

Community Relations
Senate (CRS)

\$1-2 million

Promising practices —

One America

Conversations

Copy to
Tom



Lin Liu

12/08/97 01:34:37 PM

Record Type: Record

To: Julie A. Fernandes/OPD/EOP

cc:

bcc:

Subject: Re: Civil Rights Enforcement Plan

Julie: thanks for giving me a chance to review this. While I did get a little bit of time over the weekend to go over the various new proposals, I have not yet had a chance to share this with my colleagues here or Judy. So, what follows is my preliminary assessment and ideas.

Overall, I think the various new initiatives look good. They make sense from the good government perspective and probably reflect many of the tasks that federal agencies already have to deal with but require additional resources to carry out. In particular, the civil rights coordination agenda (with the various pieces proposed by HHS, DOL, and ED) is absolutely critical and should definitely be a part of this budget initiative.

Above and beyond these new initiatives proposed by Tom and Mary, I would like to suggest several more areas for DPC's consideration as new initiatives. They are as follows:

1). Office of Special Counsel for Immigration Related Unfair Employment Practices. This office is part of DOJ's Civil Rights Division. Its responsibilities are similar to EEOC's in terms of processing cases relating to employment discrimination based on immigration status (mostly affecting Hispanics and Asians). I don't know the operations there and therefore am not sure if they have backlogs, etc. to deal with. Nevertheless, this is a small agency where a small budget initiative could be used to do more cases if necessary. A small initiative could be best focused on education and technical assistance (how to tell if someone is legally able to work as opposed to judging based on appearance and accent). A research (such as paired testing) approach could also be very helpful to do analysis of the extent of discrimination in a civil rights arena that is less well-known and researched compared to discrimination of blacks in the labor market.

2) Community Relations Service (CRS) in the Department of Justice. CRS could be looked upon to institutionally house many of the dialogues, promising practices and community leadership efforts from the President's Race Initiative beyond our one year mandate. It could provide technical assistance to communities across the country to promote the President's One America vision through grassroots efforts. Rose Ochi, the Director, can provide more information on the agency's history as well as capabilities.

305-2930

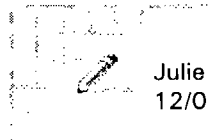
3). SSA, HHS/OCR and Ag/OCR. Relating to the recently implemented welfare reform law, a small initiative could be coordinated with these agencies to determine how legal immigrants who have been cut off from various benefits have fared both at the Federal and state/local levels. Much of the new laws are confusing and rely extensively on immigration/legal status determination made by adjudicators across a variety of social service agencies which have no experience in these matters. We are likely to get more stories about uneven implementation across states and agencies in the future. A small initiative to provide education about how to adjudicate benefits as well as an effort to redress mistakes may be an appropriate Administration budget initiative.

4). Glass Ceiling recommendations. Are there additional recommendations from this commission

which may be addressed under this initiative?

As you can see, I am not a program expert in many of these areas that I offer these suggestions as additional broad areas for review as part of the budget initiatives which may have important connections to the Race Initiative's efforts. I would love to discuss with you further as many of these ideas certainly need elaboration. I'll also e-mail additional thoughts from other PIR staff. Thanks again!

Julie A. Fernandes



Julie A. Fernandes
12/05/97 04:39:06 PM

Record Type: Record

To: Lin Liu/PIR/EOP

cc:

Subject: Civil Rights Enforcement Plan

Lin,

Here is what I received from Mary and Tom today. It outlines where we are with OMB and where are policy recommendations are headed as we move into the final days of budget stuff. Let me know what you think of this. Thanks.

