,245,000
EEO			203,000			386,000			437,471			651,000			692,000
Contract compliance			771,000			1,464,000			2,401,922			3,272,000			3,553,000

[1] Does not include $446,800 of support costs centrally controlled (e.g. rent, utilities, etc.); and additions resulting from transfers of contract compliance functions and resources from the Agency for International Development and the National Aeronautics and Space Administration.

EXHIBIT D

GSA Compliance Responsibilities

The General Services Administration (GSA) compliance responsibilities under Executive Order 11246, as amended, were recently assigned according to the following listed Standard Industrial Classifications (SIC) by the Office of Federal Contract Compliance (OFCC).

SIC CODE NO.	AND INDUSTRY
15–17	Construction (GSA)
24	Lumber and wood products
25	Furniture and fixtures
26	Paper and allied products
48	Communications
49	Electric, gas and sanitary services
53	General merchanidse stores (retail)
57	Retail furniture, home furnishing and equipment stores
58	Eating and drinking places (retail)
59	Miscellaneous retail stores, mail order houses, and automatic merchandising machine operators
61	Credit agencies, other than banks
62	Security and commodity brokers, dealers, exchanges and services
65	Real estate
67	Holding and investment companies
72	Personal services
73	Business services (except 739)
75	Automotive repair and services
76	Miscellaneous repair shops
78	Motion pictures
79	Amusement and recreation services
89	Miscellaneous services
502	Furniture and home furnishing (wholesale)
503	Lumber and other construction materials (wholesale)
511	Paper and paper products (wholesale)
518	Beer, wine and alcoholic beverages (wholesale)
963	Regulation, administration of utilities

EXHIBIT E.—TOTAL GAS CONSTRUCTION CONTRACTS AWARDED DISADVANTAGED CONTRACTORS AND SUBCONTRACTORS, FISCAL YEAR 1974, CONTRACTS IN EXCESS OF $10,000

Region	Dollars terms and negotiated contracts	Dollar value 8–A contracts	Total
1	None	$31,000	$31,000
2	$14,490,000	5,982,000	20,472,000
3	5,613,560	1,402,000	7,015,560
4	231,500	516,000	747,500
5	1,417,321	634,000	2,051,321
6	433,898	56,000	490,170
7	3,741,427	47,000	3,788,427
8	485,017	197,000	682,017
9	5,750,000	4,795,000	10,545,000
10	4,429,847	1,940,000	6,369,847
Total	36,592,570	15,600,000	52,192,842

Chairman Griffiths. During its audit, GAO reviewed 60 affirmative action plans which had been approved by GSA. GAO found that 70 percent of the plans which your compliance officers had approved did not meet OFCC guidelines, and should not have been approved. Mr. Mitchell, these plans were randomly selected and were chosen from three GSA regional offices. In each region the number of plans arrived which did not meet OFCC criteria ranged

from 65 to 80 percent. It appears from these statistics that there is a pervasive failure within GSA to meet its obligation in enforcing the Executive order. It raises several questions. Were you aware of these deficiencies?

Mr. MITCHELL. The deficiencies as found by the General Accounting Office, I have never been informed of. Today for the first time by coming early, I received a copy of their prepared statement. I was, at a closeout interview, told of some asked-for specifics, because in the evaluation of an affirmative action plan, that type of plan is not the type in which you can just go by certain of prerequisites for requirements for inclusion without looking in more detail at what is actually there. As an example, when you summarize certain reports, then you start to limit the number of job categories, the job classes or groups. The backup on it takes quite a bit more. As an example, this is just the detail on an analysis done related to an effective class at one establishment.

I think first, to make it real clear, that the audit done by GAO was exceptional, because of certain limitations in this whole area that I have brought out in my prepared statement related to qualified people that know what they are doing in this area.

I further, after being here this morning, agree with you that the job that they did was exceptional in identifying the areas. But in the specifics of various ones, such as the specific affirmative action plan, then I would heartily, strongly disagree with any conclusion that said that GSA, considering what the history of this whole program is, and considering our significant measurements, has not been carrying out its program to an exceptional degree. I would certainly request the opportunity to give the basis for my conclusion.

Chairman GRIFFITHS. All right, let us hear it.

Mr. MITCHELL. We, GSA, with no program prior to 1971, and in this period of time, have entered into, among other things, major agreements with American Telephone & Telegraph Co., which it has been noted was the leader in changing sex discrimination, under which, when you talk about numbers in 1 year, they were due to do some upgrading into officials and managers of some 50,000 women. That is one example.

The Potomac Electric & Power right here in this area is another one of them.

The Container Corp., VESCO Corp., American Can Co., Scott Paper Co., Continental Can Co., Georgia Kraft Co., Union Camp Co., and Georgia Pacific Corp. This is just a part of it.

In relation to the thing of enforcement, we have issued in that same period of time 549 show-cause orders, during which time we have conducted 12,246 reviews, which runs approximately 4 percent when you are talking about some of this. We have canceled a contract. We have had passovers on some 10 major corporations. We have had debarment, even though it said that that was a small company, but within the paper industry today, with the shortage and the necessity to still have paper products, that is a critical area.

Our organizations, in coordination with the Justice Department and with others, have been in court actions with New Orleans Public Service, Inc., Mississippi Power & Light, Vepco, Georgia Power, Detroit Edison, Philadelphia Electric, and Sears, Roebuck & Co.

Chairman GRIFFITHS. Did you initiate those suits?

Mr. MITCHELL. Some of those were not initiated by GSA through the process. Some were initiated by GSA.

Chairman GRIFFITHS. You did not sue Detroit Edison?

Mr. MITCHELL. Detroit Edison was not sued—I stated, and I am sorry if I gave the wrong impression—I stated they were related to corporations over which we have the responsibility. What we did in connection with Detroit Edison was that we were reviewing them during that time. We had found deficiencies when the court case was instituted by community groups. We did not during that period of time conduct contract compliance reviews, it was not in accord with my desires. Since then we have provided both the corporation and the affected unions with training and assistance by directing my deputy contract compliance officers and others to assist them in coming into compliance in may of these cases, either a community group or the Justice Department, on some prior case, or with our assistance did.

In cases more than this we have been the agency that provided the detailed affirmative action plans, and the data used as the base for the work done by the EEOC's one example, and others in carrying out these various cases.

Chairman GRIFFITHS. I still think you cannot assume credit for all of that. The original consent decree which GSA signed with A.T. & T. was so poor that OFCC withdrew responsibility from GSA, and then negotiated a new consent decree which GSA was not even allowed to sign. How can you claim credit for the A.T. & T. agreement? You cannot.

Mr. MITCHELL. May I respond to that, please?

Chairman GRIFFITHS. Surely.

Mr. MITCHELL. As stated by Mr. Brown of the EEOC when he did testify, in our statement and publicity release the principal change in the consent decree that was passed in January of 1973 meant that there was no longer any sex discrimination, that there was an upgrade in transfer plan, that the 15 categories would be expanded, and that that was even more important than the $15 million backpay, et cetera. Those items, the development of the model affirmative plan, the development of the upgrade and transfer plan, the redoing of their total personnel system, the concept of goals and timetable even to include white males, all of those plans were done by GSA. We have never received from OFCC or any of the other Government agencies a statement that intervention by OFCC was because of our unsatisfactory performance. There was a formal investigation which found by a task force, of which I was not a part, that every action that GSA took was appropriate, legal and as of now, GSA is providing the technical knowledge working with EEOC and the commitee in doing the followup guideline and the review of the consent decree. That is the reason I am saying it.

Chairman GRIFFITHS. Well, evidently the press releases are not agreeing with you.

Since the Executive order was issued in 1965, why did not GSA have a compliance program in 1971?

Mr. MITCHELL. It had a compliance program, theoretically. It was principally part-time people located in various places of the agencies. And in many cases contractor offices is a part of their duties, so-called compliance function. In 1970, in the fall of 1970, the then administrator directed that this whole thing be reorganized to make it effective. And in 1971 initially we took resources and dollars from within the agency. In 1971 we received the first budget. I just happened to have been the individual, because I am supposed to be a management specialist. I was in the Office of Administration as Deputy Assistant Administrator for Administration at that time. I reorganized it and got the budget in 1971. Since that time we have received increases of approximately 400 percent in that particular program from about some 51 people up to 212 positions in contract compliance.

In the overall civil rights program we have gone from 67 to 275 in that program. Since that time we have been commended on the floor of the Senate for what we have done in proving it on two separate occasions. That is one of the reasons.

And I could go into further detail. And I have indicated in parts of it that I cannot with good conscience accept that we are not carrying out the program.

Chairman GRIFFITHS. Have you ever looked at GSA to see how women are fairing in GSA?

Mr. MITCHELL. Yes, I have. It so happens that as Director of Civil Rights of GSA, I am likewise contract compliance officer for the contract compliance program and Director of the EEO for the inhouse program.

Chairman GRIFFITHS. And what did you find?

I found that within GSA there are no women, no women in the super grades GS–16 through GS–18; is that right?

Mr. MITCHELL. That is absolutely true. There was one up until just about a year ago, Evelyn Eppley. There is none. There has been——

Chairman GRIFFITHS. That is the woman that was fired for using profane language or something?

Mr. MITCHELL. No. Evelyn Eppley was the head of our Contract Review Board there.

Chairman GRIFFITHS. What happened to her?

Mr. MITCHELL. She retired.

That is absolutely true, although we have tried in the past to change that. We did think one year, just about 2 years ago, when a woman was offered the position of Commissioner of our Federal Supply Service, and we were real happy and thought that we would have her, after 2 weeks she refused the position.

We have increased the numbers of women in all position categories up in and including GS–15. We have had great difficulty related to the other.

Chairman GRIFFITHS. Why?

Mr. MITCHELL. One of the problems that you have in the placement in Federal service of women is the particular role of the merit promotion system, and the general requirements that an individual, to get promoted to a higher level position in the career competitive

service, generally has to have been in one of the positions just below that, with certain qualifications and experience. Likewise, the limitations on whether or not, under the Whitten amendment, that they have spent the minimum of a year in grade, unless in some cases you can get waivers. So, for instance, in the Office of Civil Rights, in my own office, we recognize that and have made expert special career plans. And in GSA we have the same kind of thing for executive development. And we can then, over a relatively short period of time—I am talking about 2 to 3 years at the most—carry them from lower levels of the midmanagement up to the top level jobs. At the present time, I stated in my prepared statement, in my own office, we have nationwide 58 percent of our women, and 21 percent of the top level supervisory and management level jobs are held by women, including such jobs as Regional Director of Civil Rights, Division Director for the Utilities Industry Division, assistant senior contract claims people, EEO officers, et cetera.

Chairman GRIFFITHS. Now, I understand that most of the women who are getting these jobs are in the civil rights office. Outside of the civil rights department, there are no women. How can you explain it?

Mr. MITCHELL. That is a statement that I have had to counter many times, because it is not so. What I have done is to present and to provide to the Congress, both the House and the Senate, our approved affirmative action plans that have been approved by not only GSA, but by the Civil Service Commission. I have likewise provided our machine runs, our computer runs, to show them that that is just not so, they are in many key jobs, in many given activities.

Chairman GRIFFITHS. In October 1970, women represented 28.8 percent of GSA full-time white-collar employees; 37 percent of them are in grade 11 and below, and 5 percent in grade 12 and above. Three years later, in October 1973, women's total representation in GSA's full-time white-collar labor force had risen less than 1 percent. Women's representation in grade 12 and above had risen only 2 percent. Now, if you find that that statement is not correct, I would like you to supply your own figures of how many women are employed by GSA. I would like a breakdown of the grade at which they are employed. Because GSA is perhaps the most political agency in the entire Government. I would like to know if we are practicing over there what we preach, or are we saying one thing and doing something else. You can supply the detailed information for the record.

In your prepared statement, you noted that during the past fiscal year minorities received 37 percent of the appointments and 39 percent of the promotions in GSA. What percent of appointments and promotions did women receive?

Mr. MITCHELL. May I provide that likewise?

Chairman GRIFFITHS. Sure, you can put it in the record.

Mr. MITCHELL. Because otherwise I would be guessing. But it is approximately that same kind of figure. I did not expect this, and I did not bring that data on the in-house program.

Chairman GRIFFITHS. Just put it in the record.

Mr. MITCHELL. I will.

[The following information was subsequently supplied for the record:]

FEDERAL WOMEN'S PROGRAM

GENERAL SERVICES ADMINISTRATION

Federal women's program (FWP) staffing

GSA has been a leading agency in support of the FWP since the Program's inception in 1967. GSA appointed top-level women to a committee to study the status of women in GSA and to recommend positive actions to improve their status. In response to FPM Letter 713–15 in February 1970, GSA felt that a full-time FWP Coordinator was needed at the headquarters level to devote sufficient time to the Program. When a Management Intern from Kansas City was recommended to serve as FWP Coordinator during the second half of her training program, she was detailed to Central Office. Although no budget increases had been planned for the EEO Staff for FY 71, means were found to keep her on in the job.

Under her leadership and in response to her personal dedication many strides forward have been made. She was among the first full-time FWP Coordinators and consequently had to train herself and had few outside resources to lean on. One of the first priorities was establishing FWP Committees in each regional office and Central Office. Previously FWP Committees had sprung up on an ad hoc basis in the Central Office and the Kansas City, Ft. Worth, Denver, San Francisco, and Auburn, Wash., Regional Offices. Now they were officially established in all regional offices due to a directive from the Administrator.

GSA's influence in the FWP extends beyond itself as an agency. Because the FWP Coordinator had extensive experience in implementing the program, she has frequently been asked to speak at Civil Service Commission training courses. During the last two years she has spoken at all FWP courses put on by the Washington, D.C. Civil Service Commission except for one and has also participated in Civil Service Commission courses put on in the Philadelphia and Atlanta Regions. In addition she receives many requests to speak at other agencies, both for formal presentations to management as well as informal talks to FWP Committees on how to get started.

GSA again led other agencies when the FY 74 budget provided resources for full-time FWP Coordinators in the 10 regional offices. With the addition of these positions, it is expected that the program will be even more viable and responsive to the needs of GSA employees and the local communities, as well as enabling the total EEO Program to better help women.

Nixon's letter regarding women

In April 1971, President Nixon appointed Barbara Franklin as the White House's new recruiter to fill more high-level jobs in the government with women. The White House also asked each department and agency to submit a plan by May 17, 1971 for getting more women in jobs GS–13 and above and on advisory boards and committees.

GSA's plan called for all women GS–11 and above nationwide to be interviewed by a top official to discuss the women's career goals. As a result of these counseling sessions, about 30 women were promoted to positions GS–13 and above by December 31, 1971. Ms. Evelyn Eppley, Chairman, Board of Contract Appeals, led GSA's major recruitment effort by contacting community groups for names of female executives.

Federal women's weeks

On August 26, 1970, the FWP Coordinator and the EEO Office sponsored a one-day program for managers and women employees about the FWP. It was such a success that GSA put on a Federal Women's Week in November 1970, the first one held by any Federal agency. Successive nationwide Federal Women's Weeks have proven even more successful at educating managers and raising the expectations of women workers. (The following pages describe programs put on by Central Office and regional offices in 1973).

Most other agencies at both headquarters and field levels, have followed GSA's lead in designating a specific week to promote the FWP. The Administrator of General Services has designated the week of October 21–25, 1974, as GSA's Fifth Annual Nationwide Federal Women's Week.

The themes of the last two Federal Women's Weeks have focused on upward mobility with emphasis on career counseling for female employees and information on means of advancement. Programs of films, panel discussions, and speeches highlight the week in the Central Office and regional offices.

Attendance at FEW conference

GSA is the only Federal agency to bring 10 regional people to Washington, D.C. for three national conventions of Federally Employed Women, Inc. In 1972 and 1973 the chairpersons of the 10 regional FWP committees attended and in 1974 the 10 recently-appointed FWP Coordinators attended the 5th national convention. Two days prior to the convention the FWP Coordinators attended a seminar in Central Office on ways to implement the FWP.

Films on the women's movement

In 1972 the GSA FWP Coordinator developed an annotated film list of films by and about women available from various commercial sources. The listing (copy enclosed) has rental and sale prices, date of production, length, source of supply, and a description of the film's contents. The list has been mentioned in the July 1973 *Ramparts, Women Today,* April 1972 *Spokeswoman,* April 1973 *Guidepost* of APGA, January 1973 *Library Journal,* March 1974 *National Business Woman* of BPW, *Breakthrough: Women Into Management,* and the *New Woman's Survival Catalog.* To date over 3,000 copies have been distributed upon request.

FEDERAL WOMEN'S WEEK, 1973—OCTOBER 15–19, 1973

For the fourth time GSA set aside the anniversary of the signing of the Executive Order that prohibited sex discrimination in the Federal Government to hold a Federal Women's Week.

Across the nation there were a variety of action-packed training courses, documentary films and guest speakers for all of the agency's employees. And while the overall intent of the week was to raise the career expectations of women employees, each region developed its theme and activities. With prestigious guest speakers across the nation, GSA was focusing attention on government career opportunities for women and on the significant role women play in government.

In the *Central Office,* Monday and Tuesday were taken up with Career Planning Courses sponsored jointly by Personnel and the Office of Civil Rights; Wednesday provided a film day when a number of exciting films were shown throughout the day and Friday brought a presentation to all employees by Barbara H. Franklin, Vice Chairman, Consumer Product Safety Commission.

Region 1.—Displayed some important films during the week as well as discussion periods led by such people as Dr. Bernice Miller, Associate Director of the Center for Urban Studies and Director of Program in Professional Advancement, Harvard University; Maureen Osolnik, Federal Women's Program Coordinator for HEW and Marcy Crowley, a counselor from Wider Opportunities for Women.

Region 2.—Chose "Upward Mobility—Chart Your Progress" as the theme and packed their week with a Career Day designed to explain the various parts of GSA to all employees, the film "Growing Up Female," and an address by Honorable Barbara M. Watson, Administrator for the Bureau of Security and Consular Affairs with the Department of State.

Region 3.—Focused its attention to the theme "Women on the Move" and had panels on sex discrimination and career counseling along with an awards gathering with J. Stanley Pottinger, Assistant Attorney General for Civil Rights, as a guest speaker.

Region 4.—Decided to survey the employees first to see what their desires would be during a Women's Week through the use of a questionnaire and then had panel presentations, a day where women were designated action in top level jobs, a film day and presentations by Judge Elizabeth Athanasakos, Municipal Judge of Wilton Manors and Oakland Park, Florida and Mary Foster, Special Assistant to the Administrator of GSA.

Region 5.—Chose the question "Women in Government—Are They Equal?" to center its activities around. The week was filled with panel discussions on attitudinal concepts and sex discrimination kicked off by Patricia Schwingle,

Associate EEO Representative for the Chicago Region of the U.S. Civil Service Commission.

Region 6.—Began the week with a Lunch 'N Learn session which included a training session and reserved the rest of the week for films and counseling.

Region 7.—Presented a dynamic week with the theme of "The Future is Now" and invited all Federal agencies in the area to participate. A one act play was put on for the employees as well as an awards ceremony and panel discussions with full press coverage. This region's efforts got the Mayor of Ft. Worth and the Governor of Texas to declare the week Women's Week throughout the city and state.

Region 8.—Was able to have Ms. Nola Smith, Staff Assistant to the President, speak as well as a full week of panels and discussions groups and films.

Region 9.—Centered its week around the question "Where Are You Going?" and answered the question through a number of panels and guest speakers that included Dianne Feinstein, San Francisco Board of Supervisor's member, and Pat Shannon Baker from the Information Office of the Department of Labor.

Region 10.—Highlighted its week with a fashion show, panel discussions, women designated as acting in top level positions and talks by Ms. Wanda Fullner, Consultant for the Association of Washington Business, Ms. Barbara Turner, Women's Coordinator for DHEW, and Mr. Don Isaacson from Green River Community College.

GSA Policy Changes

Guards.—In November 1970 GSA amended its internal regulations to allow women to become Guards and Federal Protective Officers. This preceded by six months the Civil Service Commission declaring the bearing of firearms an invalid reason to restrict jobs to one sex only. As of June 30, 1974, GSA employed 62 female FPOs (2% of total).

Custodial laborers.—In 1970 GSA petitioned the Civil Service Commission for a mass reclassification of WG–1 Custodial Laborers who used certain chemicals to clean restrooms, under limited supervision. The resulting change to WG–2 upgraded about 600 employees, most of them minority women.

Maternity leave.—In June 1972 GSA revised the Time and Attendance Manual to permit advanced sick leave for childbearing, the same as received for other temporary disabilities. GSA regulations no longer are more restrictive than CSC regulations.

Maiden name.—On September 4, 1973, the Assistant Administrator for Administration signed a change to the Administrative Manual to affirm women's right to retain their maiden name after marraige or to change back to their maiden name. GSA is the first agency to proclaim this right.

Integration of Toastmasters and Toastmistress.—In response to a complaint received in 1971, GSA began corresponding with both organizations to call to their attention that groups meeting on Federal property may neither practice nor advocate discrimination based on race, color, religion, sex, or national origin. Both groups have amended their bylaws to permit members of the opposite sex to belong.

Sex-Segregated Jobs in GSA

For the past four years emphasis has been placed on integrating the jobs in GSA as well as upgrading women. Equal stress was put on placing men in traditionally female jobs and placing women in traditionally male jobs.

While general progress has occurred, there has been fairly significant progress in some of the major jobs in GSA, as listed below. A more typical example might be the hiring of female Architects who have increased from 1% to 3% of all GSA Architects in the last 2½ years.

Movement of men into traditionally female jobs has been outstanding in Personnel Clerical (3% to 6%), Communications Clerical (9% to 14%), Accounting Technician (22% to 27%), and Property Disposal Clerical (8% to 12%). Progress for women happened primarily in Property Disposal (15% to 20%), Realty (10% to 18%), Buildings Management (2% to 5%), Quality Inspection (1% to 5%), Traffic Management (10% to 19%), and Forklift Operator (less than 1% to 5%).

Special Employment Programs

GSA's employees participated in a number of special employment programs designed to improve opportunities for the educationally, economically, and physically disadvantaged. Some of these programs are:

Program	Minorities	Whites	Females	Total
Summer aide central office	82	23	50	105
Region:				
1	1	2	2	3
2	54	8	33	62
3	195	10	49	205
4	0	2	1	2
5	13	3	7	13
6	36	9	11	45
7	37	8	16	45
8	20	25	11	45
9	71	17	31	88
10	19	43	25	62
Student aide central office	7	20	22	27
Region:				
1	0	1	1	1
2	3	0	2	3
3	198	13	50	211
4	0	0	0	0
5	14	1	9	15
6	5	12	6	17
7	24	6	13	30
8	1	8	5	9
9	120	23	80	143
10	18	32	35	50
Neighborhood Youth Corps	108	18	47	126
Work incentive	53	9	27	62
Worker-trainee	144	105	37	249
Co-op	53	39	34	92
Summer intern	26	19	13	45
Other	156	85	102	241
Grand total	1,458	541	719	1,999
Percent	73	27	36	

Job Redesigning

To increase opportunities for women and minorities, entry level positions were restructured to lower grade levels when they became vacant. This type of affirmative action provided women and minorities with qualifying experience in jobs with clear potential for advancement to the original designated grade level. Internally, employees who were locked into deadend jobs were given the opportunity to move into positions leading to higher level career advancement. There were approximately 281 jobs redesigned during fiscal year 74: 106 for minorities, 175 for whites, and 140 for women. The number of redesigns for fiscal year 74 increased greatly over those for fiscal year 73. Listed below are some of the redesigns.

Position	*Redesigned to*
Quality assurance specialist, GS–9	GS–7.
General commodities quality control assistant, GS–9	GS–7.
Procurement assistants, GS–5	GS–4.
Clerk-steno, GS–4	GS–3.
Supply clerks (typing), GS–4	Clerk-typist, GS–3.
Production planning analyst, GS–7	Production control clerk, GS–4.
Assistant contract compliance officer, GS–11	GS–9.
Assistant contract compliance officers, GS–11	GS–7.
Assistant contract compliance officers, GS–11	GS–5.
Computer aide, GS–3	GS–2.
Computer operator, GS–5	GS–4.
Quality inspection specialist, GS–9	GS–7.
Clerk-steno, GS–5	GS–4.

Position	*Redesigned to*
Realty specialist, GS–9	GS–7.
Clerk-typist, GS–3	GS–1.
Administrative assistant, GS–9	GS–7.
Draftsman, GS–5	GS–4.
Realty assistant, GS–9	GS–7.
Journeyman trades, WG–9/10/11	Preventative maintenance worker, WG–5.
Carpentry workers, WG–9	WG–7.
Personnel staffing specialist, GS–9	GS–7.
Employment counselor, GS–11	GS–7.
Personnel clerk (typing), GS–5	GS–4.
Urban planner, GS–11	GS–9.
Communications clerk, GS–5	GS–4.
Maintenance foreman, WS–9	WS–8.
Mechanical engineer, GS–11	GS–7.
Electrical helper, WG–5	WG–3.
Self-service store manager, GS–9	GS–7/9.
Quality inspection specialist, GS–9	GS–5.
Realty officers, GS–13	GS–5/7/9.
Traffic managers, GS–12	GS–9/11.

Skills Surveys and Career Plans

During Fiscal Year 1974 the agency conducted skills surveys using GSA Form 1349. Regions 2 and 3 reported that all of their employees completed this form, and the Central Office and other regions reported that approximately 3,936 employees completed the form.

Managers and supervisors reviewed the completed forms and where employees had skills which could be used in other positions, the employees were placed on appropriate registers. Also, as a result of the survey 965 Career plans were developed compared to 659 for Fiscal Year 73.

Two of the major upward mobility programs are Training and Advancement Program (TAP) and Career Advancement Program (CAP) with the following participation reported.

	TAP				CAP			
	Minorities		Whites		Minorities		Whites	
	Male	Female	Male	Female	Male	Female	Male	Female
Central office	2	1	1	5	2	13	2	11
Region:								
1								
2					2			3
3	10	1			3	7		4
4								
5	3	1				1	1	
6	1	1		1		3	1	
7	2	1	2	1			3	
8		1		3	1		2	1
9		3	1	2	1	1	2	2
10		1		2				1
Total	18	10	4	14	9	25	11	22
Percent	39	22	9	30	14	37	16	33

Part-Time Jobs in GSA

As of February 28, 1975, 285 GSA employees were working part-time. Of these, 193 (68%) were women. A few female part-time workers held professional positions: Architect, Archivist, Writer-Editor, Editorial Assistant, and Librarian. However, the great majority of women held clerical or blue-collar positions as did most male part-time workers.

Series and grade	Job title	Male	Female
085:5	Guard supervisor	1	
301:2	General clerical and administrative		1
3	do	1	1
4	do	4	3
5	do		4
7	do	1	
312:3	Clerk-stenographer		2
4	do		3
4	Clerk-dictating machine transcriber		1
316:5	Secretary-typing		2
318:6	do		3
7	do		1
8	do		1
9	do		1
1082:5	Writing and editing		1
1087:7	Editorial assistant		1
1102:9	Procurement agent	1	
1106:5	Procurement clerk (typing)		1
1176:9	Buildings management	1	
1420:9	Archivist		1
1421:3	Archives technician	4	
4	do	1	
5	do	1	
6	do	1	
2005:4	Supply clerical and technical		3
5	do		1
3502:3	Laboring	5	
3566:1	Custodial laborers	18	3
2	do	4	
3	do	1	
4402:6	Bindery worker		1
4739:3	Buildings and grounds maintenance	4	1
4	do	7	
5703:5	Automotive equipment operating	1	
5704:1	Fork lift operating		1
6907:3	Warehousing	23	7
322:1	Clerk-typist		2
2	do		3
3	do	1	15
4	do		9
5	do		3
332:4	Peripheral equipment operator	1	
356:2	Card Punch Operator		1
3	do		1
382:2	Telephone operator	1	3
3	do		76
4	do		11
385:4	Teletypist	1	
390:5	Communication relay equipment operator	2	
392:2	General communications		6
3	do		12
5	do		1
394:4	Communications clerical		1
501:9	General accounting clerical	1	
525:7	Accounting technician	1	
808:7	Architect		1
954:4	Legal clerks	2	
963:5	Contracts examiner (typing)		1
986:4	Legal assistants	2	
301:1	General clerical and administrative		1
3	do	1	
530:4	Cash processing		1
1410:7	Librarian		1
Total		92	193

WOMEN'S STATUS COMPARISON

The representation of women in the General Services Administration has increased significantly between 1969 and 1974. There was both a number and percent increase in each of the four major pay plans. Of particular note are the increase in GS 9, and above and the Wage Leader pay plan: +52.54% and +128.57%, respectively.

	1969 workforce	1974 workforce	Percent of change
General schedule pay plan	8,407	8,708	+3.58
General schedule GS-9 and above	824	1,257	+52.54
Wage grade pay plan	2,294	3,016	+31.47
Wage leader pay plan	14	32	+128.57
Wage supervisor pay plan	88	110	+25.0

Chairman GRIFFITHS. Nowhere in your prepared statement are there any statistics that support your statement that large companies are providing jobs for minorities and providing equal opportunity to women. In testimony which will be presented to this subcommittee tomorrow, the Defense Department shows how jobs for minorities and women increased in 1969 to 1973 among contractors which they reviewed. Furtheremore, their data show how employment has increased by job classifications. Can you provide similar data for GSA contract organizations?

Mr. MITCHELL. I cannot provide the total on all of the reviews that have been done and the results therefrom.

Chairman GRIFFITHS. Why not?

Mr. MITCHELL. I have tried for 3 years now to get the report from all of my regions and other organizations on what the status was exactly at that time and what the change was, except for some of the reports from the EEOC, and isolated ones from special corporations, and I have not yet got them. I regret that even though I was aware of the necessity for that, and I have even emphasized it in our workshops and so on, as of this point in time I have not been successful in getting that information.

Chairman GRIFFITHS. If you cannot get that information, then how can you claim that the GSA program has been a success?

Mr. MITCHELL. I can claim that based on what I do know related to the change that has been effected in many of the companies and many of the actions that we are taking as related to what is generally shown in the EEOC reports, and what the effects are with industry right now.

Chairman GRIFFITHS. It is my understanding that two of your senior employees, one who has been fired and the other who has been downgraded, had urged you for a long period to institute a reporting system so that GSA could determine if minorities and women were increasing their job opportunities and their promotions as a result of GSA efforts. If you did resist these suggestions, why did you?

Mr. MITCHELL. Prior to the time that those two individuals asked me to OK a proposed reporting system that they presented, I had

been working extremely hard on doing this. Those two individuals were the individuals charged with carrying out my instructions. If there is any question about whether or not the reporting system per se should have been accomplished enough, it was in the job sheets of those two individuals.

To clarify that, the adverse charge that I did put on one individual—approved by the General Counsel's Office of GSA, and by the personnel of GSA—was for insubordination et cetera. The other individual was affected by a reduction-in-force procedure related to the elimination of two deputies reporting to me, which is a horrible management organizational thing that I initially had imposed upon me in 1971. In January 1972, I tried to change it to a single deputy, and it was not approved. In 1974, it was approved by the Administrator, and as a result of that, since I had less GS–15 positions than that, and that particular individual happened to be the junior one on the retention register, she then had to be offered a position which I did offer her. As of today, she accepted that position and is currently being paid more money than the position she had before.

Now, because of appeals in other cases relating to these, I cannot use names or go into any more details until the action is reported.

Chairman GRIFFITHS. How long are you going to give your field officers to get the report in before you fire them?

Mr. MITCHELL. I have already fired some others, even the extreme ones, for adverse actions, or I permitted them to resign in lieu of going through the complete adverse action. There are others that, yes, when they do not perform, I have to do something as strong as that.

Chairman GRIFFITHS. In its investigation, the GAO found that the records in one GSA regional office showed a relatively large percentage of affirmative action plans as having been approved when they had not even been reviewed. How could error of this kind occur?

Mr. MITCHELL. As I stated earlier, I do not know which ones those were, and I have not been informed, although I have tried to get the information from the regions, if they knew exactly what it was. I do not see how that could possibly occur, because we do have the system at which the assistant contract compliance officers do the reviews. We do go through the desk audit, and we do go through the onsite review. We do, then, have it back at the offices. We have seen contract compliance officers that are charged with reviewing that. We do have at the central office officers that are supposed to do that same kind of thing. We periodically make visits, and we periodically have workshops, and so on. So I do not see how that could be.

Chairman GRIFFITHS. If I were you, I would call the GAO today and get the exact names, and I would call the people who are responsible for the errors this afternoon. It would be pretty simple, because I am sure that GAO would give the whole thing to you without any problem.

In its report the GAO found that GSA concentrates its compliance reviews on relatively small firms with an average of 122 employees. The GAO attributes this to the fact that GSA compliance officers are required to perform four or six reviews a month, and in order to meet these goals, staff people choose the smaller firms. GAO concluded that the compliance program should focus on those contractors which

have the greatest hiring and promotional opportunities. It should not be based on achieving a set number of reviews per month. Do you agree that six reviews per month discourages examinations of the larger contractors?

Mr. MITCHELL. I agree that six or any sort of number like that is totally inappropriate. I told the GAO that that was not my instructions. I told them that I could provide to them—and I made everything available there—information that as early as—I am looking at this October 30, 1970—that that was not our practice.

I told them further that we had been giving out the detailed guidelines with specific emphasis by industries, and by other things like that, but we do give to the region the flexibility in scheduling certain places because we have certain guidelines like—to be economical and yet efficient, if you are going to a locality, you will hit some of those other places. What I did find in discussion with the GAO personnel—if I may use an example, like with one of our food service companies, they have, with the hiring and firing, a central location with quite a few. But then they have isolated spots where there are few or small numbers of people.

Apparently rather than choose the review, the complete review that was done at this major place, I thought, and so stated to them, that possibly they had some of these fillers, not complete reviews, that were done at these smaller places, where there were just five or six places in the total of that general locality. I think that that might have happened. In one case, though—and this was in June of a given year—this was the year that they were due to start order 14—in order to cover many places and to see what the impact of this new way of doing a review was to be, we did ask, from the central office, that the maximum number of reviews would be conducted so that we could evaluate what the impact would be, particularly before I went to the budget hearings. We find that some of the people in the regions, in doing that, were trying to make the counts go up, rather than to do a complete and full review. Our rule of thumb estimate for planning purposes is about 40 reviews a year per assistant contract compliance person, and not anything like that, although in our region 6, and in our region 9, we did have certain instructions issued by the regional administrator for a certain number of reviews to be conducted. I even made a personal trip and saw them and told them to stop it. This was a long time ago.

Chairman GRIFFITHS. I would suggest that you try it all over again. The moment you figured out for yourself that they are reviewing only those employers that are employing 122 people on the average, it seems to me that it is time for you to begin selecting the employers that they are going to review, because the thing that you want the law to do is to affect as many people as possible, where there are employment opportunities and opportunities for advancement. That is the thing that, if you are going to have to choose between the number of employers or the number of people employed, for heaven's sake choose the number of employed so we can help those people.

Mr. MITCHELL. I heartily agree with you. That is what our intent, that is what our guidelines say, that is what your schedule said, and that is exactly what we are trying to do.

Chairman GRIFFITHS. According to GAO, during fiscal year 1972 through 1974, GSA conducted over 7,000 compliance reviews. How many of these reviews were followup reviews?

Mr. MITCHELL. We can break it into data like this, pre-award, what we call the routine, and compliance reviews.

Chairman GRIFFITHS. Now, I would like to ask you, since you imposed only one sanction on only one contractor, apparently you found everybody else was all right, and had made satisfactory progress in improving women's employment status. What progress had they made? By what percentage had women's employment increased at the facilities of those contractors, and in which job categories?

Mr. MITCHELL. As I previously stated, I cannot give you the total response to that for all of the universe of the reviews at this point in time. I do not have the data, although I have tried to get that type of data.

Chairman GRIFFITHS. If you do not have that data, if you cannot tell us how women's employment has been improved, then there is no way on earth that you can tell whether these people are in compliance or not.

Mr. MITCHELL. What I can do, which I do not have here right now, but what I can do is with specific corporations, specific establishments from the review data, and from the EEOC reports, show what that is. But what I do not have, even though I asked it of those very people you were quoting to me earlier, that would provide that, I have not had that aggregared or compiled. Yes, I know what has happened in some of those. I did provide, just as one thing in my prepared statement, an item on Sears, Roebuck as an example in the officials and managers' category.

Chairman GRIFFITHS. If I were you, sometime today or tomorrow I would send out to all these regional offices, so that every single person who works for you—and you do not have really that many compliance officers, do you?

Mr. MITCHELL. No, we do not.

Chairman GRIFFITHS. How many do you have?

Mr. MITCHELL. We have right now approximately 208.

Chairman GRIFFITHS. I would tell them exactly how I wanted this information. I would also let them know that you had already fired two people and you were going to fire the rest of them if you did not get it.

Mr. MITCHELL. I have done that already. Thank you.

Chairman GRIFFITHS. According to the GAO, GSA often reviews affirmative action plans without approving or rejecting the plan as a result of the review. This has the effect of artifically inflating GSA's statistics on completed reviews. Why do you permit this to happen?

Mr. MITCHELL. I did not know a single case in which such a thing has happened. That is another reason that I need to know exactly which ones of those—which I asked for at the time of the closing and which has now been provided to you.

Chairman GRIFFITHS. They will be glad to give it all to you.

The Labor Department guidelines require that before a contractor is found in compliance he must agree to provide relief to employees who suffer the present effects of past discrimination. In how many of

the thousands of compliance reviews conducted by GSA has there been found a need for backpay relief?

Mr. MITCHELL. We have found a requirement over the years in which we, in our evaluation of an effective class, or the disparate effects related to prior discriminations, in many cases need or require backpay. There was during the beginning years—I am speaking now of fiscal years 1971 and 1972, or calendar years 1971 and 1972—a question about whether the compliance agencies would be authorized to and permitted to effect backpay judges. That is the reason that, for instance, when we were working on the GAO agreement for A.T. & T., that we excluded that from the consideration, and left it to the EEOC that was intervening through the Commission.

Since that time we have effected many backpay agreements and evaluations. Just very recently, a couple of weeks ago, we signed an agreement with a major corporation in Texas on an effective class situation in which they have already made a back payment to most of those affected class individuals, which was a figure of approximately $1,000 for each of those affected by the backpay agreement.

Chairman GRIFFITHS. In those cases where packpay has been found needed, has it been fully paid?

Mr. MITCHELL. In each of the cases that come to mind right now, yes. And I have to hedge that——

Chairman GRIFFITHS. Or is that in every case? Maybe you are remembering every one.

Mr. MITCHELL. In every case except that—to be extremely careful—like the one that I am talking about right now, at the time that the company and we announced that, the company had and would issue checks available. Now, some of the people accepted the checks immediately. Some others, although we advised them to check with their lawyers, some others chose to wait until they had checked with their lawyers and had them evaluate whether it was a fair payment, et cetera. So in some cases, if I said yes, I would be incorrect, because there are some few that have not made up their minds yet about the acceptance of the exact figures. But in general, yes.

Chairman GRIFFITHS. I believe the last time that we were working on this problem in this committee we found that of those backpay awards that have been rendered by court, something like 50 percent of them have never been paid at all.

Mr. MITCHELL. I will give you an actual figure. In one case of 71 out of 80 we said, yes, deserved backpay; 61 of those accepted the back payments on the day of announcement, and they were given to them. The others were counseling with their attorneys prior to the acceptance of it.

Chairman GRIFFITHS. According to the GAO, some GSA compliance officials make determinations of the need for backpay and some do not. Why do you not have a uniform policy?

Mr. MITCHELL. We do have a uniform policy, that in each review you would certainly look, because as a general concept we believe that there is an effective class that in almost any place that has been in being prior to the time of passage of the civil rights law in 1964. So we certainly say that they will do that. We do recognize this,

though. In the detailed studies related to an effective class situation, the additional information that has to be analyzed, such as I indicated just by holding up a little book here, and the time that it takes for it, generally then we separate that from the regular review process, so that we can work in detail on that. And we likewise do this. In quite a few of them they appear to be corporatewide. So we make that one of our management by objectives targets for a given fiscal year, to get and to develop agreements on those. At this time this year we currently have SMBO's working on those problems with Avis and Hertz in auto-repair and rental service, the American Water Works & Utilities, ARA, and Mackey vending machines in food services, Scott Paper, St. Regis paper, and Georgia Pacific in the paper industry, and Sears, Roebuck & Co. in the retail trade. So that we can then do it corporatewise rather than just the particular establishments.

Chairman GRIFFITHS. It is my understanding that GSA's Civil Rights Office is now being reorganized under your direction. And about 80 percent of your staff resources are devoted to contract compliance, and 20 percent to equal opportunities within GSA. Under the old organization there were two deputy directors, one for equal opportunity in GSA and one for contract compliance. Under the new plan there will be only one deputy responsible for the entire program.

Furthermore, as I understand it, there will be about 16 persons working on each function. It seems to me that you are downgrading contract compliance, Mr. Mitchell, first, by eliminating a deputy director who would devote his or her total attention to the program, and second, by devoting 50 percent of your Washington staff to monitor a program which involves 80 percent of your field staff. How can you consider such a reorganization in the light of the poor performance of the GSA contract compliance program?

Mr. MITCHELL. The information that you have stated to me there is partially correct, and is partially incorrect.

Chairman GRIFFITHS. All right, you correct it.