Julie

----- Forwarded by Julie A. Fernandes/OPD/EOP on 12/05/97 04:44 PM -----



Mary L. Smith
12/05/97 09:18:52 AM

Record Type: Record

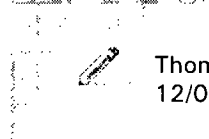
To: Julie A. Fernandes/OPD/EOP

cc:

Subject: Civil Rights Enforcement Plan

Here's what we sent to Elena. Mary

----- Forwarded by Mary L. Smith/OPD/EOP on 12/05/97 09:18 AM -----



Thomas L. Freedman
12/03/97 11:30:47 PM

Record Type: Record

To: Elena Kagan/OPD/EOP, Bruce N. Reed/OPD/EOP

cc: Laura Emmett/WHO/EOP, Mary L. Smith/OPD/EOP

Subject: Civil Rights Enforcement Plan



CIVLRTS.1



civlist

The first document (civlrts.123) is is a summary memo of a civil rights plan memo that could be addressed for the President. "Civlist" is a list of each of specific programs, their cost, and whether OMB has approved them.



ONE AMERICA IN THE 21ST CENTURY

The President's Initiative on Race

Deich
Haas
Anderson
Lew
Gotham

*The New Executive Office Building
Washington, DC 20503
202/495-1010*

TO: Franklin Raines
Director, Office of Management and Budget

FROM: Judith A. Winston *JAW*
Executive Director, President's Initiative on Race

SUBJECT: Civil Rights Enforcement Budget Cross-Cut

DATE: November 18, 1997

Thank you again for inviting me to the OMB budget cross-cut briefing on civil rights enforcement. I appreciate having the opportunity to provide input to the development of the President's FY99 Budget proposal. I regret that I will not be able to attend part 2 of this budget briefing on Thursday, November 20 because I will be in Santa Fe, New Mexico to attend a meeting of the National Congress of American Indians.

Tomorrow, the President's Race Advisory Board will have its third all-day meeting at the University of Maryland. You may be interested in knowing that the Advisory Board members will have a short discussion during this meeting about the continuing problems of discrimination in various sectors such as employment, housing, and education. The Board is likely to make a general recommendation to the President for increased funding as well as better data collection in civil rights enforcement programs to more effectively and creatively tackle these problems.

✓ As you know, the Initiative staff has participated with the Domestic Policy Council and OMB staff in a series of meetings with civil rights enforcement agencies in the past month to identify funding initiatives. There is clear agreement from both Federal agencies and civil rights advocacy groups that additional funding of civil rights programs is much needed. We concur with many of the funding increases that OMB staff has recommended, especially in the areas of housing and EEOC increases. I hope however to provide through this memo some of the Initiative's other funding priority suggestions for your consideration.

PIR RECOMMENDATIONS

- **Funds for Department of Justice Coordination:** There were requests by most of the other civil rights agencies to have Justice play a more assertive coordinating role on civil rights issues. One example of the need for Justice leadership was a request for them to better coordinate targets of litigation activity so that there is no duplication of effort. While Justice did not submit a written request in this area, the consensus view of the other agencies was, however, that additional Justice staffing (17 currently) would benefit civil rights policy making in both Title VI and VII enforcement. *(copy)*
- **Funds for Administration of Justice/Police "Brutality":** There have been strong arguments made that police/civilian tensions are another major "root case" of racial tensions that, in the word's of Hugh Price (Urban League), "the President's Initiative must address". While there does not seem to be a comprehensive vision at Justice as to how to address this issue, Justice could be asked to formulate a more aggressive, proactive strategy for using current and prospective funds to attack the issue. *done*
- **Funds for the Community Relations Service (CRS):** Although not a formal part of the civil rights enforcement system, CRS represents a key example of the use of federal funds to help prevent and reduce acts of racial hostility. Additional funding for CRS above the FY98 level would reverse the budget hits taken by CRS in the last few years and exemplify the President's desire to focus on positive prevention activities. *why no program increases?*
- **Restore OMB's Civil Rights Budget Analysis:** Up through the mid-1980's, OMB issued a special civil rights budget analysis (Analysis J) that provided cross-agency information on staffing and budget levels. This information report should be restored as it facilitates a careful assessment of the relative level of complaint and compliance activity of the various agencies as well as an indication of general funding trends. *✓*

We provide these broad suggestions with the knowledge that OMB has to make numerous decisions about specific funding levels. We hope that these programs receive your serious consideration.