Mr. MITCHELL. We do have approved now a single deputy. We have under myself and that deputy a Division of Management Services that program budget, the paperwork management, processing policy coordinator, and that sort of thing, the support activities that have to go for an organization nationwide. We likewise have an in-house division, the EEOC program, that works with the central office and its staff organizations, which in the main, except for one region, are larger than any of the other regions that we have in numbers of people.

Chairman GRIFFITHS. How many people were you going to have on contract compliance?

Mr. MITCHELL. There would be in the central office 34 people on contract compliance.

Chairman GRIFFITHS. What percentage is that of the total?

Mr. MITCHELL. Out of a total of just 47 in the total central office, 13 are on the in-house program, and 34 on contract compliance. In the regions this year there are 178 on contract compliance, and 50

on the in-house program. So that is one reason as I was saying, for the figures there.

Now, what we have done as related to contract complaince is to in truth expand that. We have one division for the construction, one division for what might be called industry or industry utilities, and one on special projects that is dealing primarily with model plans, interregional corporate plans, and many of our special projects related to the conduct of these management by objective things, the court cases, our workshops, both for contractors and our in-house people, that is conducted by that.

Now, that only means that five people are reporting and working under the supervision of the Director of Civil Rights and the Deputy Director. That is not a broad span of control, What we did in making the reorganization was to take the operational conduct of reviews for region 3—that covers the States of Pennsylvania, Delaware, Virginia, West Virginia, and the District of Columbia—and we put that in that appropriate region with a full civil rights office similar to those we have had in the last 3 years in the other nine regions. We have not downgraded the contract compliance function.

Chairman GRIFFITHS. Good.

You have said that there are women employed on construction projects in 9 of GSA's 10 regions.

Mr. MITCHELL. Yes.

Chairman GRIFFITHS. In those nine regions, what percentage of of the construction labor force over which GSA has jurisdication do women represent?

Mr. MITCHELL. That would be extremely low, because the total number of women on the whole project was just 85. What it did represent, though, was that we had, by pushing that area for the first time, made breakthroughs, because in so many of the construction trades, prior to the time that the GSA was pushing this, there were no women, none in the unions or others. In this short a time—we have only emphasized it now this last year—to get them all the way from supervisory heads to architects to all the rest down through the line we thought was a significant beginning because of what happens with the trades, and we had to be very forceful in getting the types of activities going that we wished in that field. So we are going to expand it.

But when you consider—and I do not have the actual solid numbers—that we have normally around 500 projects going on at a given time, right now we are running about 1,500 —and you talk about 85 women at a given day—and I have to do that on construction projects, because they do not maintain standard work forces, they just hire from day to day—I would have to say right away that that is a very small percentage. But I do not know of any other organization that has anything like that. Because of being a breakthrough, I though it would be of interest to you and your committee.

Chairman GRIFFITHS. How many contracts for construction have been awarded to female contractors?

Mr. MITCHELL. I do not right now know of a single one in which that was the prime or the sole contractor; I do not know of any.

Chairman GRIFFITHS. Do you make the contracts with trucking companies?

Mr. MITCHELL. Do I make them?

Chairman GRIFFITHS. With trucking companies, does GSA make contracts with trucking companies?

Mr. MITCHELL. We have various contracts with trucking companies.

Chairman GRIFFITHS. There are trucking companies that are owned by women?

Mr. MITCHELL. Yes.

Chairman GRIFFITHS. Have you had any contracts with a woman-owned trucking company?

Mr. MITCHELL. I would have to get that information for you. I would be pretty sure that we have.

Chairman GRIFFITHS. Now, you must make contracts with architects, GSA must make contracts with architects, too?

Mr. MITCHELL. That is correct.

Chairman GRIFFITHS. Does GSA have any contracts with women architects?

Mr. MITCHELL. I would like to provide that for the record. I cannot answer it exactly today.

Chairman GRIFFITHS. I would like to ask you, have you had your compliance officers inquire as to whether in a big architectural concern there have been any women architects employed?

Mr. MITCHELL. Yes; there have. We have particularly pushed on both women and the minorities. In an Executive order, Executive Order 11625, the exact figures related to that I do not have. I do have the contract compliance officers now asking relative to the Executive order I just spoke of, and others. I do get it from what GSA has done with its contracts. I do not have it right now relative to what the contractors doing business with the Federal Government. It is in our schedule for our workshops, having that as a particular thing that is reported in the future.

Chairman GRIFFITHS. Has the OFCC given GSA adequate and timely guidance in fulfilling its compliance responsibilities?

Mr. MITCHELL. In the past, no. Currently we have noticed a significant change. I would hasten to add that in the past with the changes in the personnel, speaking of the top supervisory personnel, and the uncertain conditions there, there has been quite a bit to be desired. But there has been a significant improvement. It was not too long ago when we talked about real progress in this area, that there was no order 14, or technical guidelines, or anything like that. Most of us were just kind of left on our own to do anything. I have noticed a significant change.

[The following information, referred to above for the record, was subsequently supplied therefor:]

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., November 22, 1974.

Hon. MARTHA W. GRIFFITHS,
Chairman, Subcommittee on Fiscal Policy, Joint Economic Committee, Congress of the United States, Washington, D.C.

DEAR MRS. GRIFFITHS: The attached list of GSA contracts with firms having female principals or officers was obtained from the "Minority Contract Fact Sheets" of the Socio-Economic Policy Staff of GSA's Federal Supply Service.

I have not been able to this date to determine that there is in existence in GSA, a complete listing of all contracts let by GSA to female-owned firms. If further information is desired, please advise.

Sincerely,

E. E. MITCHELL,
Director of Civil Rights.

Attachments.

GENERAL SERVICES ADMINISTRATION

OFFICERS AND PRINCIPALS

Supplies and Services

Pan American Paper Converting, Inc., Miami, Florida, Jessie Valdes, Executive Vice President, GS-005-27913, $338,023.

Western Addition Metropolitan Services, Inc., San Francisco, California, Mrs. Joyce Ridley, Treasurer, Mrs. Joan Taylor, Vice President, GS-005-25348, $656,717.

Superior Keypunch and Service Co., Philadelphia, Pennsylvania, Ertha Balca, Secretary/Treasurer, GS-025-27852, $100,000.

Glopak Corporation, Passaic, New Jersey, Mrs. Barbara Martin, President, No contract number listed, $99,765.

Hugh K. Edwards, St. Louis, Missouri, Marybell Edwards, Secretary, No contract number listed, $139,323.

IMPAC Chemical Products, Inc., Chicago, Illinois, Mrs. Evelyn H. Watts, Secretary, GS-005-24845, $123,480.

Proficient Paint Corporation, Bedford Hills, New York, Mrs. Beatrice Ferguson, Secretary/Treasurer, No contract number listed, $179,345.

Dotson Delivery Service, Inc., Atlanta, Georgia, Mrs. J. B. Dotson, Treasurer, GS-047-2-74, $4,520.

Hayes Duraclean Services, Inc., Birmingham, Alabama, Mrs. S. S. Hayes, Secretary/Treasurer, GS-04DP(P)-40256, $5,000.

Hampton Business Forms, Newport News, Virginia, Mrs. Joyce Crawford, Vice President, No contract number listed, $481,117.

Budget Keypunching, Inc., Tacoma, Washington, Violette V. Scott, Manager, GS-105-35857, $50,000.

DeLeon Carpets and Draperies, Houston, Texas, Patricia Huff, Sales Manager and Head Bookkeeper, GS-07(DP(P)-45091, $10,000.

Davis Printing Inks and Supplies, Inc., Los Angeles, California, Mrs. Lorene L. Davis, Vice President, No contract number shown, $5,587.

Dotson Delivery Service, Inc., Atlanta, Georgia, Mrs. J. B. Dotson, Treasurer, GS-04T-4-74 (FSS), $43,059.

Supplies and Services—Continued

A&O Public Relations and Printing Company, Fort Worth, Texas, Mrs. Adelle Martin, President, GS-075-05809, $103,350.

A.G.O. Keypunch Service, Inc., Jamaica, New York, Mrs. Grace Ormond, President, GS-025-2761, $50,000.

Bailey Keypunch Service, Cincinnati, Ohio, Jean E. Bailey, Sole Proprietor' GS-055-09650, $12,000.

Econo Auto Repair, Sacramento, California, Carol Rossi, Partner, GS-09DP(P)-47552, $15,000.

Sophisticated Images Associates, Milwaukee, Wisconsin, Annie R. Brown, Office Manager, No contract number listed, $176,868.

Construction

Bertha Mae Jenkins, Denver, Colorado, Bertha Mae Jenkins, Owner, GS-08B-7330, $335,000.

Bates and Sons Construction Company, Inc., Kansas City, Missouri, Ruth Bates, Secretary, GS-06B-13218, $29,732.

Axelson Painting and Decorating, Williston, North Dakota, Husband-Wife Partnership, No names given, GS-08B-7905, $8,646.

Axelson Painting and Decorating, Williston, North Dakota, Husband and Wife Partnership, No names given, GS-08B-7907, $8,758.

American Police Security Service, Inc. El Paso, Texas, Mrs. Henry Palacios, President, GS-07B-20021, $81,286.

Al Gift Shop, Lakeville, Minnesota, Mrs. R. E. Patton, Owner, GS-05BB-41722, $12,000.

A. J. Mechanical Company, Inc. Washington, D.C., Carmen V. Venerri, Secretary/Treasurer, GS-00B-01222, $86,180.

Wright, Inc., Seattle, Washington, Doris Benson, VP, Madeline Wright, Secretary/Treasurer, GS-10B-E-01728-00, $32,507; GS-10B-E-01724-00, $6,001.

Construction—Continued

Wilpar Construction Corporation, Bronx, New York, Althea Wilson—Secretary/Treasurer.
GS–02B–16939, $25,000;
GS–44–2TS–FS, $9,500;
GS–58–2PF–FS, $9,500;
GS–4–2PF–GM, $9,500;
GS–3–3PF–GM, $9,500;
GS–2–2PF–GM, $9,500;
GS–62–PF–GM, $9,500;
GS–61–2–PFSS, $9,500;
GS–61–2–PFSS, $9,500.

Stokes Painting, Alexandria, Virginia, Christine Stokes, Secretary/Treasurer, GS–00B–01963, $60,000; GS–00B–01941, $85,000.

Seattle Carpet, Seattle, Washington, Roberta Allen, Vice President/Secretary, GS–10B–E–01712–00, $128,373.

Rosa Lee Teigner, Boise, Idaho, Rosa Lee Teigner, Owner, GS–10–B–C–00144, $15,000.

Rosevelt White, Kansas City, Missouri, Mary Jackson—Secretary, GS–06B–13140 (NEG), $171,423.

Raymond Brothers, Inc., Newark, New Jersey, Mary Armstrong, Secretary/Treasurer, GS–02B–16947, $10,240; GS–02B–16946, $9,055.

R. P. Warren Security, Roosevelt, New York, Diane Warren, Secretary, GS–02B–17435, $570,319.

Milton Painting, Inc., Burkeville, Pennsylvania, Beulah K. Towns, Vice President/Secretary/Treasurer, GS–00B–01955, $99,986.

Mid-City Janitorial, Springfield, Massachusetts, Betty Ransome, Secretary, GS–06B–13298, $11,395.

Construction—Continued

Mars General Corporation, Fairfax, Virginia, Barbara Carey, Secretary, GS–03B–17206, $133,144.

Major Construction Company, Washington, D.C., Doris McGinty, Secretary, GS–00B–01696, $32,000.

Luke's M&M Electric, Inc., Lynnwood, Washington, Murphy Lucas, Secretary/Treasurer, GS–10B–E01726–00, $8,506; GS–10B–E–01667–00, $496,690.

Lee's Patrol Service, Dally City, California, Gloria Jones, Treasurer, GS–09B–0–1361, $11,945.

Johnson & Garretson, Avenel, New Jersey, Dorothy Johnson, Secretary, GS–02B–17434, $8,400; GS–02B–01430, $11,600.

J. P. Francis, Seattle, Washington, Enid Dwyer, Secretary/Treasurer, GS–10B–E–01669–00, $668,000.

Harris Painting, Portland, Oregon, Mrs. Willie Harris, Secretary, GS–10–BE–01727, $15,000.

H&H Protective Service, Seattle, Washington, GS–10B–C–00050, Deborah Hoff, 1st Vice President, Eva Shannon, Vice President, $42,198.

Gibson's Hauling, Inc., St. Louis, Missouri, Marie Mabins, President/Treasurer, GS–06B–13199, $16,644.

Cayuga Industries, Ithaca, New York, Junie Bonamie, Vice President, GS–02B–17003, $71,800.

Cal-State, San Francisco, California, Norma Jackson, Owner, GS–09B–0–1548, $30,492.

Chairman GRIFFITHS. I would like to say to you, Mr. Mitchell, repeat to you, that in my opinion, the GSA is probably the most political agency that is going to appear here. Personally, I hope that you reorganize your office to do a better job. I do not think you have done a good job at all. I trust that in the future you enforce the law. I do not believe that the way you enforce it is to check out a few contractors employing 122 people when you can check on a few employing 122,000. The place to enforce this law is where people are employed in large numbers, where there is a large opportunity for advancement. I think one of the places for you to begin is with the office of the GSA. I think their own employment record is terrible. They have not given women and minorities a proper opportunity. I hope you take it up and see to it that they do so.

I want to thank you for appearing here this morning.

Mr. MITCHELL. Thank you very much.

Chairman GRIFFITHS. The subcommittee will stand in recess until 10 o'clock tomorrow morning, when we will meet in this same hearing room.

[Whereupon, at 12 noon, the subcommittee recessed, to reconvene at 10 a.m., Thursday, September 12, 1974.]

FEDERAL CONTRACT COMPLIANCE ACTIVITIES

THURSDAY, SEPTEMBER 12, 1974

CONGRESS OF THE UNITED STATES,
SUBCOMMITTEE ON FISCAL POLICY OF
THE JOINT ECONOMIC COMMITTEE,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:05 a.m., in room S-407, the Capitol Building, Hon. Martha W. Griffiths (chairman of the subcommittee) presiding.

Present: Representative Griffiths.

Also present: Lucy A. Falcone and Sharon S. Galm, professional staff members.

OPENING STATEMENT OF CHAIRMAN GRIFFITHS

Chairman GRIFFITHS. Will Mr. Davis please take the witness chair.

I would like to welcome you to this subcommittee and to express my appreciation for your appearing here.

Today, the subcommittee continues its hearings on the effectiveness of Federal efforts to fight discrimination, as required by Executive Order 11246. The Executive order prohibits discrimination by Federal contractors on the basis of race, color, sex, religion, or national origin. In testimony before the subcommittee yesterday, the General Accounting Office concluded, after a 9-month study, that compliance agencies are not adequately implementing the contract compliance program.

The GAO investigation uncovered a number of glaring deficiencies, including the following:

1. Most of the compliance agencies are not even aware of all the contractors for which they are responsible.

2. Compliance agencies are awarding contracts on the basis of faulty affirmative action plans.

3. Most compliance agencies are making reviews at a very small percentage of the facilities for which they are responsible.

4. Compliance agencies are seldom imposing the sanctions which are available to them for enforcing the Executive order. In the entire history of the nonconstruction compliance program, only one contract has ever been terminated, and this because of a technicality.

The GAO concluded that some of the problems in implementing of the Executive order are due to management difficulties within each agency. But it also found that clarification of guidelines and additional

guidance by OFCC are needed if the agencies' performance is to be improved. I was amazed to learn that during its investigation GAO reviewed 120 affirmative action plans to test the adequancy of agency programs. Yet, during the last 2 years OFCC has found time to review only 15 such plans. I question how OFCC can carry out its responsibility of monitorong the contract compliance program without doing a systematic analysis similar to that conducted by GAO.

In sum, I found that the contract compliance program is experiencing the kind of difficulties which a new, 1- or 2-year-old program can be expected to have in its initial shakedown. Contract compliance is now in its ninth year, and the problems surrounding it, as identified in the GAO study, suggest that any progress in the last 9 years has been miniscule. Within GSA, the GAO found 70 percent of the approved plans to be deficient. In DOD, 20 percent still a significant number, did not meet the established criteria. In HEW, of all the universities which are covered under under the contract compliance program, only 16 have obtained approval for their affirmative action plans.

I have called these hearings in the hope that the GAO study would provide stimulus to OFCC and the compliance agencies to revise and improve management of contract compliance in order to meet the goals of the Executive order. However, after seeing the results of GAO's investigations, I question whether the program can ever be successful in its present form. This morning we will hear testimony from Philip Davis, Director of the Office of Federal Contract Compliance in the Department of Labor. He will be followed at 11:00 a.m., by Peter Holmes, Director of the Office of Civil Rights in HEW and Minton Francis, Deputy Assistant Secretary for Equal Opportunity in the Department of Defense.

Gentlemen, we look forward to your testimony. I hope that you can confine it to 15 minutes, because I have a lot of questions.

STATEMENT OF HON. PHILIP J. DAVIS, DEPUTY ASSISTANT SECRETARY AND DIRECTOR, OFFICE OF FEDERAL CONTRACT COMPLIANCE, DEPARTMENT OF LABOR, ACCOMPANIED BY ROBERT HOBSON, ASSOCIATE DIRECTOR; WILLIAM KILBERG, SOLICITOR; AND DORIS WOOTEN, SPECIAL ASSISTANT TO THE DIRECTOR

Mr. DAVIS. Thank you very much, Madam Chairman.

First, I would like to introduce those persons who are assisting me this morning.

To my left, Robert Hobson, our Associate Director for the Office of Federal Contract Compliance.

To my right is William Kilberg, who is the Solicitor of Labor.

To his right is Ms. Doris Wooten, who is my special assistant.

Madam Chairman, I am pleased to appear before you today to discuss the efforts of the Office of Federal Contract Compliance in administering the Federal contract compliance program. This program and its goal of equal employment opportunity for all citizens remains one of the Nation's critical priorities. Our society might well be judged by the degree to which all citizens are free to earn their way in life through their own justly rewarded efforts. Job discrimination

is a legal and moral wrong which violates the solemn pledge of freedom and equality upon which our system is based and denies the individual the satisfaction and dignity that comes from the development of full human potential. Strong affirmative action is necessary to reverse a history of wasted human resources.

The task of guaranteeing all Americans full partnership in the Nation's economic life has not been an easy one. There have been many difficulties, but I believe there has also been much progress. The Office of Federal Contract Compliance remains fully committed to the most vigorous efforts designed to build on past accomplishments.

Even the most vigorous policy cannot be successful unless those who are subject to it have a clear idea of what is specifically required. In the supply and service program, we set forth standards for affirmative action to implement Executive orders for the first time with the issuance of order No. 4 in 1970. Order No. 4 included the requirement that specific goals and timetables be established to correct deficiencies in the utilization or minorities in the contractor's work force. The contractor is also required to initiate positive action-oriented programs to see that these goals and timetables are achieved. One year later, we revised order No. 4 to extend the affirmative action concept to deal with the employment problems of women in our work force. Bidders may be passed over for failing to meet order No. 4 requirements. Moreover, contractors and subcontractors are further subject to contract cancellation, termination, suspension, debarment, and court action for violations of order No. 4. These actions remain the heart of the Government's program in the supply and service area to provide for affirmative action for minorities and women in our work force.

Of course, in a program as broad in design as the contract compliance program, experience in administration points toward areas where improvement is necessary. We found that in order to meet their obligations under the Executive order, it was necessary for contractors to have a better and more through picture of their work force. To meet this problem, this year we have further amended revised order No. 4 to spell out in detail the nature of the work-force analysis that was required of contractors. We now require that the contractor do a detailed and precise analysis of its work force, covering all jobs at all levels, and use that analysis as the basis for its plans for affirmative action. This analysis provides the raw data from which to build an effective affirmative action and compliance program. We anticipate that this analysis will significantly expand the effectiveness of the affirmative action program by assisting us in pinpointing areas of minority and female underutilization in the work force.

I am sure that we all recognize the vital role of the compliance agencies in administering the contract compliance program. The compliance agencies, subject to the direction of the Office of Federal Contract Compliance, assure that the Government's contract compliance program is adequately and vigorously enforced through the conducting of compliance reviews of Government contractors. It is through this review that a comprehensive and in-depth analysis and evaluation of each aspect of the employer's policies and practices is undertaken to make sure that the contractors are complying with their responsibilities.

The effectiveness of our effort is based on a partnership of the OFCC and the compliance agencies. A lack of coordinated action can have the effect of weakening the program. Following the adoption of order No. 4, the OFCC recognized the need for clear guidance as to the standards and procedures to be followed in the administration of the program and engaged in extensive studies and consultations about ways to make these standards and procedures more effective. We analyzed several different ways to standardize compliance procedures and improve the OFCC's role as lead agency in administering the program.

The result has been a number of directives issued by OFCC to the compliance agencies as well as the establishment within OFCC of a system for reviewing the compliance activities of the agencies. These directives include the OFCC target selection and evaluation system, order No. 14, which was issued in May of this year, and its associated standard compliance review report, the program guidance memorandum to the agencies, and the OFCC program plan, adopted in August.

The purpose of the target selection system is to assure that compliance agencies make effective use of their resources in conducting compliance reviews, and to assure that we can monitor their efforts effectively. Since it would be impossible for the Government to attempt to review the affirmative action programs of all those with whom it does business, it is essential that efforts be directed to areas of maximum impact. The OFCC target selection and evaluation systems enables agencies to determine which contractors provide the greatest likelihood for increased opportunities for minorities and women. The compliance agencies then submit to OFCC quarterly reports giving quarterly forecast schedules of those contractor establishments that they plan to review. We review these reports to monitor proposed compliance reviews for deviations from our priority standards.

The annual OFCC program guidance memorandum outlines OFCC's direction for total contract compliance program. This memorandum also requires compliance agencies to develop a program plan describing the systems and procedures for implementing the guidance provided. They must submit these program plans to OFCC for approval each year. No such programs are approved until needed improvements identified through OFCC's evaluation activities are incorporated.

Another important area of need that we encountered in attempting to determine how we could better coordinate compliance agency activities, was the fact that the various agencies used differing compliance review procedures yielding uneven results. Uniform investigation procedures are of great importance in assuring that affirmative action requirements are fully and uniformly implemented.

The new revised order No. 14 establishes a standardized approach for compliance agencies in their review of supply and service contractors subject to revised order No. 4 for the development and implementation of written affirmative action programs. These procedures, which apply to all compliance agencies, are intended to insure a high degree of consistency and uniformity in the review process and a sharp focus by all agencies on major equal employment

opportunity problem areas. Specific detailed guidelines for carrying out order No. 14's review process are contained in the standard compliance review format, which was published as an attachment to the new order No. 14. Detailed standards are established for the gathering and analysis of data related to employer personnel practices. Order No. 14 and the SCRR together constitute a comprehensive compliance manual for uniform and effective compliance reviews. We expect that these new procedures will improve the results of the program, while reducing the time necessary to search out data.

It is clear that the success of the contract compliance program depends upon effective monitoring efforts by the Office of Federal Contract Compliance. To improve these efforts, we have developed an audit review system to strengthen our capacity to monitor the compliance agencies. An important part of this system is the use of desk audits and other information which is used in a comprehensive agency evaluation review. Thus, we can more easily discover specific or broad patterns of agency capability deficiencies and define areas where additional OFCC guidance is necessary.

Now, if we find that there are defects in the compliance reviews, the OFCC may take several courses of action. We can, for example, direct that the agency conduct its review again. We can also direct the agency to revise any of its defective procedures.

We believe that great progress is being made in increasing our effectiveness under this new system. This is a very important point. It is clear that we cannot maximize the impact of our limited resources without an efficient compliance review system.

The process of audit and review gives the OFCC the opportunity to determine where corporatewide, industrywide, or areawide compliance problems exist. Some of these problems can be more effectively handled through wide-scale affirmative action programs or conciliation agreements. Thus, targets for the OFCC's high impact program may be selected. The OFCC has designed the special high impact program to handle compliance problems calling for special wide-scale treatment. The high impact programs consist of activities conducted by the compliance agencies under the leadership of the OFCC to reach conciliation agreements or negotiate model affirmative action programs in the supply and service sector. Once the nature of the common pattern or practice is pinpointed, a model conciliation agreement or affirmative action program is prepared to deal with the problem. Negotiations are then entered to implement the agreement or affirmative action program at each of the industry or corporate establishments.

OFCC's own efforts are, of course, a key element in the conduct of the contract compliance program. To do our own job properly, we must constantly examine our own internal organization for the purpose of making needed improvements. The program plan to which I referred earlier, includes a reorganization of OFCC. Under the reorganization, responsibility for the various compliance agencies and the review process I just described is assigned to specific divisions within the Office. We believe this change will substantially improve our monitoring functions.

In addition, OFCC staff in the service and supply area is being augmented so that the Office may better fulfill its responsibilities.

We have allocated 17 additional positions to this program. Moreover, we have directed that 50 percent of the person-hours in the field offices be devoted to compliance agency monitoring in the supply and service area.

Moreover, it is clear that the OFCC and other equal employment opportunity agencies should coordinate their efforts so that they may more effectively utilize their resources. In the spirit of the Equal Employment Opportunity Coordinating Council, we have worked to improve coordination with other equal employment agencies. I am pleased to announce, Madam Chairman, that OFCC and EEOC yesterday concluded a memorandum of understanding designed to maximize the enforcement efforts of the respective organizations. Among the major provisions of the agreement are provisions for:

(1) Consultations on the selection of targets of wide area enforcement programs; (2) coordination of schedules of complaint investigations and compliance reviews to assure effective utilization of staff resources; (3) exchange of certain types of information; and (4) the development of mutually compatible investigative procedures. Of particular importance are those provisions which provide for consistent standards of investigation and remedy. The provisions will assure that there will be few, if any, instances in which one agency proceeds to enforcement with a contractor that has been determined to be in compliance by the other agency.

These are some of the steps which have been taken to improve the efficiency and effectiveness of the contract compliance program. What have been some of the results?

A recent and notable example of the success of our negotiation efforts is the consent decree in the steel industry which was entered earlier this year. The decree, which covers nine major steel companies and the Steelworkers Union, followed extensive negotiations in which the Department of Labor participated. Under its terms, these companies agreed to pay $31 million in backpay to incumbent minority and women employees, to restructure seniority provisions and to provide opportunities for approximately 50,000 minorities and women to transfer to more desirable jobs. The companies must also establish goals and timetables based on order No. 4 in order to facilitate the hiring and promotion of women and minorities in all areas of their plants, including highly skilled and highly paid positions. This year approximately 2,000 minorities and women are expected to move into trade and craft positions.

Madam Chairman, I want to emphasize, however, that where negotiation fails, we will not hesitate to use to the fullest the sanctions available under the program. A contractor who fails to comply will be faced with a notice to show cause why sanctions such as cancellation, termination, suspension, and debarment should not be imposed. These sanctions will be imposed against contractors found to be in violation.

The most recent data indicates that in the 3 months since publication of order No. 14, approximately 200 show-cause notices have been issued. This is far above the rate for last year. Ordinarily, the great majority of these cases will be successfully conciliated. However, as may be expected, conciliation fails in some cases. For example, it the month of August, notices of intent to debar were issued in Timken

Roller Bearing; Stillwater, Inc.; Blue-Bell, Inc.; Diebert, Bancroft & Ross; and Hesse Envelope was actually debarred. The Office now has under consideration several other possible debarment actions.

These figures deal only with those contractors who have in some way resisted compliance. The success of the program, however, will continue to be in the hundreds of thousands of new opportunities that are opened to minorities and women through the effective enforcement of our programs. It has been estimated from some 20,000 compliance reviews during fiscal year 1974 that an additional 500,000 new opportunities have been provided for hiring and promotion.

In relation to our monitoring and compliance efforts and our efforts to provide guidance to the compliance agencies, I would like to submit for your consideration copies of our program plan adopted this August, the program guidance memorandum to the agencies and the memorandum of understanding that we have arrived at with the EEOC.

Madam Chairman, I firmly believe that the contract compliance program is well on the road to achieving its important goals. We all recognize that much remains to be done. Let me assure you that we will continue to strive to improve the quality and magnitude of our efforts.

Thank you, Madam Chairman. I am available for questions.

Chairman GRIFFITHS. Thank you.

The truth is, Mr. Davis, that after reading the GAO report, I question what you and your staff are doing to earn your salaries.

GAO found that during the past 2 years, OFCC has only reviewed 15 approved affirmative action plans as part of its monitoring function. In the space of 9 months GAO reviewed 120 of these plans, and found 42 percent to be deficient. What are you doing with the staff and the budget?

Mr. DAVIS. Madam Chairman, I had an opportunity last evening to have a cursory review of the GAO statement of yesterday, with mention that the Office of Federal Contract Compliance had only reviewed 16 affirmative action plans for the last 2 fiscal years. In looking at that statistic we found that it was incorrect. As a matter of fact, my staff has reviewed over 200 affirmative action programs for the last 2 fiscal years. We have developed a system in the Office of Federal Contract Compliance, and established what is known as a desk audit procedure. We anticipate that over the next fiscal year that we will review 1,750 affirmative action plans under our new organization.

Chairman GRIFFITHS. Mr. Davis, I would like to point out to you that the GAO report was brought to you after it was written for your review. If you had any corrections to that report that was the time to have made it, not last night.

Mr. DAVIS. Madam Chairman, I realize——

Chairman GRIFFITHS. Yesterday when Mr. Mitchell was here before me he said that he had never seen it. Mr. Mitchell saw that report before it was ever put in print.

Mr. DAVIS. Madam Chairman, that is certainly accurate. I had an opportunity to sit down for a while with representatives of the General Accounting Office for just a very short time——

Chairman GRIFFITHS. As a matter of fact, they spent 1 day with you, right?

Mr. DAVIS. As a matter of fact, Madam Chairman, we did not sit together for 1 complete day. We did sit together for a few hours, as a matter of fact, to discuss the report. However, I have never seen an official copy of the report, and have not had an opportunity to thoroughly discuss it.

Chairman GRIFFITHS. You went over that report with the GAO page by page. I am astounded for you to say that you read it last night. Every one of you had a chance to go over the whole GAO report. It would never have been given to me unless you yourselves had approved it, that it was correct in every detail. You had every opportunity to correct it. And you did not correct it. Now you tell me that last night you got real interested.

Mr. DAVIS. It was the first time that I had an opportunity to review the report, was last night—to review the prepared statement that was given at yesterday's hearings. I received it late yesterday afternoon, the prepared statement that was given by GAO.

Chairman GRIFFITHS. You had the report before, you did not have to wait for the prepared statement.

Now I want to point out to you, in August of 1971, in response to complaints by Senator Williams about the ineffectiveness of the contract compliance program, the Secretary of Labor said that OFCC would take the following steps: (1) Overhaul the review process, (2) issue specific standards; (3) issue a compliance manual; and (4) develop an automated system for monitoring enforcement procedures and results of contractors' programs.

During the audit, OFCC told GAO that you planned to do these things. But Mr. Davis, it is September of 1974, not August of 1971. You are in fact giving Congress the same line that was given them 3 years ago. What happened during those 3 years? Why were not these improvements made long ago?

Mr. DAVIS. Madam Chairman, if I can start with at least one of the first items that you have mentioned this morning, in developing new standards, on May 15, 1974, the Office of Federal Contract Compliance issued what is known as revised order No. 14. For the first time, a standardized compliance review process was established. For the first time the contract evaluation process was established.

Chairman GRIFFITHS. Why did it take that long? You have been talking about this for years. You are injuring all these contractors as well as the employees. Why did you wait so long? Why harass them by sending out one little thing this year and some other little part next year? Why do you not have a set of rules, a set of guidelines by which every individual can know whether they are complying or not?

Mr. DAVIS. Madam Chairman, if I may, that is exactly what order No. 14 and order No. 4 do. They set the standards on how compliance agencies indeed will operate and conduct compliance reviews in any given fiscal year. Order No. 4 very clearly outlines the responsibility of contractors in affirmative action. There is no question in my mind that we have developed the procedures, we have developed the programs, we have developed the criteria under which this program must operate. The commitments given by the Secretary of Labor back in 1971 or 1972 to Senator Williams, by and large, have been completed. What we are in a position now to do——

Chairman GRIFFITHS. Last night?

Mr. DAVIS. No. As a matter of fact, order No. 4 back in 1971, order No. 14 in 1974, along with a standard compliance review report, which for the first time gives to the compliance agencies an outline of specifically what kind of things they indeed are to look for in the compliance review process. We have developed sex discrimination guidelines, testing guidelines, religious guidelines——

Chairman GRIFFITHS. Why did it take you 4 years to discover that women were in this order?

Mr. DAVIS. Women have been in the order since 1967.

Chairman GRIFFITHS. You amended it in 1971 to include sex, did you not? Why did it take you that long to figure out that women should be given at least a chance?

Mr. DAVIS. My understanding is that prior to the sex discrimination guidelines, that it was necessary to conduct hearings. And perhaps Ms. Wooten, who is my special assistant, who was with the program at that time, would like to comment on that.

Ms. WOOTEN. Madam Chairman, it was in June of 1970 that OFCC first issued sex discrimination guidelines. It was in February of 1970, however, that order No. 4, which is the standard for developing an affirmative action program, was originally issued. And it is true that at that time it did not include goals and timetables for women. Subsequently, we did have consultations with industry, women's groups, labor, and human resource experts to consider whether or not we should issue a separate order requiring timetables for women or incorporate them into the basic standard. Following those hearings, it was agreed that we would incorporate goals and timetables for women into the basic standard. And subsequently, in December of 1971, order No. 4 was revised to include goals and timetables for women. This basic standard has been a part of our regulations since 1971. But as Mr. Davis said, in terms of the specific procedures for the agencies, they were only recently finalized in August of this year.

Chairman GRIFFITHS. Well, I cannot understand why the long delay. The poor in this country, the poor families are headed by women. Why in the name of heaven are you not trying to help them? Those are the people who deserve a chance. Why discriminate against their children?

In its investigation GAO found, after reviewing 120 affirmative plans approved by DOD and GSA, that 70 percent of the GSA plans were deficient, and 20 percent of the DOD plans did not meet your own criteria. Were you aware that such a large percentage of deficient plans were being approved?

Mr. DAVIS. Madam Chairman, in reviewing the GAO report, we found that the General Accounting Office indeed had reviewed 42 of 60 affirmative action plans of the General Services Administration, and 20 of the 60 affirmative action plans for the Department of Defense. However, GAO conducted an audit on programs, affirmative action programs, which were developed for the year 1973. Most of the deficiencies in those plans, as I understand it, found by the GAO related to job titles and job groupings, a regulation which did not come out until May 13 of 1974 under order No. 14. In 1973, contractors were not required to develop goals and timetables based

on job titles. So what I guess I am saying is that the GAO used the wrong criteria for the years of the plans which they reviewed.

Chairman GRIFFITHS. But the plans were still in effect as approved plans; is that right?

Mr. DAVIS. Plans developed for the year 1973.

Chairman GRIFFITHS. You already had the criteria, and you had not even identified the contractors.

Mr. DAVIS. We notified the contractor of new criteria on May 15.

Chairman GRIFFITHS. You were still giving them a chance to have an approved plan when, in fact, you had new criteria.

Mr. DAVIS. Madam Chairman, I certainly have not had an opportunity to review those affirmative action plans that the General Accounting Office would make me aware specifically of what those plans were, I would be very glad to review them.

Chairman GRIFFITHS. It is your business to know every one of these plans and whether or not the plan is in compliance. Why do you and your staff not do that?

Mr. DAVIS. I think Mr. Hobson has a comment, Madam Chairman, that he would like to make.

Mr. HOBSON. During the past 2 fiscal years we conducted some 200 desk audits of affirmative action program approvals. It was precisely through those desk audits that we identified the need to clarify and make some amendments to order No. 4—particularly on the work force analysis provision, and several other key provisions—so that we would require the contractors to do their analysis on the basis of more specific jobs as opposed to EEOC job categories. That was done and we sent a technical guidance memorandum to the agencies in March of this year. Then we published the proposed regulations for the job in order No. 4 and order No. 14 in the Federal Register for all to comment on. That was made effective, and then in May the agencies and the contractors were notified.

Now the GAO audit on those particular approvals in 1972 disclosed that those plans, those programs, did not meet the work force analysis definition that was incorporated in order No. 4 in May of this year. So they used 1974 standards and criteria to evaluate 1973 affirmative action plans.

Chairman GRIFFITHS. But all that should have been brought up to date immediately, and you did not do it; right?

Mr. HOBSON. Madam Chairman, there were some 20,000 or 25,000 compliance reviews conducted in the previous years.

Chairman GRIFFITHS. I am informed that as of June 30, 1974, in OFCC's Washington office there were 37 permanent professional staff members. Among these, there are no white females, and 12 black females. However, only one of the black women is at grade GS–14 or above. Oh the other hand, there are 14 white males and 11 black males. Of these, 15 are employed at GS–14 or above. Do you gentlemen not believe in practicing what you preach?

Mr. DAVIS. I certainly do, Madam Chairman, I think that is very important.

Chairman GRIFFITHS. Why do you not do something about it?

Mr. DAVIS. As a matter of fact, when I became the Director of OFCC, one of the first things I did was to appoint the distinguished lady on my right, Ms. Doris Wooten, as my special assistant at

GS–15. And only last week, I appointed another GS–15 associate director by the name of Mrs. Dian Graham, formerly of the NASA program, now with the U.S. Civil Rights Commission, who will become an associate director responsible for monitoring and evaluation.

Mr. HOBSON. We have four GS–15 agency associate director positions, and two of those are filled by women and two by men.

Mr. DAVIS. I think it is also important to add that we have in the last several months hired seven additional women in professional categories. We intend again to carry out our responsibilities fully and to provide equal employment opportunity for all persons. We are going to carry it out.

Chairman GRIFFITHS. In my judgment, the OFCC should be a model of nondiscrimination.

Mr. DAVIS. I certainly concur with that. And that is one of my aims.

Chairman GRIFFITHS. GAO found that during fiscal years 1972, 1973, and most of 1974, show-cause notices were issued by the compliance agencies in only 1.3 percent of all reviews conducted. GAO concluded that the small percentage was due not to the fact that contractors were complying, but to the fact that compliance agencies are simply reluctant to take sanction actions against the contractors not in compliance. Are you satisfied with the agencies' use of sanction actions?

Mr. DAVIS. Let me respond, Madam Chairman. We recognize the need to tighten up the entire enforcement process. And again, that is exactly why we issued order No. 14 on May 15. What we did in order No. 14 was to provide a 60-day time frame by which compliance agencies are required to do a host of things: One, to conduct a desk audit; two, to do an onsite compliance review where necessary; three, to do an onsite analysis where necessary; and four, to tell that contractor he is either in compliance, or issue that show-cause notice, and to send what we call coding sheets to the Office of Federal Contract Compliance. So there is a time frame by which show-cause notices are issued.

But let me also add this. There are many times when it certainly is appropriate to negotiate with a contractor before issuing a show-cause notice, especially if that negotiation can bring about a substantial program of increased employment opportunity for minorities and women. Take steel, for instance. We would not have received, in my opinion, an agreement in the steel industry by issuing a show-cause notice to the steel industries. I think that is important to recognize. But we do recognize that our show-cause process is important. That is why, as a result of order No. 14, approximately 200 show-cause notices have been issued just in the last 3 months.

Chairman GRIFFITHS. OFCC told GAO that it plans to establish an audit review system to check on the compliance agencies. This is exactly what OFCC told the Senate Labor and Public Welfare Committee 3 years ago. I think Congress deserves a definite commitment from you, Mr. Davis. Exactly when will this audit review system be ready, and how will it work?

Mr. DAVIS. Madam Chairman, 3 years ago I happened to be at the time working in former Secretary Hodgson's congressional liaison staff, and was deeply involved in the transfer question of the OFCC

to EEOC, after having spent 8 years being employed by the House of Representatives. I remembered that commitment, and I am happy to announce that that commitment has been kept. As a matter of fact, the OFCC has developed and does have in place an evaluation and target selection system which requires those compliance agencies to focus on those contractors which indeed do have the greatest employment opportunities for minority group members and women. Compliance agencies in the selection of those reviews really not only have to look at the greatest opportunities, but look at those kinds of contractors which as a matter of fact, have underutilized minority group members and women, look at those contractors whose work forces indeed are expanding, look at the location of those contractors to determine, for example, what the minority and female population is, so that there is an availability of women in the work force to go to these new jobs. The system is in place.

Chairman GRIFFITHS. Mr. Davis, I can tell you that in practically every place in America except Alaska, women are in the majority.

Mr. DAVIS. I recognize that.

Chairman GRIFFITHS. So that you have plenty of available women.

Mr. DAVIS. I certainly do recognize that. Just in response to your question I want to say that the commitment that was given by the Department of Labor a couple of years ago has been kept.

Chairman GRIFFITHS. I have seen no statistics published by OFCC on how contractors have increased their employment and promotion of women since 1967, when the Executive order on sex discrimination was issued. In fact, the statistics I know of show that there has been a deterioration in women's earnings relative to men's in the past several years. I wish that you had the statistics to contradict me. What hard evidence do you have, Mr. Davis, that the contract compliance program has had any impact in the hiring and promotion of women?

Mr. DAVIS. Mr. Hobson wants to comment on that.

Mr. HOBSON. I think the first statement is related to the second. We do have in place a program plan and a system to get this information. As a matter of fact, it is mentioned in the GAO report. We thought we had a copy of the program here. In any event, it is outlined there. Part of the plan includes a coding sheet system under which the agencies, after completing the compliance review, send in some summary statistics on the results of that review. Those are then computerized, and at the end of the year we will be able, then, to publish some statistics on the kinds of progress that the program is making, and the kind of jobs that women are moving into, the pay levels, et cetera, as well as blacks and other minorities.