MEMORANDUM

TO: ELENA KAGAN
FROM: TOM FREEDMAN, MARY L. SMITH, TANYA MARTIN
RE: CIVIL RIGHTS PROPOSALS
DATE: OCTOBER 21, 1997

I. GENERAL SOLUTIONS PROPOSED BY CIVIL RIGHTS GROUPS

- get
1. Ensure that ~~executive order~~ signed on 8-08-94 which coordinates role of civil rights policies is being enforced.
 2. Appoint a senior White House person to coordinate civil rights enforcement.
 3. Improve process of nominating persons, including judges.
 4. Improve Title VI enforcement (for recipients of federal dollars) ~~7~~
 5. Follow up to speech in Little Rock--disintegration.
 6. DOJ more proactive in desegregation cases.
 7. Increase mobility programs in housing.
 8. Permitting students to transfer from failing schools.
 9. Failure to implement regulations quickly --hospital regs in Bush Administration, contractors to issue affirmative action plans, contractors to show range of salaries.
 10. Improve data collection.
 11. PSA campaign on Houston initiative on November 4.

II. EEOC

A. SOLUTIONS THE EEOC HAS ADOPTED ALREADY

1. In 1996, the EEOC adopted a national enforcement plan that sets priorities for the processing of charges and litigation on the national and local level. Priority is placed on class-action lawsuits, claims that involve allegations of company-wide

discrimination, and those that are likely to develop key legal principles. The reforms mark a fundamental change for the agency because it no longer fully investigates every charge it receives. Instead, charges are prioritized so those with little merit are dismissed without a probe while priority cases are investigated.

2. The EEOC beefed up its mediation strategy, using many volunteer mediators under the Administrative Dispute Resolution Act.
3. The agency is also targeting high-profile cases to bring suit such as the Mitsubishi sexual harassment suit in Illinois.

B. PROPOSED SOLUTIONS

1. Backlog elimination project (removal of 70,000 case backlog with the goal of 6-month disposition of cases). **Needed new technology: \$10M** -- so that all EEO field offices can look at case files online
2. Make a good and early appointment for the head of the EEOC.
3. More money for mediation program (Ellen Vargyas)
4. More money for training
5. Software to let potential claimants determine if they have a charge in a public area of EEO field offices.
6. Improve enforcement of discrimination in the federal workplace (Wade Henderson).

The EEOC already has some initiatives regarding this per the Washington Post on October 3

- **Government agencies be required to implement dispute resolution programs to encourage parties in discrimination cases to resolve cases before they go to hearings.**
- **The EEOC implement a mandatory training program for equal employment officers inside the government agencies.**
- **EEOC administrative judges resolve cases faster.**
- **Government agencies be prohibited from overturning EEOC rulings**

Why?

that find in favor of workers while giving agency officials the right to appeal EEOC rulings.

7. Oppose efforts to remove authority to intervene in private suits: This measure is contained in the pending appropriation bill.
8. Improve the number of cases resolved (Wade Henderson).
9. Improve the manner in which cases are generated in the field (Wade Henderson).
10. More funding for staff to address the backlog
11. Give the EEOC "cease and desist" authority, that is, authority to issue injunctions in cases of egregious violations (Ellen Vargyas doesn't endorse)
12. Give judicial deference to an EEOC determination of "cause" or "no cause," permitting only appellate review based on a "substantial evidence" standard of review
13. Mandate that a certain class of cases will be subject to non-binding arbitration on an expedited basis (perhaps cases under a certain dollar amount, and after they have been classified as "A," "B," or "C")
14. Encourage binding ADR on an accelerated schedule before EEOC does investigation
15. Criminalize job discrimination in the strongest cases, where there is profound damage and willful violations of the law with direct economic impact.
16. Change the procedure for USPS employees to match what other federal employees have in filing an EEO claim --right now, they have two avenues, grievance and EEO, other federal employees have to make a choice

III. JUSTICE -- CIVIL RIGHTS DIVISION (CRD)

Possible Improvements

- Police brutality case expansion
- Coordination project (appointment of coordinator for civil rights)
- Caseload improvements -- because of the vast jurisdiction of the CRD, its overall

workload is affected by nearly every expansion of civil rights protections.

- Title VI enforcement

- Expansion of hate crimes control

- Law enforcement training grants

- Task force on duplication of efforts in discrimination cases (elimination of agencies?)