Mr. DAVIS. I think it is also important to add, if I may, that affirmative action plans that cannot be accepted by the compliance agencies cannot be approved by the compliance agencies until after such time as that coding system has been forwarded to the OFCC.

Chairman GRIFFITHS. How can you monitor a contract program if you have no data showing the success or failure of minorities and women in increasing employment and promotions among Federal contractors?

Mr. DAVIS. That is exactly the reason why the coding sheet system has been put in place.

Chairman GRIFFITHS. When will be the first time you issue this report?

Mr. DAVIS. The coding sheet went into effect and is now being used; it went into effect the day of order No. 14 on May 15.

Chairman GRIFFITHS. When are you going to issue your first report?

Mr. DAVIS. I cannot give you a date this morning, but I will discuss it in my report and give it to you as soon as it is available.

Chairman GRIFFITHS. Do you not think it is a good idea to issue a report semiannually?

Mr. DAVIS. There is no question.

Chairman GRIFFITHS. I am leaving this Congress. Could we look forward to having one before the end of the year?

Mr. DAVIS. We certainly will make every effort to provide you a report before you leave the Congress.

Chairman GRIFFITHS. Because I have been here while we passed a lot of these laws, and I helped pass every single one of them. When I came here women were getting 64 percent of what men were getting, and they are now getting 57 percent. I think in spite of all the effort we are going backward.

Mr. DAVIS. We will make the report available to you.

Chairman GRIFFITHS. The Executive order was amended in 1967 to forbid discrimination in employment on the basis of sex. Yet, DOD and GSA told the GAO that they did not take sex discrimination into account in their compliance reviews until 1972. Why did it take these agencies so long to include sex discrimination in their reviews, and why did you allow it to happen?

Mr. DAVIS. I frankly do not know why those agencies said that.

Chairman GRIFFITHS. Why did you not do something about it?

Mr. HOBSON. I believe that was probably a mistake. I am pretty sure what the agencies meant was that the standard on affirmative action, particularly goals and timetables for women, did not become effective until December of 1971. Then in January 1972, they began implementing order No. 4 to make sure that goals and timetables were established for women. I am pretty sure that must have been what was meant by that statement.

Chairman GRIFFITHS. I am pretty sure it was not. I am pretty sure they did not do anything. I helped pass that Civil Rights Act in 1964, I made the argument that put sex in that act. The next thing I knew they appointed somebody to run the office; and he went to New York and made a speech and laughed at the idea of having sex in the act, he said it was all a big mistake, that they would have to have male Playboy Bunnies under that. But that was the last time he ever laughed.

Mr. HOBSON. We are aware of that statement. I can also assure you that that person is no longer with the Department.

Chairman GRIFFITHS. No; he is not. He found more congenial work elsewhere.

One of the principal findings of GAO's investigations was that many compliance agencies are not aware of all the contractors they are supposed to monitor. I cannot understand how this can happen. What do you plan to do to establish an accurate list of Government contractors?

Mr. DAVIS. Madam Chairman, in reviewing the report last evening, I saw that comment. It is inconceivable to me to believe that compliance agencies in the year 1974 do not know those contractors who they have responsibility for. As a matter of fact, the Office of Federal Contract Compliance has issued in past years, and reissued in July of this year, what is known as revised order No. 1. What revised order No. 1 does is to assign by contractors by industrial classifications to specific compliance agencies, such as the Treasury has the responsibility of the banking industry, Defense has the responsibility for the defense contractors, GSA, utilities, and so forth.

In addition to that, as you are well aware, employers with 100 or more employees are required to, on an annual basis, submit EEO–1's to the Joint Reporting Committee, OFCC–EEOC. My office takes those EEO–1 reports and breaks them down by similar industrial classifications, and make those assignments to the compliance agencies. There have been over 92,000 EEO–1's broken down and submitted to the compliance agencies.

Let me further say that we recognize that it is important for the compliance agencies to know their contractors. But even by putting such a comprehensive list together, my feeling is that by adding onto that list we would probably be adding those contractors who are small in size, and who do not provide employment opportunities for minority groups and women. We know who the major contractors are, and we certainly have distributed that information to the appropriate compliance agencies.

Chairman GRIFFITHS. Have you ever called any of these people up and asked them if they know who they are supposed to be monitoring?

Mr. DAVIS. I think there is no question that we have had regular meetings with compliance agencies, and they do know the contractors they are responsible for.

Chairman GRIFFITHS. They do not. They told the GAO they do not know who they are supposed to monitor. It seems to me that the first thing you ought to find out is, if they do not know, why do they not know? I would check up and ask them if they really know. How are Treasury, DOD, and GSA supposed to know which firms in the SIC code are Government contractors?

Mr. DAVIS. Mr. Hobson, do you want to comment?

Mr. HOBSON. As Mr. Davis mentioned earlier, we have a target selection system based on certain select criteria. Now, that criteria by and large consists of, one, those contracts who, because of expanding work force, or other factors, are able to make a much broader impact on the problem. It also includes those large contractors whose profiles show that they need to improve their posture in terms of utilizing minorities and women. Now, using that particular criterion, the agencies have a list of those kinds of contractors that they can review. We sent some 92,000 to them. It does not make sense to us to have the compliance agencies review contractors who do not meet the criteria now.

Chairman GRIFFITHS. But they cannot review contractors that are not Government contractors. Supposing you had 10 banks in a town, and in 9 of them the Federal Government had deposits. They are Federal contractors, are they not?

Mr. HOBSON. Yes.

Chairman GRIFFITHS. In the 10th one there is no Federal deposit.

Mr. HOBSON. Right.

Chairman GRIFFITHS. Now, you have an office someplace out there, and the Treasury is supposed to be checking up on it.

Mr. HOBSON. That is right.

Chairman GRIFFITHS. Are they supposed to inquire from somebody out there if they are contractors?

Mr. HOBSON. No. The agency will prepare its forecast schedule, include those banks on that particular schedule, and notify the banking officials that they are going to conduct a compliance review. Now, if any one of those banks respond that it does not have a Federal contract, then we will make an inquiry of the agencies to determine whether or not that is in fact the case.

Chairman GRIFFITHS. That is a useless amount of work. That is why you are not getting anything done. Why do you not get a list of all contractors? There is not any difficulty about it.

Mr. DAVIS. Those 92,000 are Federal contractors.

Chairman GRIFFITHS. Well, call up at the DOD, and over at the Treasury, and tell them to give you an exact list of who they are dealing with. I do not see anything complicated about it. Do not be guessing around and sending mail here, back, forward, and look at this, and find out, just tell them, these are the people we are doing business with.

Mr. HOBSON. We have had various responses to the effect that the employer does not have a Government contract.

I should add something else, that it is virtually impossible—as a matter of fact, it is impossible—to determine how many companies have Government contracts over the course of a period of time. There are purchase orders, there are vendors, there are small establishments which complete a purchase order today, and tomorrow they no longer have a Federal contract. We would be devoting most of the resources that we are now devoting to substantive compliance efforts to that mechanical administrative process of identifying contractors who we would not review anyway, because they do not meet the criteria.

Chairman GRIFFITHS. Let the people who are dealing with the contractors tell you who they are. I used to be a purchaser. They would not be very difficult. I could have written in and told you who I was dealing with. Everybody could. There is no problem about that.

Somebody suggested that they are going to have a private firm, that Dun & Bradstreet is doing this for some agency. Why are we employing outside help to tell us what we are doing in Government?

Mr. DAVIS. Are we making reference to the Department of Labor?

Mr. HOBSON. The Manpower Administration.

Mr. DAVIS. The Manpower Administration contract to identify contractors in which the contractors with over 2,500——

Chairman GRIFFITHS. What really happens, I am convinced, is that we put out private contracts to a private contractor, who then uses our employees to find out how the Government is run. We ought to be able to tell him.

Mr. DAVIS. We in the OFCC are certainly trying to do that in regard to the order No. 1 and the EEO reports.

Chairman GRIFFITHS. GAO found in its investigation that compliance agencies are approving affirmative action plans when there

are outstanding complaints filed with the contractor from EEOC. In fact, 25 percent of the 120 plans that GAO reviewed were from contractors who had unresolved complaints outstanding against them in EEOC. Why have you allowed this to develop? Are you not supposed to check with the EEOC before approving an affirmative action plan?

Mr. DAVIS. I think if you look, perhaps, Madam Chairman, you are making reference to the memorandum of understanding of 1970. At that time, in the memorandum for 1970, compliance agencies were required to contact the EEOC to find out if there were indeed any outstanding issues. But the EEOC in the act of 1972 was given court enforcement authority and really no longer needed the compliance agencies to carry out their obligations. However, as I referred to in my testimony, only yesterday we did conclude a new memorandum with the Equal Employment Opportunity Commission, which will provide for a coordination of the schedules of compliance reviews, and will provide for the standardization of investigative and recommended procedures.

Chairman GRIFFITHS. How long does it take you to iron out these memorandums? How much mantime is wasted on this?

Mr. DAVIS. I have no idea on the mantime that is required. We sat down with officials of the EEOC staff and worked out this agreement and worked out this memorandum of understanding, which we are quite proud of.

Chairman GRIFFITHS. Well, I am for doing more monitoring and less talking.

In most of the compliance agencies, the Civil Rights Office is directly responsible to the Secretary or to the Administrator, an organizational structure that gives priority to equal opportunity. OFCC used to be directly responsible to the Secretary of Labor. However, during a reorganization in 1969, OFCC was placed under the Assistant Secretary for Employment Standards. Is this not a downgrading of OFCC's role within the Department?

Mr. DAVIS. I do not think that it is a downgrading of OFCC within the Department of Labor. You are right, I do report to the Assistant Secretary for the Employment Standards Administration. But I think that you should know that Secretary of Labor Peter Brennan has a very direct interest in the Office of Federal Contract Compliance, and as a matter of fact, certainly does discuss with us issues of significance to the program, and has given this program his entire support. We will continue, and think that we are indeed making progress even under the Employment Standards Administration.

Chairman GRIFFITHS. I am glad to hear that the Secretary is so supportive, because I have been wondering for some time if some of these things do not occur because the Secretary does not support the action.

Why do the agencies you monitor put more emphasis organizationally on contract compliance than the Department of Labor does?

Mr. DAVIS. I do not have the answer to that question. We certainly do—I guess I would just have to say that we do put emphasis on contract compliance in the Department of Labor, we certainly do that.

Chairman GRIFFITHS. Is it true that earlier this year DOD attempted to set up a reporting system for measuring how minority and female employment was changing among DOD contractors, and that OFCC told DOD to stop using this system?

Mr. DAVIS. I think, Madam Chairman, if I may, that you recognize the importance of having a standardized, cohesive system within the contract compliance agencies for maximum effectiveness. The Department of Defense at one point was using a standard which we felt would not bring about the standardization; as a matter of fact, it would perhaps injure the program in the long run. So we require all compliance agencies to follow our May 15 directive in order No. 14.

Chairman GRIFFITHS. How are we going to find out now under your suggestions?

Mr. DAVIS. I think we can do that without question, under the coding sheets which Mr. Hobson has made reference to earlier; there is no question about that.

Chairman GRIFFITHS. But you do not know when this is going to be made available. Maybe DOD will be able to tell me this when they appear this morning.

Mr. DAVIS. I certainly am going to make a report available to you prior to your departure from the Congress.

Chairman GRIFFITHS. Regarding your plan to review each compliance agency on an annual basis, exactly what criteria will be used for this evaluation, and what steps will be taken in the agencies if found remiss.

Mr. DAVIS. First of all, if I may, a compliance agency is now required to submit to the Office of Federal Contract Compliance an overall program plan. Program plans were submitted by all of the compliance agencies on June 28 of this year. In that program plan, we wanted to be able to see whether the compliance agency has developed a process of target selection, whether that compliance agency indeed has made plans for the review of those contractors who provide the greatest employment opportunities for females. We want to be able to evaluate the opportunities for minority and females. We want to be able to see in that program whether that complaince agency has developed personnel performance criteria to review and evaluate those contract compliance officers who are conducting compliance reviews. We want to see, for example, whether or not that compliance agency has developed necessary training programs to insure that their compliance personnel are indeed involved and knowledgeable about the rules and the regulations and the procedure of the contract compliance program. We receive those reports. We have had an opportunity to sit down with all the compliance agencies to review those programs.

I can assure you that no program that has any deficiencies, major deficiencies will be accepted. As a matter of fact, there are several program plans which have been submitted by compliance agencies, which are now being held in abeyance. If compliance agencies fail to follow the OFCC regulations and the OFCC rules and our standards, I can assure you that the matter will be taken to the highest levels of the compliance agency as well as the highest levels of the Department of Labor. Hopefully, at that level we can rectify any deficiencies that indeed do exist.

Chairman GRIFFITHS. In November of 1973 the Labor Department requested funds for 26 additional contract compliance positions, and in December this request was granted. Yet, by the end of March these 26 positions, plus 21 other OFCC positions, remained vacant.

OFCC had a vacancy rate approaching 40 percent. By the end of June OFCC had reached their authorized strength only because of the temporary reassignment of 23 employees from other branches of the Labor Department. How do you explain your failure to fill the positions you requested?

Mr. DAVIS. Madam Chairman, presently there are 16 vacancies in the Office of Federal Contract Compliance. All of these vacancies have been posted, and the postings on the merit staff have been closed. In following the merit staffing procedure it is required that before you can panel those jobs you have to receive from agencies, or from the employer of those persons who have applied for the job, what are known as performance evaluation reports. We are now in the process of awaiting the performance evaluation reports on those individuals who have applied for the job. There is just nothing we can do about it until such time as those reports have been submitted to my office.

Chairman GRIFFITHS. In August of 1974 OFCC withdrew compliance responsibilities from NASA on the grounds that NASA was, one, not consistently following your standards, and two, was reluctant to issue show-cause notices or take sanction actions. Wholly apart from the validity of these reasons, what led you to single out NASA?

The performance of other agencies is equally bad; 70 percent of GSA approved plans, and 20 percent of DOD approved plans, may be deficient. Why do you single out NASA?

Mr. DAVIS. The reasons that you express for our reassignment of NASA's compliance responsibility were not the reasons why we did that. The OFCC has long felt that it is necessary to reduce the number of compliance agencies, if you will, so that we will be better able to develop and have a better monitoring span of control over the compliance agencies. That reassignment of compliance responsibility was one reassignment in the development of an overall plan to provide for better monitoring and a better span of control.

Chairman GRIFFITHS. The reasons that I gave are the reasons you gave GAO for cutting out NASA.

Mr. DAVIS. I am not aware that we gave GAO those reasons.

Chairman GRIFFITHS. You have to learn what the GAO is doing.

Mr. DAVIS. I do.

Chairman GRIFFITHS. Because if you use that same criteria on every agency, you would not have any agencies left.

Mr. DAVIS. Exactly.

Chairman GRIFFITHS. GAO's report states that OFCC has done very little in implementing a system for monitoring the compliance agencies responsible for nonconstruction directives to assure that the program is administered in a uniform, effective manner. At three of your regional offices GAO found that the staff devoted almost all of its efforts to monitoring construction contract enforcement while most compliance agencies are concentrating on nonconstruction. Why are you neglecting nonconstruction compliance?

Mr. DAVIS. Madam Chairman, we certainly were not neglecting nonconstruction compliance. I think to fully comprehend your statement, I think what we would have to do is look in early 1969. At that time black Americans throughout this country were claiming their rights for employment opportunities in the building and construction

industry. Thus, the Government developed a significant plan with the advent of the Philadelphia plan, goals and timetables for minority group members in construction. The OFCC regional offices at that time, with this new program and new thrust, geared themselves up to become deeply involved in this construction program. Subsequently, over 70 hometown plans on a voluntary basis were developed. The OFCC field became very definitely involved in that. If you will read the program plan, you will note that the OFCC field offices under this program plan are required to devote 50 percent of their time in the nonconstruction program, in particular to participate in joint compliance reviews, in particular to participate in onsite observation reviews, and in particular to participate in agency evaluation reviews. So the field offices of the Office of the Federal Contract Compliance are now ready after having several training programs put on by our Office and geared up to become very deeply involved—as a matter of fact, they have already started—in the entire service and supply programs.

Chairman GRIFFITHS. GAO cites in its report a case in which the Maritime Administration asked OFCC for guidance concerning backpay and an effective class discrimination dispute. The Maritime Administration's request was made in February of 1974. Yet, after 8 months OFCC has still not provided the requested guidance. Why not?

Mr. DAVIS. Madam Chairman, I certainly do recall the meeting with the Department of Commerce officials, at which time we discussed a particular matter pending, a question of backpay. We provided the technical assistance, the necessary technical assistance to the Department of Commerce personnel. As a result, frankly, of our technical assistance, satisfactory conciliation agreement was made between the compliance agencies and the contractor. We feel that we have sat down with agencies on an individual and case-by-case basis and provided backpay guidance; we have done it with the Department of Commerce and other compliance agencies.

Chairman GRIFFITHS. That is what you should not be doing. What you need is a manual that shows exactly what to do, and it should apply the same all over America. Every contractor has the same rights. But so does every employee.

Mr. DAVIS. We do have such a manual.

Chairman GRIFFITHS. Where is it?

Mr. DAVIS. The standard compliance review report was already distributed to compliance agencies on May 15 of this year.

Chairman GRIFFITHS. In November of 1971 OFCC prepared draft guidelines on affected class identification and related remedies. Three years later OFCC now tells GAO that the guidelines have not yet been published because OFCC has not fully resolved all the issues.

Mr. DAVIS. Madam Chairman, also in this standard compliance review report we have outlined for the contract compliance officers in detail how to identify effective class situations in Federal contracts.

Chairman GRIFFITHS. When did you do that?

Mr. DAVIS. May 15, 1974.

Chairman GRIFFITHS. Did you issue a report? Was everybody given one?

Mr. DAVIS. Every compliance agency.

Chairman GRIFFITHS. Why did not somebody in your office say this?

Mr. DAVIS. Every compliance agency within the Federal Government has this report.

Chairman GRIFFITHS. You had better tell those people that work in your office what you are doing.

Mr. DAVIS. We do that.

Chairman GRIFFITHS. Because this kind of information has not been made available. The chief complaint that we have had from every one of these agencies is that you have given them no guidance.

Mr. DAVIS. We have the rules, and we have the regulations.

Chairman GRIFFITHS. Well, you get a copy of them out in written form and sent to my office this afternoon, 1535 Longworth Building.

Mr. DAVIS. I would be very glad to do that.

Chairman GRIFFITHS. In many cases the agencies and the contractors can hardly be blamed for noncompliance, because there are no defensive minimum standards for compliance. I understand that you established a plan for improving certain aspects of the contract compliance program. What revised regulations are to be issued in fiscal year 1975 which will affect women, and how are these to be interpreted and implemented?

Mr. DAVIS. We certainly do have minimum standards in order No. 4. I think you ought to add to that, Mr. Hobson.

Mr. HOBSON. I think we have been mentioning order No. 4 and order No. 14. Those are the basic standards. As far as women are concerned—and Ms. Wooten might want to address herself to this question—we are in the process now of updating and revising the sex guidelines to bring them up to date, and to make them consistent with recent court decisions, and also consistent with EEOC guidelines.

Mr. DAVIS. As a matter of fact, on Monday and Tuesday of this week my office held hearings along with the other representatives of the Employment Standard Administration, and the factfinding mission, to see to what degree we should and must improve upon our sex discrimination guidelines.

Do you want to add to that, Ms. Wooten?

Ms. WOOTEN. We issued proposed sex discrimination revisions in December of last year for public comment. We received an overwhelming amount of commentary, well over 1,000 letters. In analyzing those comments we felt that there was not sufficient information to help us make a decision on one outstanding issue—fringe benefits—whether or not benefits should continue the way in which the policy now stands, that is, giving employers an option in terms of providing equal cost, or equal benefits. As I am sure you are aware, the EEOC in 1972 issued guidelines that provide that benefits must be equal. We have been trying to get a clear picture as to how to deal, if you will, with the retroactive situation. Were we to issue the guidelines now, and they become immediately effective, we have concern about what impact that will have on employees in situations where they have paid into plans, or are about to retire, and so forth. We had anticipated some of this information in the commentary. When we did not receive it, we scheduled 2 days of hearings for this week. We now feel that we have received substantial information as a result of those hearings, and now we are in a position to review the testimony that was provided

and make a decision. I would say that the reissuance of the guidelines is imminent, based simply upon timely conclusion of the staff work.

Chairman GRIFFITHS. Good. Will you call my office when you are ready to issue them, and I will send somebody to pick up some right then.

I think that you have one of the most meaningful jobs in the Government. It was the intent of Congress, certainly, that at least in this country all people be given an equal opportunity for employment. Personally, I hope you do not make your own office into a cozy little male chauvinist or a racist group. This thing is supposed to apply to everybody, and apply equally to all. I hope you will sharpen the procedures, that you will put every contractor on notice, and on a real and reasonable notice, as to what he has to do to comply. You should not be reissuing orders every 6 or 8 months. You should come to a decision, in my judgment, on what they should do to comply, and you should then enforce the order.

Thank you very much.

Mr. DAVIS. Madam Chairman, if I may just add, I certainly share your interest. As a minority group member myself, I want to assure you that I will certainly carry out my responsibilities in coordinating the effort of Executive order 11246.

Chairman GRIFFITHS. Mr. Francis and Mr. Holmes, you are our next witnesses.

Gentlemen, I am going to ask in your case that you just submit your prepared statements for the record, and I will just start with the questions. There is no one else here, and I have seen the prepared statements.

TESTIMONY OF HON. H. MINTON FRANCIS, DEPUTY ASSISTANT SECRETARY FOR EQUAL OPPORTUNITY, DEPARTMENT OF DEFENSE, ACCOMPANIED BY WILLIAM J. PEREZ, DIRECTOR FOR EQUAL OPPORTUNITY (CIVILIAN); AND LT. COL. HARRY G. HARRIS, USAF, DEPUTY DIRECTOR FOR EQUAL OPPORTUNITY (CIVILIAN); AND TESTIMONY OF HON. PETER E. HOLMES, DIRECTOR OF THE OFFICE FOR CIVIL RIGHTS, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, ACCOMPANIED BY MARY M. LEPPER, DIRECTOR, HIGHER EDUCATION DIVISION; AND EDWARD J. WREN, DEPUTY ASSISTANT SECRETARY FOR LEGISLATION (CONGRESSIONAL LEGISLATION)

Mr. FRANCIS. That will be fine.

Mr. HOLMES. That will be fine with me, too.

Chairman GRIFFITHS. The prepared statements will be placed in the record at this point.

[The prepared statements of Mr. Francis and Mr. Holmes follow:]

PREPARED STATEMENT OF HON. H. MINTON FRANCIS

Madam Chairman and Members of the Subcommittee, thank you for the opportunity to discuss the Department of Defense Contract Compliance Program.

Contract Compliance is one of several essential Equal Opportunity Programs in the Department of Defense. As you are well aware, the basis for all our Equal

Opportunity Programs is the Department's Human Goals Statement to which the present Secretary of Defense, Deputy Secretary of Defense, Service Secretaries, Chairman of the Joint Chiefs of Staff and the Military Chiefs as well as their predecessors have subscribed. The Human Goals Statement emphasizes the dignity and worth of the individual. Building on this essential emphasis the statement pledges the Department "to hold those who do business with the Department of Defense to full compliance with the policy of equal employment opportunity." Thus, the Department of Defense's Contract Compliance Program provides a real potential to expand employment opportunity for the nation's racial minorities and women.

We have two basic objectives in the program:

1. To increase the general employment of minorities and women in the work forces of all the firms who hold Federal contracts.

2. To insure these workers are provided opportunity for upward mobility in each of the firms.

Our Program Managers, therefore, focus their full attention and energies on achievement of these goals as rapidly as possible. The program is designed to encourage Federal contractors to recruit minorities and women actively. If we can provide meaningful employment to this group of citizens, we can of course increase their economic and social well being. I believe the Department's Contract Compliance Program can be an effective tool to insure equal employment opportunity performance by Federal contractors. As we execute and enforce the program, we see the Department of Defense serving as a nucleus in a broad mission to create an environment in our society wherein every citizen regardless of race, creed, color or sex can use and develop their skills and rise to their highest level of individual employment potential.

The Assistant Secretary of Defense for Manpower and Reserve Affairs is the Contract Compliance Officer for the Department of Defense. As his Deputy for Equal Opportunity, I have been delegated the authority to make policy for the Defense Department in the Contract Compliance Program. The general officer who directs the Defense Supply Agency is the Deputy Contract Compliance Officer charged with operating the program through his Defense Contract Administration Services. Known as DCAS, the Defense Contract Administration Services employs 11 regional headquarters to monitor and execute the program. Attachment 1 shows the Contract Compliance Organization and Attachment 2 provides the geographical distribution of the DCAS Regions. Approximately 600 people are authorized to operate the program, and at the present time we have 560 people assigned to this task. The DCAS personnel statistics are available at Attachment 3.

We have recognized the need to devise realistic measurements for determining how effective the program is in achieving the two objectives previously stated. We have established a Management Information System to record the levels of employment for minorities and women, and to insure that these data are both timely and relevant. We believe this system allows us to analyze the performance of Federal contractors in terms of our stated objectives.

Since 1969, Federal contractors in general have reduced their work forces. In the face of these reductions there has nevertheless been a slow, steady rise in jobs for minorities and women in all the employment categories. It is important to note that increases have been more pronounced at the higher levels of officials and managers, professionals and technicians. We have provided a list of minority and female employment levels for the period 1969 through 1973 at Attachment 4. These statistics are limited to those contractors on whom we have conducted compliance reviews during calendar year 1973 because our total universe of non-construction contractor facilities is extensive, numbering approximately 36,000.

Because of the size of our contractor universe, we have been forced to establish an order of priority among contractors to be inspected for compliance. We give first priority to those contractors under consideration for awards over one million dollars. When the responsible contract awarding officer notifies us of such potential awards, regional staffs determine the potential contractor's eligibility at the facility concerned. If the facility has not been inspected for compliance within the past six months, a complete compliance review may be required. If we determine the contractor is in compliance with the rules and regulations of the Office of Federal Contract Compliance, Regional Staff will so notify the contract awarding officer. If our determination is that the facility is *not* in compliance, the contract cannot be awarded on the scheduled date.

The Department of Defense receives all class action complaints from the Office of Federal Contract Compliance. As soon as such a complaint is received, we begin an investigation. In order to make certain the complaint has validity we conduct a compliance review of the facility as a first step. In Fiscal Year 1974, we conducted sixty-three such compliance reviews to determine the validity of complaints. Findings of such reviews are furnished to both the complainant and the Office of Federal Contract Compliance.

Although we earnestly desire that our program be credible to the public, including Federal contractors, minority and female workers, and all interested community and national organizations, we have found over the past two years an increasing degree of skepticism by these groups. Community groups have pointed to what they perceive to be limited actual goal achievement of Executive Order 11246, as amended. We have begun to improve our credibility by disseminating our policy of full and aggressive implementation of Executive Order 11246, as amended, so that more minorities and women are hired. It is not our policy to merely debar contractors who are found deficient but, in the interests of both national security and principles of equal employment opportunity, to establish a cooperative but firm relationship with Defense contractors.

Honest disagreements occur from time-to-time between contractors and the Contract Compliance staffs. This is inevitable in a program requiring good judgment in areas where specific quantitative measurements of progress are not yet mutually accepted. During the last several years, the program has become more sophisticated and our compliance people have developed a higher level of expertise and knowledge in how to take enforcement action when required.

Unfortunately, there have been instances where compliance monitors have undertaken negotiations and conciliatory efforts with contractors leading to extended discussions. The time involved in such dialogues has inevitably adversely affected our credibility with the public and to some extent our effectiveness in enforcement. In most cases, however, the Department of Defense has been able, ultimately, to extract the necessary action from the contractor. During the initial formative period of our program of compliance reviews, it was the generally accepted practice to focus upon conciliation and negotiation between the Department and its contractors. Conciliation seemed to be a needed process to educate and sensitize contractors with the new compliance requirements. Now that the program has matured and the educative period has passed, we no longer anticipate protracted periods of conciliation and negotiation.

My office has now provided firm policy guidance to cause compliance reviews be completed within minimum timeframes. Wherever we find a recalcitrant contractor, we take prompt enforcement action which can ultimately lead to a formal hearing. For example, in the first six months of this year we have issued thirty-eight nonconstruction "show cause" letters and five requests for formal hearings. In contrast, in the previous six-month period, only seventeen nonconstruction "show cause" letters were issued with one request for formal hearing.

We recognize that in the past our field operation has handled cases in a less than aggressive, positive manner. We have now made it clear that the key to full program effectiveness is alert management and leadership focusing on full enforcement. We have made it clear that we require our Equal Opportunity Specialists and Program Managers to pinpoint areas of deficiency and to take swift and positive action in conducting professional reviews in depth. We demand that analyses of contractor workforces measure the availability and opportunity for minority and women workers so that the data thus developed can be translated into goals and timetables to correct underutilization of minorities and women by specific contractors.

The thrust of our policy directives is to have an aggressive program emphasizing prompt enforcement actions to secure more jobs for minorities and women. We believe the program now enjoys more maturity and can be handled in a less tentative and groping way as was the case in the initial period.

We are fully aware that program maturity may signal a period where our program may become routine and sterile. We are striving to instill some imaginative and creative approaches to accomplish expanded results, while at the same time, remaining within our current manpower ceiling. We are requiring our people to do even more. Our primary emphasis will be on results—contractor performance—rather than on the technical aspects of Affirmative Action Programs, which are really nothing more than promises to "do good" or to "do better."

Our aim is to cut the window dressing in Affirmative Action Programs and take a hard look at numbers. We want to perform first-rate workforce analyses designed to establish firm goals for more and higher level jobs for minorities and women. Goal establishment must be followed by timely enforcement action against those contractors who have failed to perform.

Contractors will be required to adopt more aggressive programs to correct employment imbalances in their work forces. Also, the contractor's past performance and good faith efforts will be evaluated in sufficient depth to measure precisely his sincerity of purpose. Formerly, acceptance of additional contractor commitments for goals not reached and questionable good faith efforts had a most debilitating effect on credibility of the program. We shall continue our relationship with industry in a cooperative manner, but we shall not compromise those rights of minorities or women which the Department is charged to protect.

The Department of Defense remains committed to enforcement of Executive Order 11246, as amended, and the rules and regulations of the Department of Labor. We will use our existing resources to maximize the number of jobs for minorities and women in the work forces of our nation's industry. The Department has been recognized for having top management expertise in accomplishing a multitude of difficult tasks to insure our nation's security and well being. The extensive universe of federal contractors together with many millions of workers in facilities across the country remain a fertile terrain to make even more substantial employment gains for minorities and women.

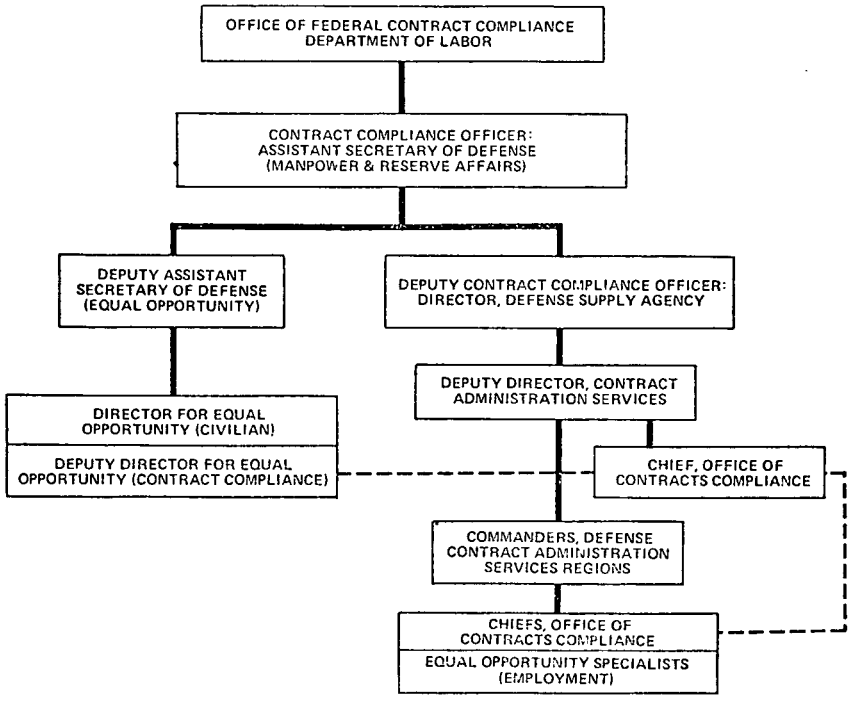
The DoD Contract Compliance Program has the potential of making an historic impact on our nation's citizens today and in the years to come. Employment provides improved economic opportunity which strengthens America's social fiber. With increased economic opportunity, our people will be able to secure better housing, enhanced education and a multitude of other benefits, but, more importantly, a higher well-being to improve their skills in seeking other opportunities of their choice.

Attachments.

ATTACHMENT 1

DEPARTMENT OF DEFENSE

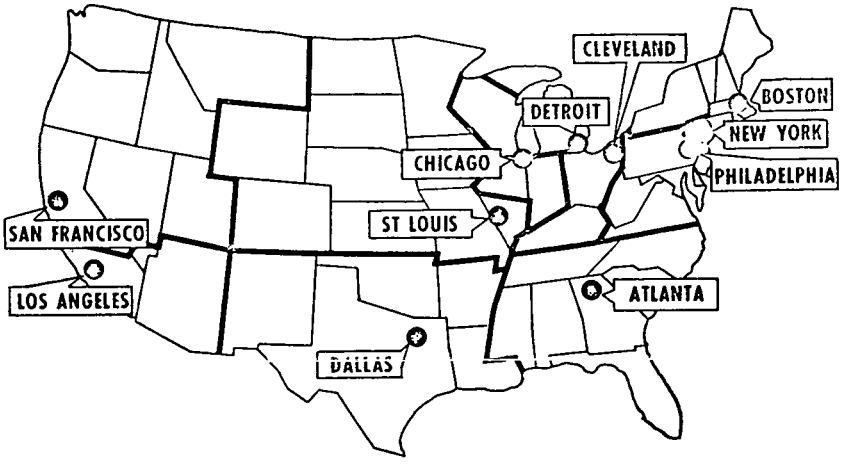
CONTRACT COMPLIANCE PROGRAM ORGANIZATION



ATTACHMENT 2

CONTRACT COMPLIANCE

DEFENSE CONTRACT ADMINISTRATION SERVICES REGIONS



ATTACHMENT 3

DEPARTMENT OF DEFENSE CONTRACT COMPLIANCE PROGRAM

PERSONNEL MANNING — **JUNE 30, 1974**

JOB CATEGORY	GS GRADE	TOTAL	CAUCASIAN MALE	MINORITY	FEMALE
HEADQUARTERS					
MANAGERS	14-16	7	4	3	0
SENIOR PROFESSIONALS	13	6	2	2	2
PROFESSIONALS	9-12	7	3	3	2
SENIOR CLERICAL	6-8	4	0	1	4
CLERICAL	3-5	3	0	1	3
TOTAL HEADQUARTERS		27	9	10	11
REGIONAL OFFICES (11)					
MANAGERS	14-15	23	14	9	0
SENIOR PROFESSIONALS	13	119	64	52	9
PROFESSIONALS	9-12	211	68	106	65
TRAINEES	5-7	55	10	22	36
SENIOR CLERICAL	6-7	14	0	4	14
CLERICAL	2-5	111	0	49	111
TOTAL REGIONAL OFFICES		533	156	242	235
TOTAL PERSONNEL		560	165	252	246

ATTACHMENT 4

DEPARTMENT OF DEFENSE CONTRACT COMPLIANCE PROGRAM

MINORITY AND FEMALE EMPLOYMENT IN INDUSTRY FACILITIES REVIEWED IN CY 1973

EEO-1 CATEGORY	TOTAL EMPLOYMENT (IN THOUSANDS)			MINORITY				FEMALE			
				% MINORITY		CHANGE (1969-73)		% FEMALE		CHANGE (1969-73)	
	1969	1973	CHANGE	1969	1973	%	NUMBER	1969	1973	%	NUMBER
OFFICIALS AND MANAGERS	400.8	411.0	+10.2	2.4	3.8	+1.4	+6,083	2.3	3.2	+0.9	+4,130
PROFESSIONALS	511.2	479.7	-31.5	3.9	5.0	+1.1	+4,160	4.1	5.3	+2.2	+4,491
TECHNICIANS	268.5	251.9	-16.6	5.8	7.7	+1.9	+3,909	8.2	9.2	+1.0	+1,146
SALES WORKERS	67.3	63.1	-4.2	3.0	4.8	+1.8	+1,016	20.1	18.9	-1.2	-1,614
OFFICE AND CLERICAL	559.8	475.5	-84.3	6.9	9.8	+2.9	+7,771	64.0	67.1	+3.1	-39,182
CRAFTSMEN	805.8	756.0	-49.8	8.0	9.7	+1.7	+8,791	4.7	5.2	+0.5	+1,104
OPERATIVES	1,587.5	1,564.1	-23.4	20.1	22.7	+2.6	+35,956	31.3	31.4	+0.1	-5,571
LABORERS	308.8	270.2	-38.6	25.6	30.0	+4.4	-3,464	26.8	29.2	+2.4	-3,812
SERVICE WORKERS	107.9	105.1	-2.8	24.1	25.9	+1.8	+1,180	11.5	11.8	+0.3	-26
TOTAL	4,617.7	4,376.8	-240.9	12.4	14.6	+2.2	+65,402	22.8	23.2	+0.4	-39,334

PREPARED STATEMENT OF HON. PETER E. HOLMES

Madam Chairman and Members of the Subcommittee: I appreciate the opportunity to discuss with you the compliance responsibilities under Executive Order 11246, as amended, which have been delegated to the Department, and specifically the Office for Civil Rights, by the Secretary of Labor. My remarks will be restricted to contract compliance activities affecting institutions of higher education.

The Executive Order prohibits Federal contractors and subcontractors, including colleges and universities, from discriminating in employment on the basis of race, color, religion, sex, or national origin, and requires that they take "affirmative action" to ensure that applicants for employment and employees are treated without regard to such factors. This covers all conditions of employment, including recruitment, promotion, transfer, termination, salary and benefits, and training. Affirmative action regulations issued by the Department of Labor, referred to as "Revised Order No. 4," are designed to broaden employment opportunities for minorities and women and to eliminate policies and practices which, by intent or effect, have excluded or limited female and minority group employment.

There are approximately 900 institutions of higher education which come within the jurisdiction of the Executive Order by virtue of their status as Federal contractors and subcontractors. Such institutions must maintain their eligibility for Federal contract awards by ensuring that their employment policies and practices relate to all persons in a nondiscriminatory manner. Further, they must develop plans for affirmative action, which are expected to (1) contain an analysis of their workforce to identify underutilization of women and minorities and a commitment to steps, with goals and timetables, for overcoming such underutilization, and (2) identify those policies and practices which have an adverse impact on female and minority employees and commit the institution to specific corrective action to eliminate such adverse impact.

The Office for Civil Rights comes into contact with contractor institutions by conducting complaint investigations, general periodic compliance reviews of a

contractor's employment posture, and pre-award compliance reviews. In Fiscal Year 1974, the Office for Civil Rights resolved 99 complaints of discrimination that were submitted under the Executive Order. In addition, the Office conducted approximately 125 general compliance reviews of contractor institutions for the purpose of determining compliance of colleges and universities with implementing regulations as well as their previously developed affirmative action commitments. Further, there were 308 on-site visits undertaken specifically to extend technical assistance to institutions that were in the process of developing affirmative action programs.

The Office for Civil Rights undertook 35 pre-award compliance reviews during Fiscal Year 1974. The pre-award review follows from a request by a Federal contracting agency for a determination of eligibility of an institution with whom it is about to negotiate a contract. All contracts of a million dollars or more must receive a civil rights clearance, and such a clearance is granted if the proposed contractor is able to demonstrate compliance with the Executive Order. The contracting agency must request that HEW certify that the prospective contractor complies with the requirements of the Equal Opportunity Clause of the Executive Order and has an acceptable affirmative action plan. The Office for Civil Rights is given thirty days in which to make this pre-award determination. If necessary, the Office for Civil Rights will conduct a pre-award compliance review of the prospective contractor during this time. Under implementing regulations the Department cannot certify a prospective contractor's compliance unless a compliance investigation of the contractor has been conducted within the past twelve months. In addition to these procedures, many Federal agencies under their own regulations seek HEW's clearance on contract awards below this dollar level.

The Office for Civil Rights receives numerous pre-award clearance requests as part of its ongoing enforcement program under the Executive Order. Because prospective contractors of ten are recipients of other Federal contracts and therefore have a continuing relationship with the Office for Civil Rights, this Office frequently has or is in the process of obtaining information concerning the compliance status of such contractors permitting us to respond within a minimal time frame to a clearance request. If the prospective contractor (1) has no affirmative action plan, (2) has a defective affirmative action plan or (3) is substantially deviating from its affirmative action plan, the Office for Civil Rights will notify the prospective contractor of the deficiencies and attempt through informal means to remedy the problem or problems identified. Contracts can be withheld during this period if attempts to obtain voluntary compliance reach an impasse. While the Office for Civil Rights attempts to resolve compliance problems, it will not declare the university to be a responsible contractor. If deficiencies are not remedied or if the prospective contractor has not agreed to remedy the problems, the Office will then inform the contracting agency which has requested clearance that the prospective contractor appears unable to conform with the requirements of the Executive Order. In such instances, this Office requests contracting agencies to withhold awards of contracts until we can make a determination of an institution's responsibility as a Federal contractor. In the previous fiscal year, contract awards amounting to more than $4 million were delayed because of institutions' failure to comply with affirmative action obligations.