- Coordination -- improve data collection/dissemination among agencies.

IV. DEPARTMENT OF EDUCATION -- OFFICE OF CIVIL RIGHTS (ED-OCR)

Potential Improvements

- Improve data collection to collect data on elementary and secondary schools
- Reduce delay -- some education civil rights groups have complained to the Department about the speed of enforcement actions and delivery of the Elementary and Secondary School Survey data.
- Provide more proactive technical assistance/guidance to school districts/states.
- More collaboration between Education, DOJ, and other agencies on major issues, particularly those involving litigation -- like school desegregation, model urban school, model suburban school

V. HEALTH AND HUMAN SERVICES -- OFFICE FOR CIVIL RIGHTS (HHS-OCR)

Potential Improvements

- Improve data collection (2-phased survey on hospitals serving minorities)
- Reduce racial disparities in health delivery through survey and pilot tester program OK
- Increase funding -- HHS-OCR is below its FY 1981 funding and FTE levels, while the number of complaints is increasing.
- Increase the availability of data on Title VI compliance by health care facilities]
- Technical assistance on items such as transracial adoption guidance to states, and guidance

on changes in benefit levels to immigrants

- Technological improvements to put HHS administrative decisions online

VI. HOUSING AND URBAN DEVELOPMENT OFFICE OF FAIR HOUSING AND EMPLOYMENT OPPORTUNITY (FHEO)

Potential Improvements

• Increase the number of state/local agencies qualifying as "substantially equivalent" under the FHAP program. The number decreased due to the implementation of more stringent requirements in the Fair Housing Amendments Act of 1988. In 1990, approximately 125 agencies were certified, by 1993 the number qualifying was 52.

• In 1994, the Civil Rights Commission found that in most cases HUD did not reach a conclusion as to just cause within the 100-day benchmark set by Congress. The average case-processing time in 1993 was 151 days.

so what is the solution (?)

VII. DEPARTMENT OF LABOR (DOL) OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS (OFCCP) OFFICE OF CIVIL RIGHTS

Potential Improvements

- Technical assistance such as providing seminars to small federal contractors for federal compliance
- Expand the office of ombudsman (an office that provides assistance to contractors on how to draft affirmative action plans)
- Data collection --improve EEO data collection for salary banding (where do women and minorities fall in pay scale)
- More coordination at litigation strategies
- OFCCP's FY 1998 budget includes resources for a tiered-review process, which will reduce the paperwork burden on federal contractors and increase coverage of the contractor universe.
- Increase amount of compliance assistance provided to contractors
- Expand ADR into Title VI area: Allow states 60 days to perform ADR

MEMORANDUM

TO: BRUCE REED, ELENA KAGAN

FROM: TOM FREEDMAN, MARY L. SMITH

RE: CIVIL RIGHTS ENFORCEMENT INITIATIVE

DATE: DECEMBER 4, 1997

Summary:

The goal of this initiative is to improve the handling of federal discrimination cases so that citizens' complaints are heard more promptly and with less paperwork, and to reform federal civil rights offices so they are more effective at prevention and are better coordinated. The plan was developed in meetings with leaders of federal civil rights offices and with input from representatives of leading civil rights organizations and offices within the Administration including the White House Counsel, OPL, PIR, NEC, and OMB.

Among the highlights of the initiative is its commitment to modernize and reform the Equal Employment and Opportunity Commission. The initiative outlines investments in EEOC technology and programs so that by the year 2000 the average EEOC case will be heard within 6 months. In addition, the plan puts in place, for the first time, a comprehensive strategy across the six leading civil rights agencies (the Equal Employment Opportunity Commission, the Department of Justice, the Department of Labor's Office of Civil Rights, the Department of Labor's Office of Federal Contract Compliance Programs, Housing and Urban Development, and the Department of Health and Human Services' Office of Civil Rights) to make it easier to comply with federal laws and more difficult to discriminate. Each agency will expand the use of alternative dispute resolution techniques, improve data collection and technical assistance to business, participate in a \$15 million technology upgrade to reduce paperwork, and share expertise as part of a coordinated federal civil rights working group. The package of improvements totals approximately \$78 million, including a 12.5% increase above the enacted FY 1998 budget for EEOC, and a roughly 50% increase for the relevant HUD office. **[Note: OMB has so far approved only \$57 million worth of new expenditures. An attached memo lists the \$21 million in new, as yet unapproved, spending.]**

I. Reducing Backlogs

One of the most commented upon problems in civil rights enforcement is delay in hearing cases at the EEOC. Although substantial progress has been made in reducing EEOC delays, this plan uses improvements in technology and a \$8 million infusion of resources to lower the average time it takes to resolve private-sector complaints to 6 months by the year 2000. The plan

also includes two new initiatives at HHS to reduce backlogs by expanding the use of teams of investigators to provide case management and by contracting with state and local civil rights agencies to give states an active role in enforcement. These initiatives will also help to reduce increased workloads resulting from the Patients' Bill of Rights and Adoption 2002 initiatives.

II. Alternate Dispute Resolution

The plan calls for the introduction and expansion of Alternate Dispute Resolution (ADR) across all relevant agencies. The largest initial investment is a \$4 million expansion of the EEOC's mediation program for FY 1999 so that the EEOC will be able to mediate 10 percent of its 80,000 new charges. In addition, pilot programs will be introduced at several agencies including a program developed by HHS for 10 urban and rural areas, and a program run by Labor to assist states in developing ADR.

III. Improving Compliance, Data Collection and Technical Assistance Efforts

The initiative includes a fund to improve the surveying, technical outreach, and compliance efforts by lead civil rights offices. The largest measure is a \$10 million program run by HUD to conduct targeted, audit-based enforcement using paired testers, piloted in several metropolitan areas, designed to raise awareness of the extent of discrimination through focused and publicly released audit results and subsequent enforcement action. The Department of Education will undertake a \$1.7 million survey of the 15,000 school districts across the country to determine the demographics of the elementary and secondary schools in the districts for both teachers and students. This survey will be used by Education and other agencies to target and assist in future technical assistance, compliance, and litigation efforts. Other projects include EEOC's efforts to improve compliance through videos for employers and a public service campaign, and a \$1.5 million initiative by the DOL's Office of Federal Contract Compliance for technical assistance that focuses on prevention rather than enforcement. The Department of Labor will begin a comprehensive compliance monitoring program allowing it to triple the number of compliance reviews it conducts a year and reform the system by which it chooses targets for its reviews. HHS will use the funds to investigate medical decision-making to determine how it is influenced by race and ethnicity.

IV. Improving Technology

The plan includes a \$15 million technology initiative for EEOC, HHS, Labor, and Education to provide for communication via electronic mail; eliminate redundant data entry procedures; permit the sharing of information and enhanced research capabilities for investigators and attorneys; allow for the filing of forms and complaints over the Internet, and provide for the sharing of civil rights data bases.

V. Coordination Among Civil Rights Agencies

A common complaint by groups who work with federal civil rights offices is the lack of coordination among Administration efforts. This initiative will institute a standing inter-agency group to address cross-cutting issues including broad strategic planning, and development of performance outcome measures, training initiatives and data collections. In addition, the plan recommends that the President call upon each Department to establish an internal high-level civil rights advisory council to agency-wide policies and practices and serve as a forum for external organizations to present civil rights concerns associated with individual agency programs.

focus on

M E M O R A N D U M

TO: BRUCE REED, ELENA KAGAN

FROM: TOM FREEDMAN, MARY L. SMITH

RE: CIVIL RIGHTS CROSSCUT

DATE: DECEMBER 2, 1997

Below is a list of performance goals that are applicable across agencies and suggestions as to how they might be implemented at the various civil rights enforcement agencies.