Revised Order No. 4 also provides that a contractor may be declared nonresponsible for inability to comply with the Equal Opportunity Clause once without giving notice for hearing. If a prospective contractor is declared nonresponsible in this manner more than once, a notice setting a timely hearing date must be issued concurrently with the second nonresponsibility determination. Thus, if a potential Federal contractor loses a contract during a federally-imposed hold on contracts, that potential contractor must be given an opportunity for a hearing before any other contract can be withheld. However, it has been our experience that there is enough flexibility in contract award deadlines that compliance problems can be resolved without the need of passing over the potential contractor.

I should point out that Federal contracts of less than $10,000 are not subject to the requirements of Executive Order 11246 and their approval does not involve the review of an affirmative action plan by the Office for Civil Rights. Also, under regulations issued by the Department of Labor implementing agencies are not required to review the affirmative action plans of prospective contractors prior to the award of contracts of less than $1 million. Further, the Office for Civil Rights does not conduct preaward affirmative action plan reviews of prospective contractors who have not previously held government contracts. Such contractors,

under the regulations, are allowed 120 days after an initial contract award to develop an affirmative action plan. Finally, this Office does not conduct preaward reviews of prospective contractors with less than 50 employees since regulations exempt them from the written plan requirement.

While substantial progress has been accomplished since the contract compliance program was initiated in 1968, limited staff resources have caused us to rely heavily on contractors' good faith adherence to Federal compliance requirements. We have been able to conduct comprehensive on-site compliance reviews of a relatively small proportion of contractors that are subject to the requirements of the Executive Order. Our monitoring effort, for the most part, has had to be accomplished under a system of priority rankings based on such factors as a contractor's location, size of workforce, minority and female employment statistics, existence of complaints, and the dollar value of contracts. Regrettably, about 300 individual and class complaints filed under the Executive Order are still unresolved, although many are in the final stages of negotiation. There are approximately 200 affirmative action plans which have been submitted to the Office for Civil Rights. It should be noted that there are 127 persons, including professional and clerical, assigned to the higher education contract compliance program.

In evaluating contract compliance enforcement efforts in the area of higher education one must be mindful of the obstacles which have and continue to confront the Department. These are obstacles that, at times, have complicated and slowed compliance activities, and I would like to highlight some of them.

As indicated, the Office for Civil Rights administers regulations issued by the Department of Labor, and these regulations, as well as supplementary guidelines which have been issued, are considered by many institutions of higher education as oriented toward industrial contractors, whose employment standards and practices are considerably more uniform than those of colleges and universities. Further, some of these institutions have contended that substantial portions of the regulations are not applicable to institutions of higher education because of unique problems associated with academic employment. Nonetheless, we have tried to apply the nondiscrimination and affirmative action requirements of the Executive Order to employment at colleges and universities which are Federal contractors and subcontractors. Two years ago, the Office for Civil Rights issued the *Higher Education Guidelines*, a document designed to apply the requirements of the Executive Order and Department of Labor regulations specifically to academic and non-academic employment at colleges and universities. While the Guidelines have been useful, we have recognized that they do not provide sufficient specificity to permit colleges and universities to undertake all of the analyses of workforces that are required as part of the development of an acceptable affirmative action plan.

As a result, we are attempting to develop more precise standards for affirmative action that will provide better guidance on the analyses—recruitment, hiring, termination, promotion, etc.—that institutions must perform to be in compliance with the Executive Order and implementing regulations. We are hopeful that these standards can be completed later this year.

There has been widespread concern in the higher education community that affirmative action programs have been operating to deny employment opportunities to non-minority males by promoting illegal quotas and employment practices which discriminate in favor of women and minorities. We have been concerned about allegations of abuses in affirmative action programs and are preparing to release a statement this Fall which will distinguish acceptable affirmative action practices from those which are unlawful. In dealing with concrete instances, we have consistently made clear that the designation of specific positions for a woman or a minority, for example, or the application of valid job-related qualifications in a manner discriminating in favor of as well as against women or minorities are not acceptable practices.

It is our feeling that much of the opposition to affirmative action policies has been attributable to apprehensions about the Federal Government "intervening" in matters, such as personnel decisions; for instance, university administrators frequently express fears that affirmative action will lead to employment processes and decisions which will affect adversely efforts to preserve and improve the quality of faculty. We, of course, do not believe that such results should flow from a seriously administered and nondiscriminatory equal employment opportunity program. Related to this has been the unwillingness of some institutions to permit access to personnel information which is required to determine compliance with the requirements of the Executive order.

The Federal Government must also share responsibility for the varying and often erroneous perceptions regarding what precisely is involved in developing and implementing an effective equal employment opportunity program. For one, we are dealing with a new and evolving program. In many areas we are without the benefit of prior or transferable experience and must have major and sensitive issues under constant review to be responsive to complainants as well as the needs of institutions of higher education. The Office for Civil Rights has been attempting to hire more personnel with backgrounds in educational administration. The Office is also increasing efforts to upgrade technical capability in providing assistance in such areas as work force analyses and identifying the availability of persons formerly excluded from the employment process.

In short, it is the intention of the Office for Civil Rights to find better ways to help college administrators deal with the many facets of designing an acceptable affirmative action program. The Executive Order and the implementing regulations require a great deal from institutions of higher education in terms of developing the necessary data base, performing the relevant analyses, and formulating the right policies to meet the problems that may exist. Further, to effectively enforce the requirements of the Executive Order, the Office for Civil rights must continue to clarify the specifics of a contractor's obligations and provide a strong technical assistance capability. This will remain a major policy objective in the months ahead.

I am aware of the subcommittee's interest in the recent investigation of the Federal Contract Compliance program conducted by the General Accounting Office. I have been given an oral briefing by the GAO on preliminary findings but have not yet received a final report. The Office for Civil Rights has attempted to give its full cooperation to this investigation.

I will be happy to respond to any questions you may have. Thank you.

Chairman GRIFFITHS. Mr. Francis, I want to emphasize one point which you made in your prepared statement. While we earnestly desire our program to be credible to the public, including Federal contractors, minority and female workers and all interested and community national organizations, we have found over the past 2 years an increasing degree of skepticism by these groups. There was never a truer statement made about the whole compliance program, Mr. Francis. And I appreciate your honesty.

After reviewing 60 affirmative action plans approved by DOD, the GAO found that 20 percent were deficient, and should not have been approved. Were you aware of this situation?

Mr. FRANCIS. No, Madam Chairman, I was not aware. And I was appalled to learn it.

I would like to make two points with respect to this GAO finding.

First, as I am sure you know, my office is a policymaking office of some 20 people. The operating arm for contract compliance program within the Department of Defense is the Defense Contract Administration Service (DCAS), which has about 560 persons assigned to it at this time for the actual monitorship of Federal contracts.

The reviews of affirmative action plans take place within DCAS. And I have upon learning—well, beginning 1 year ago when I was appointed, I was somewhat appalled at the lack of emphasis, enforcement, and aggressive action. We have begun to make it very clear that our policy is to move as aggressively as possible with what guidelines we have from the Office of Federal Contract Compliance.

I have asked now that we have no affirmative action plans that are deficient. When they arrive at the DCAS headquarters and are found to be deficient, I will be alarmed.

In addition to that, we have asked for the names of individuals who were responsible for the acceptance of such plans. We want our Defense Contract Administration Service to go into the regions

and find out what the problem is with people accepting deficient plans. We have employed people in the grades of GS-12 and GS-13. I fully expect—and I think reasonably—these individuals to exercise their responsibilities with much more care, much more vigor, and aggressive action.

When we find people cannot measure up to those standards, I intend to do what I can to get rid of them.

Chairman GRIFFITHS. I would like to ask HEW a question. As of July 1, 1974, 201 affirmative action plans were waiting in HEW's regional offices to be evaluated; that is, to be accepted or rejected. Between May of 1973 and June of 1974 only about 30 plans were evaluated. At that rate it will take 7 years just to evaluate plans currently in regional offices. How do you plan to speed up HEW's review process for approval or rejecting action plans?

Mr. HOLMES. One of the first steps we are taking, Madam Chairman, is to try to clarify for the contractor institutions, colleges, and universities under our jurisdiction, the requirements of revised order No. 4 and the Executive order. We hope by clarifying the standard-contained in revised order No. 4, and Revised order No. 14, and the Executive order, the quality of affirmative action plans that are received by us will be substantially improved.

I might note for the record too, Madam Chairman, that of those 201 plans, approximately 7 plans are plans that were voluntarily submitted to us. Some of the institutions, I might note as well, are not subject to the jurisdiction of the Executive order, for example, the junior colleges, who do not hold Federal contracts.

With regard to those plans that have been specifically requested by the Office for Civil Rights, the number comes to approximately 80.

Chairman GRIFFITHS. Last summer at this committee's hearings on economic problems of women you told me that HEW had approved 33 plans. Yesterday the GAO testified that as of July 1974 HEW had affirmed the affirmative action plans of only 16 colleges and universities. How many has HEW approved?

Mr. HOLMES. Sixteen plans, the GAO was advised. I would suspect, Madam Chairman, that the discrepancy was the result of plans accepted prior to revised order No. 4, and after revised order No. 14, the 16 plans that we have accepted now have been in accordance with revised order No. 14.

Chairman GRIFFITHS. The Executive order has been in effect for 9 years. Of all the compliance agencies, HEW has one of the most favorable ratios between compliance personnel and contractors. However, when Secretary Weinberger testified before this committee last summer, he stated that in the future HEW's Office for Civil Rights would concentrate on the analysis of affirmative action plans. If this is so, why have you so few plans approved?

Mr. HOLMES. We are concentrating on the analysis of affirmative action plan, Madam Chairman. We have determined a number of plans unacceptable, and furthermore, after concentrating on the analysis of affirmative action plans, we are rendering technical assistance to many of the institutions under our jurisdiction.

Chairman GRIFFITHS. What is the main problem with colleges? I talked to one college president one night who seemed to believe that the big problem would be whether or not they had girls playing football. Is this true or not?

Mr. HOLMES. Well, I do not know who you talked to, Madam Chairman. He may be concerned about title IX of the Education Amendments of 1972 and the recently issued proposed regulations. Of course, that is in a nonemployment area. I think there is a great deal of concern in higher education institutions regarding the Executive order, and its nondiscrimination and affirmative action requirements. Some of these concerns are noted in my prepared statement, mainly the timeframes in which institutions must operate and respond regarding the development of an affirmative action plan. It has been quite a controversial subject within the academic community. The debate in previous years over the distinctions between goals and quotas was substantial. I think the debate has lessened considerably in the last several years, due in large measure to better communication between the Department and higher education institutions.

Right now the focus seems to be on the timeframes in which they have to develop complete and meaningful affirmative action programs.

Chairman GRIFFITHS. It seems to me that the colleges themselves are more insecure than even blue-collar workers. I cannot understand why they are so frightened at the thought of having a woman or a black compete with them for a job.

In 1970, Mr. Francis, a blue ribbon Defense panel made the following comment:

> The aspect of the Department's contract compliance program which causes the most concern is the apparent conflict of the equal employment opportunity and the procurement missions within DCSA. Procurement officers appear to view the contract compliance requirement as a hindrance in performing their primary procurement function. Since the contract compliance program is essentially an audit function, the apparent conflict seems to be in the fact that the procurement people are auditing themselves.

The blue ribbon Defense panel recommended that the equal employment opportunity function be taken out from under the procurement agency and be made responsible to the Deputy Secretary for Evaluation. Four years later this recommendation—an excellent one, in my opinion—has not been approved. Why not?

Mr. FRANCIS. Madam Chairman, may I divert for 1 second?

The men with me here are Mr. William J. Perez, who is the Director for Civilian Equal Opportunity in my office, and Lt. Col. Harry G. Harris of the U.S. Air Force, on my left, the Deputy for Equal Opportunity.

Chairman GRIFFITHS. Thank you.

Mr. FRANCIS. In answer to your question, I am not sure that the recommendation was clear. The recommendation that the function be assigned to the Deputy Secretary?

Chairman GRIFFITHS. That the function be assigned to the Deputy Secretary of Defense?

Mr. FRANCIS. To the Deputy Secretary of Defense.

I was not aware of that recommendation so worded.

Will you let me address the principal thrust and issue of your question? It has to do with the apparent conflict of interest in placing an equal opportunity function with the procurement effort. At times one can easily see that the prime mission of the procurement officer is to obtain the necessary supplies for national defense in a timely and most economic manner.

Jeopardy to the pipelines and to the supply system which arises in the debarment or the sanctioning of a major contractor is immediately apparent. I recognize some conflict there. However, when we look at the tools, the firepower, the ability of a procurement system to impose penalties on contractors through the withholding of payment through the awarding of the contract, and through every other measure to which a contractor is responsive, we can say the procurement system at least has the best potential for making contractors responsive to the demands of the Department.

For whatever reasons—and I again emphasize, this must have been 2 to 3 years before my appearance—the decision was made to leave that function with the Defense Supply Agency.

Chairman GRIFFITHS. In its investigation, GAO reviewed 60 affirmative action plans approved by DOD. It found that 30 percent of these contractors whose plans had been approved had complaints outstanding against them at EEOC. In most cases there was no evidence that DOD had checked with EEOC to find out if there were any complaints outstanding. Why was this allowed to happen, and how do you plan to remedy it?

Mr. FRANCIS. First of all, I must say that if we have done that, obviously, if the GAO is accurate in its assessment, it is an unacceptable circumstance for me. To the extent that I can bring to bear the pressure of the Secretary on the Defense Supply Agency and the Defense Contract Administration Services, we will make certain it does not occur again. What we probably need is a foolproof system by which preaward reviews are automatically involved with the Equal Employment Opportunity Commission.

Chairman GRIFFITHS. Of course, the mere fact of a complaint does not necessarily mean that the contractor is in the wrong.

Mr. FRANCIS. That is true.

Chairman GRIFFITHS. Nevertheless, it would be something to look at to find out—I mean, if you had 500 complaints against a contractor, you might begin to be pretty worried about it. There must be something wrong.

Mr. FRANCIS. That is true. Now, of course, as I say in the prepared statement, Madam Chairman, we receive all our class action complaints through the Office of the Federal Contract Compliance. We act on these immediately. We investigate and give a copy of our findings to both the complainant and to the Office of Federal Contract Compliance.

Chairman GRIFFITHS. Attached to your prepared statement is a chart [1] showing the increase in female employment among certain defense contractors from 1969 to 1973. The total increase in female employment among these contractors was 0.4 of 1 percent. This was no larger than the increase of women in the total civilian labor force during the same period. What difference, if any, did the program make?

Mr. FRANCIS. I think the only thing we can claim credit for, if we are looking for credit, Madam Chairman, is the increase in the officials and managers, professionals and technicians, was greater than it had been previously. I believe, without benefit of any comparative statistics, those changes are slightly ahead of the power curve for the Nation.

[1] See attachment 4, p. 88.

Chairman GRIFFITHS. Your professionals and managers rose from 2.3 to 3.2. That is the managers. The professionals rose from 4.1 to 5.3. At that rate it will be decades before women are fairly represented in those jobs.

Mr. FRANCIS. I agree.

Chairman GRIFFITHS. Do you consider that acceptable?

Mr. FRANCIS. It is not acceptable. I guess I have to keep referring to my prepared statement. Our experience in the Department of Defense had been a period initially of educating, sensitizing, and making contractors aware of upward mobility opportunities for women. We feel that educative process is now over. We no longer need to educate anyone. We intend to enforce the law without any further attempt of making people aware of the presence of brain power and human power in our Nation, regardless of their physical conformity or the color of their skin.

We have now begun to make it very clear that negotiation and conciliation, while it does have some beneficial effects in isolated cases, are no longer the style for defense contractors. I hope we have sufficiently clear guidelines to provide to our contractors, requiring them to measure up to them and evaluating them on the bottom line of performance.

Affirmative action plans and the window dressing that surrounds them means nothing more than we are going to try to do better; I am slightly impatient with this. I am having Mr. Perez insure our policies are not filtered and not translated in some way to the regions, the 11 DCAS regions, and make certain all understand clearly what the policies of Secretary Schlesinger are in this regard.

Chairman GRIFFITHS. Is it true that DOD had developed a system for obtaining data from contractors on the employment of women and minorities, and that in May of this year OFCC told DOD to stop using the system because it went too far?

Mr. FRANCIS. I do not recall those words "it went too far," Madam Chairman. But, I would say that basically, we were asked to stop what we formerly knew as COMIS.

Chairman GRIFFITHS. What are you supposed to substitute for it?

Mr. FRANCIS. Well, we have a present system. I would like to explain the basic differences, if any, between the two.

The basic difference between COMIS which we had and what we now use is that the data obtained from contractors may be limited to 6 months or the last 100 personnel actions as appropriate, in the area of the applicant flow, transfers, terminations, promotions, and training programs. Twelve-month data are obtained when agreeable with the contractors. These data are entered onto a computer tape for recording. And the data for lesser periods are not machined but are recorded in the contractor evaluation report.

During fiscal year 1974 complete data from 28 percent of all completed reviews was captured on the automated recording system.

Chairman GRIFFITHS. I might say that I do not think there is anything wrong with your program. I think you have developed some real information, and that is the kind of information you are going to need if you know whether the program is working. I cannot understand why they cut it down, particularly when they are not doing very well themselves.

Mr. FRANCIS. We need more specificity in our plan. But I have no knowledge and certainly cannot comment on the requirements and the needs at the level of the OFCC with all the compliance agencies it has to coordinate. Perhaps we were out of line.

Chairman GRIFFITHS. I do not think you were. According to the GAO, during fiscal year 1972 through 1974 HEW conducted over 900 compliance reviews. During the same period of time HEW imposed sanctions against no contractor. How can so many reviews and so little application of sanctions lead to so few approved plans?

Mr. HOLMES. One of the things that we have focused on, Madam Chairman, is trying to work with institutions in the development of their affirmative action plans, and give them specific guidance on the essential components of the affirmative action plan. It has been our experience in dealing with higher education institutions that it takes them a great deal of time to prepare the necessary data basis and conduct the required analyses.

We have been working with institutions. We have not debarred any higher education contractor. We have sent four show cause notices to nonconstruction contractors, three higher education contractors, and one nonhigher education, nonconstruction contractor.

Chairman GRIFFITHS. I made a speech in a small but very good college out in southern Illinois last year. And some of the women who taught in that college invited me afterward to talk with them. They told me that if HEW did not move very rapidly, that there would be no women left to help on the faculty of that college. They were firing them just as fast as they could. In any reduction in staff, women went first.

Mr. HOLMES. That seems to me not to be a problem of affirmative action plans on the face of it, but if the facts are as you described them, it is blatant discrimination based on sex, and we could move very quickly to correct such discriminatory actions.

I would be interested in knowing, Madam Chairman, the name of the university.

May I interrupt to introduce two people with me, if I may? Ms. Mary Lepper on my right, Director, Higher Education Division; and Mr. Edward Wren, Deputy Assistant Secretary for Legislation.

Chairman GRIFFITHS. In 1971 women represented 60 percent of HEW's full-time white collar employees; 81 percent of those in grade 7 and below, and 32 percent of those in grade 8 and above. Two years later, in October of 1973, women still represented 60 percent of HEW's full-time white collar employees. They represented 80 percent of those in grade 7 and below, and 33 percent of those in grade 8 and above. Is that progress?

Mr. HOLMES. Statistically, it is not progress.

Chairman GRIFFITHS. It is not. You are not doing very well yourself.

Mr. HOLMES. You are talking about departmentwide, I assume.

Chairman GRIFFITHS. Yes.

Mr. HOLMES. I would be glad to supply for the record the racial and sex composition of our staff in the Office for Civil Rights where I think we have made significant affirmative efforts.

[The following information was subsequently supplied for the record:]

RACE AND SEX COMPOSITION OF THE OFFICE FOR CIVIL RIGHTS, HEADQUARTERS AND REGIONS ON BOARD AS OF JUNE 30, 1974

Grade	Female						Male						Grand total
	Black	White	Spanish surnamed	American Indian	Oriental	Total	Black	White	Spanish surnamed	American Indian	Oriental	Total	
18								1				1	1
17													
16								1				1	1
15	3	4				7	11	18	1			30	37
14	2	5	1			8	29	26	6			61	69
13	5	8	2		1	16	32	35	9		1	77	93
12	12	10	2		2	26	20	11	6	1		38	64
11	15	18	1			34	6	5	6			17	51
10					1	1							1
9	30	23	4		1	58	9	11	7		1	28	86
8	5	1				6							6
7	34	17	4	1	1	57	3	8	3	2	1	17	74
6	27	5	2			34	1	1	1			3	37
5	31	19	4	1	2	57	4	2				6	63
4	23	21	5	3		52	1	2	1			4	56
3	12	5	6	1	2	26	1					1	27
2	2					2	1					1	3
1													
Total	201	136	31	6	10	384	118	121	40	3	3	285	669

Chairman GRIFFITHS. In October of 1971 women represented 62 percent of HEW's full-time white collar employees in GS grades 11 and above. By October of 1973 this percentage had dropped to 21 percent. Have you reviewed HEW's affirmative action plan?