I. ALTERNATE DISPUTE RESOLUTION

A. EEOC

- Mediation Program. EEOC proposes to mediate approximately 8,000, or 10 percent of the 80,000 new charges expected in FY 1999. (\$4,000,000)(OMB approved)

B. HHS-OCR

- Mediation Partnerships: HHS would contract with providers of mediation services in five to ten pilot urban and rural areas. OCR would decentralize the use of third party mediation services for a subset of complaints assessed through its case triage process. (\$250,000) (new)

C. DOL-OCR

- Mediation. 7 FTE will be required to market ADR and to assist states in developing and designing ADR programs. In addition, 4 FTE will be needed to provide ADR for those complainants who request ADR in the processing of their complaints. (\$990,000) (new)

D. DOL-OFCCP

- Alternate Dispute Resolution. OFCCP is initiating an alternate dispute resolution program in order to facilitate the closure of compliance reviews and complaint investigations. ADR will be used as an effort to avoid litigation and to reduce the number of cases referred to the Solicitor of Labor for enforcement. (\$203,000) (new)

E. EDUCATION

- Alternate Dispute Resolution. In December 1993, OCR issued a new Case Resolution

Manual (CRM). The CRM streamlined the complaint resolution process so that OCR can provide more efficient and effective service to complainants. One element of the CRM is an alternative dispute resolution procedure (ADR). Any additional funding over OCR's FY 1999 appropriation could be used to provide additional staff training to build skills necessary for effective ADR or to hire contract mediators to actually facilitate resolution between the parties. (\$100,000) (new)

II. TARGETING FUTURE COMPLIANCE AND TECHNICAL ASSISTANCE EFFORTS (through data collection and other means)

A. EEOC

- Benchmark EEO survey data. EEOC would like to perform a one-time data collection from employers to obtain benchmark EEO survey data for the Americans with Disabilities Act (ADA) of 1990. (\$250,000) (new)
- Video Outreach and Technical Assistance. Three video productions on subjects such as "Information for Small Employers," "Mediation to Resolve Charges," and "Best Practices for Employers." (\$225,000) (new)
- PSA Campaign. (\$100,000) (new)
- Stakeholder Meetings. Stakeholder meetings around the country for 25 offices. (\$125,000) (new)
- Translation of materials. Translate pamphlets into several languages, including production costs. (\$280,000) (new)

B. EDUCATION

- Elementary and Secondary School Civil Rights Compliance Report: OCR would conduct a survey of the approximately 15,000 school districts in the country on the following: number and types of schools within a school district; the demographics of the school district for both teachers and students; the number of students by race and gender in gifted and talented programs;; the number of students with disabilities by race and gender; and the number of students in math, science, and computer programs by race and gender. This data is used by other government agencies, including DOJ in its enforcement activities for approximately 400 court-ordered school districts. In addition, information and data obtained by the survey would be used as a baseline for OCR's proposed activities under GPRA. (\$1,700,000) (new)

C. HHS-OCR

- Testing Program - Nursing Home Assistance and Program Abuse. OCR proposes establishing a new program to broaden the use of testing in the nursing home sector to uncover discriminatory practices. Consumer education and outreach will be targeted toward informing racial minorities and disability communities about discriminatory and abusive admissions and marketing practices so that they can report questionable practices to OCR and to the HHS Inspector General, DOJ. (\$2,600,000) (new)
- Analysis of Differential Treatment Modalities. OCR, working with the HHS Data Council, would investigate medical decision-making at the individual facility level to see how it is influenced by race and ethnicity. OCR would contract for the development of methodologies to determine potential areas of discrimination or differential access to services through assessment of Departmental and State level administrative data sets. The purpose of this initiative is to identify potentially non-complying hospitals and to target and implement Title VI compliance reviews and outreach initiatives. As the result of this effort, HHS expects to change the compliance status of from 220 to 280 facilities. If HHS were to undertake all such reviews over a three-year period, it would need approximately \$565,000 per year, beyond an initial \$500,000 for survey design and analysis, to support the staffing needed to carry out such reviews while simultaneously avoiding an accumulation of a backlog. (\$1,065,000) (new)
- Managed Care. OCR's FY 1999 budget request seeks consultant services to develop data collection measuring the effect of managed care arrangements on Hill-Burton facilities and others. The purpose of this initiative is to target compliance reviews and outreach activities in support of both the President's Initiative on Race and to ensure effective oversight of the nondiscrimination provisions of the Patients' Bill of Rights endorsed by the President on November 19. HHS expects that these reviews of managed care plans and other insurance arrangements will require 50 percent more time than individual facility reviews. Accordingly, HHS estimates that it would need approximately \$300,000 per year, beyond an initial \$250,000 for survey design and analysis, to support the staffing needed to carry out 50 such reviews per year. (\$550,000) (new)
- Outcome Measurement. OCR is moving from output and process measures to assessing the extent to which the number and quality of services to protected classes has changed. The purpose of this initiative is: (1) to collect data on program performance that focuses on the public's ability to access and benefit from HHS services and (2) to focus performance goals and reporting on outcome measures identified in the Annual Government Performance and Results Act (GPRA) Plan. By collecting outcome data focusing on service to individuals, OCR will be able to effectively target activities based on which compliance strategies result in the greatest number of additional minority persons served by programs, the greatest number of additional services, or changes in the quality of services provided. (\$250,000)(new)