Mr. HOLMES. No, I have not reviewed HEW's affirmative action plan. There is an EEO office in the Department of Health, Education, and Welfare. And there is a Federal Women's Program Coordinator as well as a women's action program within the Department of Health, Education, and Welfare. I was with Secretary Weinberger when he testified before this committee about a year ago, Madam Chairman, and he has committed himself fully to the principle of equal opportunity employment practices at the Department of Health, Education, and Welfare. I think the record will show that many, many steps have been taken. I think the most significant high-level appointment recently in the Department is Virginia Trotter as the Assistant Secretary of Education, an example of Secretary Weinberger's efforts.

Chairman GRIFFITHS. There is only one woman, Mary Lepper, in top management in HEW's Office for Civil Rights.

Mr. HOLMES. I am sorry, Madam Chairman, that is not correct. The Director of our Health and Social Services Division, Mrs. Barbara Walker, is a minority woman. Furthermore, of our 10 regional civil rights directors we have two women, one of which is a minority women.

Chairman GRIFFITHS. You state that DOD's primary emphasis will be on contractor performance rather than on technical aspects of affirmative action plans. What do you mean by this? How do you intend to measure performance?

Mr. FRANCIS. First, as we indicated, we will do vigorous work force analyses to give us a clear picture of the availability and opportunity for contractors to employ minorities and women. From these data we can derive goals and timetables. Then we intend, as we have for the past 6 months, to measure the contractors performance against those goals and timetables. In other words, we will no longer, as we have in the past, accept an upwardly revised affirmative action plan to compensate for goals which the contractor has not, for any reason, achieved but will look at the basic performance. We will question the contractor either through a show cause letter or other enforcement action for failure to achieve what was planned.

Chairman GRIFFITHS. In you opinion, has OFCC provided adequate guidance to you on standards for approving affirmative action plans and for conducting compliance reviews?

They have gone, you can speak freely.

Mr. FRANCIS. Let me say in candor, Madam Chairman, we have been looking for some time for clearer guidance on affected class, backpay, maternity leave, and sex guidelines, the release of information to the Equal Employment Opportunity Commission and the public, and garnishment as a form of discrimination. I am assured as of recent date that within something like a week from now, we will receive the revised orders which will cover and provide the kind of clear guidelines we have requested.

Chairman GRIFFITHS. Do you think it helped to have this hearing?

Mr. FRANCIS. Yes, indeed.

Chairman GRIFFITHS. A table [1] attached to your prepared statement shows that there are no females employed by the DOD headquarters of the contract compliance program in senior staff positions, GS–14 through GS–16. The same is true for the regional offices.

Why do you not practice what you tell others to do?

Mr. FRANCIS. I accept that criticism very clearly. We have had—I am not pleading a lack of time, but we have had a little less than a year to deal with that. We do have in the headquarters now two females in grade 13, one in grade 12, and one in grade 11. The two 13's and the 12 are white women, and the 11 is a black woman.

In the regional headquarters, we look at little better. We have three white women and six black women in grade 13.

Certainly, these women now are in a position to succeed to vacancies which will occur at the GS–14 and GS–15 levels. Right now I am holding up the appointment of a DCAS regional chief in Detroit. I learned there were no women applicants for the job, and few, if any, minorities.

The civil service system, as I am sure you are aware, Madam Chairman, does not specifically require people to actively seek women and minorities for positions. There is a kind of routine procedure by which rosters, available rosters, and people on the various lists are submitted. If there are no minorities, no women there, more times than not there is no further effort to look for them. But in this case we intend to force this issue so that they will make an active effort.

Chairman GRIFFITHS. Notice that the possibility of such an opening is not made known in places where women or minorities learn about it. I have heard that the DOD regional office does not review affirmative action plans if minorities unemployment in a contractor city is below 3 percent. In other words, in areas where there are few blacks or Spanish-surnamed workers, there is no compliance effort, even though there may be substantial sex discrimination. Is this true?

Mr. FRANCIS. I am not sure I can answer the chairman's question. But the statement is we do have contract compliance efforts in those predominantly white male areas. We require 5 percent of the DCAS resources to be devoted to random selection of firms which have the opportunity to employ women and minorities in their metropolitan areas.

There is also a requirement—we have placed requirements on contractors to expand their circle, to expand their radius of employment to reach, for example, across the river in some cases, where the population may contain more minorities.

Chairman GRIFFITHS. But the real truth is that you are looking at it as if it were for minorities only, as if it were for blacks or for Spanish. Why should Allis-Chalmers be freed of the duty, if they are a Federal contractor, of employing women? If you are going to demand that General Motors and Ford and Chrysler do this, then why not Allis-Chalmers?

Mr. FRANCIS. We certainly do demand it.

Chairman GRIFFITHS. You should put just as much effort in those other places, because women are there, too.

[1] See attachment 3, p. 87.

Beside looking at this program, I have spent a long time looking at the money that we are spending on all these income maintenance programs. Our real problem is the woman headed family. It is just as apt to occur in white areas as black.

Mr. FRANCIS. Absolutely.

Chairman GRIFFITHS. I am interested also in this garnishment business. You know, personally, I am one of those people who believes that all of our salaries ought to be subject to garnishment to support a family.

Mr. FRANCIS. All should be subject to garnishment?

Chairman GRIFFITHS. Sure, every one of them. Why should we not? We are in Federal employment. Why should our salaries not be subject if other people's are?

Mr. FRANCIS. For family support?

Chairman GRIFFITHS. For family support.

Mr. FRANCIS. I do not think we mentioned it in that context. Garnishment as a form of discrimination. Certainly, we have in mind the bill collector rather than the person who is demanding——

Chairman GRIFFITHS. I understand. But I was trying to drum up a little support for seeing to it that we are not supporting Federal employees on the theory that they have a wife and children, they are paid a salary that covers that, and then they abandon the wife and children, and we are supporting the wife and children on welfare, we are supporting the man either in work or a pension, and the wife on welfare, or the children.

Mr. FRANCIS. I have no quarrel with that.

Chairman GRIFFITHS. It applies to Congressmen, too.

Harvard University and the University of Michigan were the first private and State academic institutions investigated by HEW. These investigations began in the spring of 1970. Three years later, in June of 1973, HEW returned the affirmative action plans of both of these universities back to them for modification. Does Harvard or the University of Michigan have an approved affirmative action plan yet?

Mr. HOLMES. Yes; Harvard does.

Chairman GRIFFITHS. Why does not Michigan have one?

Mr. HOLMES. Ms. Lepper, could you respond to that?

Ms. LEPPER. Yes. Michigan is still completing some of the analyses that will be required to submit the formal plan. We have been providing technical assistance to the University of Michigan, which has completed the work-force analysis and is undertaking an in-depth analysis to determine why women and minorities are not there, or concentrated in the lowest pay levels and in the lowest academic ranks. The analysis involves the recruitment and promotion processes utilized by the university.

Chairman GRIFFITHS. Have you suggested at any time that you might impose sanctions in any of this?

Ms. LEPPER. Yes.

Chairman GRIFFITHS. If they do not get that plan in, I would impose them.

Of the numbers of compliance reviews conducted by HEW during the past few years, how many were followup reviews of HEW?

Mr. HOLMES. I think I would have to submit that for the record, Madam Chairman.

[The following information was subsequently supplied for the record:]

Of compliance reviews conducted of institutions of higher education pursuant to Executive Order 11246, as amended, 237 can be classified as follow-up reviews for the period 1971–74.

Chairman GRIFFITHS. Since HEW imposed sanctions against no contractor during that time, HEW apparently found that all contractors for whom followup reviews were conducted had made satisfactory progress in improving women's employment status. What progress had they made?

Mr. HOLMES. If you are talking in terms of statistical information, Madam Chairman, we do not have statistical information indicating the extent of progress.

Chairman GRIFFITHS. Do you have anything that shows the percentage of women at any of these facilities, and in which job categories they are?

Mr. HOLMES. Our regional offices, try to obtain such information from institutions with which they deal. I might note for the record that this fall we are again initiating our higher education survey, which in previous years did not include information with regard to sex. And the survey form will contain questions regarding sex and race in employment. So we will be able over the next several years to get a better indication as to progress institutions are making in the employment area.

Chairman GRIFFITHS. In your prepared statement you said that substantial progress has been accomplished since the employment contract was initiated. What has been the progress?

Mr. HOLMES. There has been progress. I do not know that we can measure it through all the matters we have dealt with in statistical terms. Our Dallas regional office did a study of institutions within that area. And that indicated—and I would be glad to supply the release for the record here—significant progress in the employment of women and minorities for academic positions in that region.

[The following information was subsequently supplied for the record:]

The Dallas Regional Office for Civil Rights undertook a study to determine the number of new hires and promotions made by nonconstruction Federal contractors and subcontractors in the region.

(*a*) For 1970–71, minorities and women accounted for 2,968 of the 9,709 new hire and promotion actions.

(*b*) For 1971–72, minorities and women accounted for 1,524 of the 5,819 new hire and promotion actions.

(*c*) For 1972–73, minorities and women accounted for 2,281 of the 5,305 new hire and promotion actions.

Chairman GRIFFITHS. In November of 1973 AEC requested preaward clearances from HEW for two proposed AEC contract awards, each in excess of $1 million, for two large universities in California. HEW advised AEC that its records indicated that each of the universities appeared to be able to comply with the requirements of the Executive order, and were therefore, eligible for contract awards. However, neither university had an approved affirmative action plan. Reviews of the schools had not been performed in the 12 months prior to the preaward clearances, and preawards reviews were not performed. In July of 1974 HEW officials told the GAO that because only

16 colleges and universities had currently approved affirmative action plans, it was HEW's policy to grant a preaward clearance to a school, unless HEW had reviewed the school's affirmative action plan, found it deficient, and found that the school was not in a timely manner revising the plan to correct the deficiencies. Is that the best you can do?

Mr. HOLMES. Our effort on a preaward review—and I think we have conducted 35 of them last year—for example, if we do have evidence of discriminatory conduct at the institution, we will withhold the award of the contractor, delay the award of the contract unless we can——

Chairman GRIFFITHS. What do you consider evidence of discrimination?

Mr. HOLMES. If we have complaints on file in our regional offices.

Chairman GRIFFITHS. What about a complaint on file at EEOC?

Mr. HOLMES. We do consult with the regional offices of the EEOC to insure that we do not duplicate their efforts. Our practice is to review our files, and if we are involved in negotiations with the institution, or if there are complaints on file, we would advise the contracting agencies to delay the award of the contract until we get on site and work out an agreement with the institution.

Now, the two institutions in California—I think I saw the statement last night in the GAO report—are probably the University of California at Berkeley and the University of California at San Diego. We have been in negotiations with the University of California at Berkeley. And we have entered into a conciliation agreement with that institution for the development of an affirmative action plan. We have attempted to resolve complaints of employment discrimination there, but we have deferred actions in other institutions of that university system, while we negotiate with the University of California. We are hoping, in effect, to kill a large number of birds with one stone by working out a model affirmative action plan with the University of California, Berkeley, which the university system could apply at all other institutions in the system.

Chairman GRIFFITHS. I do not think you should let years pass before these plans are worked out. Those universities are headed by articulate, intelligent people. There is no excuse for their not getting in plans. They can get all that information together without any real effort, in my opinion, at all.

Mr. HOLMES. There is some difference of opinion in that regard, Madam Chairman.

Chairman GRIFFITHS. I am sure. They will drag their feet as long as they can drag them.

Mr. HOLMES. I could not say conscientiously that the University of California, Berkeley, for example, is dragging its feet. There has been a question of articulation, concerning the requirements of the Executive order, for which we must share some responsibility. We conducted our letter to Berkeley in November of 1972. And it was prior to their being required to have an affirmative action plan, being a public institution. Our negotiations continued during 1973. They developed an affirmative action program which in their estimation met with what we had requested.

Upon further review of that affirmative action program in Washington, we felt that it was not sufficient to insure nondiscrimination

in the employment process at Berkeley. Thus, in February 1974, we entered into a conciliation agreement with the institution. They are undertaking detailed and substantial analyses involving the collection of massive amounts of data. The institution is doing it over a reasonable timeframe. That institution, with 13,000 employees, I think can develop a meaningful affirmative action program.

Chairman GRIFFITHS. The GAO has identified 10 colleges and universities which have received Government contracts, but have not had an affirmative action plan approved. You have no preaward reviews, nothing. These people are just being given the contracts. Two of them are medical schools.

Mr. HOLMES. There are preaward reviews, Madam Chairman. And if there are not, there should be.

Chairman GRIFFITHS. There has not been on these 10 schools.

Mr. HOLMES. Let us define what a preaward review is. Maybe there is a semantics problem. There are cases where we have not gone onsite in connection with a preaward review. There are cases where we have cleared contracts after reviewing the files to determine if there are complaints or negotiations with institutions or have contacted EEOC to determine existence of complaints. That is clear from any information. That has happened. I must point out that we have been working with institutions to try to clarify the requirements of the Executive order, and a higher educational institution cannot develop a meaningful or effective affirmative action plan in a 30-day period that is required on a preaward clearance.

Chairman GRIFFITHS. I suppose they cannot. But medical schools certainly changed their systems quite fast in letting in women.

Mr. HOLMES. Changes are being made in the system in these universities, Madam Chairman. My impression is that there is not a higher educational institution in this country that does not have in place some type of affirmative action program. Whether it is acceptable to the Office for Civil Rights or not is a different question. Most which are not acceptable to the Office for Civil Rights, do not meet the basic requirements of the Executive order in that the university has not undertaken the substantial number of indepth analyses the Executive order requires.

Chairman GRIFFITHS. How do you select the contractors to be reviewed?

Mr. HOLMES. The preaward is, of course, the most important mechanism. But also the size of the institution, location of the institution, and complaints received, class action as well as individual complaints. We are dealing with very large institutions. You have already mentioned the University of Michigan. Harvard University. The University of California at Berkeley. The University of Washington, the largest, or second largest, employer in the State of Washington.

So we have been focusing on large institutions.

Chairman GRIFFITHS. The Labor Department guidelines require that before a contractor is found in compliance he must agree to provide relief to employees who suffer the present effects of past discrimination. In how many of the hundreds of compliance reviews conducted by HEW has there been found a need for backpay relief?

Mr. HOLMES. We have negotiated backpay settlement in a number of instances——

Chairman GRIFFITHS. Would you mind supplying it for the record?

Mr. HOLMES. I would be glad to.

Chairman GRIFFITHS. Would you tell me if you have ever checked to see if the backpay was fully paid?

Mr. HOLMES. I would be glad to supply it for the record.

[The following information was subsequently supplied for the record:]

The listing below indicates colleges and universities which have awarded back pay, during the period July 1972 to October 1974, to correct previous discrimination. It should be noted that the number of persons affected by a back pay settlement has varied in individual institutions.

Loyola University
North Texas State University
Oregon State University
Southern Illinois University
Southern Methodist University
Texas Technical University
Vanderbilt University
Wayne State University
Weber State College
University of Chicago
University of Georgia
University of Iowa
University of Masscahusetts
University of Miami
University of Montana
University of South Dakota
University of Utah
University of Washington

The Office for Civil Rights has determined back pay as an appropriate remedy with respect to several other colleges and universities. However, these cases are still under negotiation.

City University of New York
Dade Florida Junior College
Rochester University
Rutgers University
State University of New York
Western State Colorado College
University of Arkansas
University of Colorado
University of Georgia
University of Northern Colorado
University of Texas

Chairman GRIFFITHS. Under the Executive order hearings may be held when a university disagrees with HEW's findings of sex discrimination. How many such hearings have been held?

Mr. HOLMES. If you are talking about enforcement hearings, as I indicated, no hearings have been held to debar an institution from Federal nonconstruction contracts. A number of hearings have been held in the construction area.

Chairman GRIFFITHS. If hearings are the only thing you can do to try to get compliance from universities, why do you not hold more hearings?

Mr. HOLMES. Hearings are not the only thing we can do to get compliance from an institution. That is my point.

Chairman GRIFFITHS. You have not done any of the others?

Mr. HOLMES. I am sorry, Madam Chairman, but that has been the gist of my testimony this morning. We have provided considerable technical assistance in working with institutions in the development of affirmative action plans.

Chairman GRIFFITHS. But you have levied no sanctions at all.

Mr. HOLMES. That is right; in the nonconstruction area.

I should note that the Office for Civil Rights was the first agency, if I am correct, to debar a construction contractor under the Philadelphia plan.

Chairman GRIFFITHS. Is it true that HEW contracting officers do not have to accept the recommendations of the Office for Civil Rights?

Mr. HOLMES. I am sorry.

Chairman GRIFFITHS. Is it true that HEW contracting officers do not have to accept the recommendations of the Office for Civil Rights?

Mr. HOLMES. My opinion is they would have to. I think the Executive order prohibits the granting of contractual assistance absent an affirmative action plan.

Chairman GRIFFITHS. Maybe Ms. Lepper would like to answer this herself. She once described HEW negotiations under the Executive order as a cross between begging and backmail. Why should you have to beg or blackmail?

Ms. LEPPER. I do not remember using those exact words, but I suspect that I was suggesting the difficulty of opening up the employment practices of higher education to public scrutiny when that has been probably one of the most closely guarded areas of personnel practice in the Nation. And by begging, I mean persuasion of universities that it is in the best interest of the university and of the society to open up the personnel practices.

Chairman GRIFFITHS. Mr. Francis, you have said that the DOD program is designed to encourage Federal contractors to review minorities and women actively. How does the program encourage active recruitment?

Mr. FRANCIS. Basically, Madam Chairman, through our demand for performance. There is no way, in my opinion, that a contractor can reach his goals and timetables without going out actively advertising, seeking the places where he can find women and minorities to join his work force. As long as he knows that the bottom line numbers are going to be his judgment as to performance, then he will have to make active efforts to recruit these kinds of workers. It is much like the traffic cop on a particular highway. If the drivers are aware that if they speed they will be arrested, you will normally find that everyone obeys the speed limit. If it is clear that no one gets arrested, but only gets warnings, and only gets kind advice from the traffic cop, you will find a lot of speeding on that highway.

[The following letter was subsequently supplied for the record:]

ASSISTANT SECRETARY OF DEFENSE,
MANPOWER AND RESERVE AFFAIRS,
Washington, D.C., October 2, 1974.

Hon. MARTHA W. GRIFFITHS,
Chairman, Subcommittee on Fiscal Policy, Joint Economic Committee, House of Representatives, Washington, D.C.

DEAR MS. GRIFFITHS: During my recent testimony before the Subcommittee on Fiscal Policy, Joint Economic Committee, you requested the total dollar volume of Department of Defense contracts. For fiscal year 1973 the net value of military prime contracts awarded by the Department of Defense to United States contractors for research and development, services, construction, and supplies and equipment totaled $31.627 billion. This represents a decrease of $1.735 billion from fiscal year 1972.

Further, you had asked the dollar volume of contracts awarded to firms owned by women. I regret I am unable to provide this information since the Department does not maintain such data.

Sincerely,

H. MINTON FRANCIS,
Deputy Assistant Secretary of Defense.

Chairman GRIFFITHS. Mr. Holmes, of the contracts HEW awarded last year, what percentage went to women or women-owned firms?

Mr. HOLMES. I would have to supply that for the record.

Chairman GRIFFITHS. Please do.

What was the total dollar value of the contracts you awarded last year, and what was the value of those awarded to women?

Mr. HOLMES. I would be glad to attempt to supply that.

You are talking about HEW contracts, not all Federal contracts throughout the Government?

Chairman GRIFFITHS. Yes; just HEW.

[The following information was subsequently supplied for the record:]

The Department does not maintain information regarding award of contracts to women-owned firms. Under the Department's open competitive bidding procedures contracts are awarded without regard to the sex composition of an applicant's ownership.

Chairman GRIFFITHS. Mr. Holmes, last summer when you testified at this committee's hearings on the economic problems of women, you said that HEW had no uniform policy regarding the release of HEW findings on sex discrimination complaints. You also agreed with me that some findings should be released. Do you now have a uniform policy?

Mr. HOLMES. It is the policy of the Office, after findings are made to a recipient or the contractor, to make findings available upon request.

Chairman GRIFFITHS. Thank you very much, both of you. You have been very kind. The subcommittee stands adjourned.

[Whereupon, at 12:05 p.m., the subcommittee adjourned, subject to the call of the Chair.]

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