D. **DOL-OCR**

- Improved Targeting. An enhanced management information system could produce reports that would identify problem areas that should be targeted for review. This system could also identify trends in complaints so that compliance activities could be directed towards those entities most in need of assistance. This would maximize the utilization of staff resources to address the targeted problem areas in a given year and enhance development of work plans and results under GPRA. Approximately \$100,000 is needed to design management information reports to meet this performance goal. (\$100,000) (new)
- Compliance Activities. 18 FTE will be required to provided total compliance monitoring coverage on a three-year cycle. Within existing resources, only 4 compliance reviews can now be conducted, due to the regulatory need to process complaints. This will enable staff to conduct 18 reviews per year. (\$1,620,000) (new)
- Data Collection on JTPA. Currently, applicant data is not captured to identify those seeking entry into programs such as JTPA. To ensure that discriminatory factors are not being used in the intake process, a pilot program could be instituted. This would require revisions to ETA's management information system, agreement by the pilot state to participate, and OMB concurrence to collect this data. (\$360,000) (new)
- Compliance Assistance. 3 FTE will be required to conduct 20 technical assistance visits per year. This represents staff being on travel two weeks out of every month. (\$270,000)(new)

E. **DOL-OFCCP**

- Future Targeting. The OFCCP's three-pronged Fair Enforcement Strategy includes a comprehensive regulatory reform component. One aspect of the regulatory reform effort is the redesign of the compliance review process. This process, as restyled "compliance evaluations," will enable the OFCCP to institute a multi-tiered level of review, varying from limited "compliance checks" to the full-scope compliance review. Additional resources for the three-pronged strategy will allow OFCCP to revise the requirements for the Affirmative Action Plan, fully implement the Affirmative Action Program Summary Report, and enhance the tiered compliance review enforcement strategy. (\$4,800,000) (OMB approved)
- Ombud Activities. OFCCP will increase the use of its Ombud Office to improve customer quality and service. The Ombud Office, established in 1995, provides customer service, technical assistance, and a means for OFCCP's stakeholders to obtain confidential advice regarding the laws, policies, and programs that are administered by the OFCCP. Through this expansion of the Ombud Office, OFCCP will provide technical assistance earlier with the result of reducing the amount of resources needed during full compliance reviews performed at a later time. (\$1,700,000) (new)

F. HUD

- Targeted, audit-based enforcement initiative. HUD will receive \$10 million for a targeted, audit-based enforcement initiative, piloted in several metropolitan areas, that would raise awareness of the extent of discrimination through focused and publicly released audit results and subsequent enforcement action. An audit-based enforcement initiative using paired testers could be piloted in 20 metropolitan areas around the country. \$5 million would provide each of the 20 non-profit organizations with \$250,000 to establish an organizational capacity to administer paired testing in the rental and sales markets, develop comparable indices of discrimination, and provide for analysis and public dissemination of audit results. An additional \$5 million would provide the 20 metropolitan areas with sufficient funds to conduct audits using 500 pairs of testers. (OMB approved)

III. REDUCING BACKLOG

A. EEOC

- Inventory Reduction. To reduce the private-sector backlog from the current over 9.4 months it takes to resolve private sector complaints to 6 months by the year 2000, EEOC requires 165 new FTEs. (\$8,000,000) (OMB approved)

B. HHS-OCR

- Changes in Complaint Processing to Respond to Additional Workload. OCR proposes expanding its pilot program which uses teams of investigators to review incoming cases and to provide ongoing case management. This expansion will require additional team training. OCR also anticipates increased complaint workload resulting from the Patients' Bill of Rights and the Adoption 2002 initiatives. OCR estimates that \$360,000 would be needed both to continue to enhance expedited complaint processing and to prevent development of a backlog. (\$400,000) (new)
- State and Local Program. OCR's Strategic Plan proposes to increase partnerships with state and local agencies to expand the scope of civil rights compliance coverage of HHS grantees. OCR proposes a pilot program to contract with states and local civil rights agencies to conduct investigations, thus expanding its capacity to enforce civil rights while giving states an active role in enforcement. The purpose of these partnerships is to enhance the ability to target OCR staff resources on precedent-setting and high priority complaint investigations while continuing to improve response times to citizen complaints. (\$500,000) (new)

IV. PAPERLESS OFFICE

A. **EEOC**

- Information Systems. The EEOC has proposed a three-year \$25 million initiative to upgrade hardware, communications infrastructure, and the deployment of integrated information systems throughout the agency. The FY 1999 request of \$10 million would provide a basic communication infrastructure that would allow the EEOC to complete the development and procurement of new information systems capabilities. These upgrades will allow the field offices and headquarters to communicate via electronic mail, eliminate redundant data entry procedures, and provide for greater operational efficiency through the sharing of information and enhanced research capabilities for investigators and attorneys. (\$10,000,000) (OMB approved)
- Replacing Paper Forms. The EEOC proposes developing an "Interactive Diskette" data collection to replace "Paper Forms" for all EEOC employment survey data collection programs. (\$200,000) (new)

B. **HHS-OCR**

- Civil Rights on the Internet: New technology that would allow the public to file complaints via computer. Also technical assistance to grantees could be accomplished via the Internet. Survey data collections, pre-grant certifications, investigative data requests and responses could also be expedited. (\$250,000) (new)

C. **ALL CIVIL RIGHTS ENFORCEMENT AGENCIES (Justice, Labor, HHS, Education, and EEOC)**

- Linked Civil Rights Data Bases: This linking of all the data bases would permit the agencies to share statistics that each agency collects. Linking technology would also improve coordination among the civil rights agencies. (\$500,000)(new)

D. **DOL-OCR**

- Technology Improvements: There is a need for the establishment of a data base that can provide management information reports that can respond to GPRA and DOJ requirements. A review is required of the current information technology infrastructure that supports the civil rights enforcement of federal financial assistance programs to determine what is needed to achieve the desired outcomes of improved case processing and case management. A working group could be established to conduct the survey and make recommendations in this area. Some economies of scale could be achieved if agencies explored the possibility of selecting a data base system that would meet the needs of agencies with some modifications adaptable to their specific programs. (\$158,000) (new)

E. **DOL-OFCCP**

- Information Technology: These funds will be used to upgrade the agency's infrastructure and replace outmoded systems hardware, enabling OFCCP to meet its current requirements and to develop the systems necessary for federal contractors to submit data electronically to the program. The agency will also provide the technology necessary for compliance officers to record all documents related to reviews electronically. (\$4,000,000) (new)

V. **COORDINATION AMONG CIVIL RIGHTS AGENCIES**

A. **Proposed by HHS-OCR**

- Inter-agency Civil Rights Coordination Group: A standing inter-agency group composed of principals or their deputies would address cross-cutting issues including broad strategic planning, coordination of litigation strategies, development of performance outcome measures, outreach and partnership strategies, coordinated public service announcement and public relations initiatives, coordinated town meetings on civil rights issues, coordinated training initiatives, data collections, reviews, and investigations.
- Inter-agency training program. A coordinated training strategy could entail creation of an inter-agency training program. The training program could be under the auspices of the Department of Justice. It would focus on investigative methodologies, examination of best practices in non-discriminatory service delivery, litigation review and strategy, data collection techniques and other compliance techniques that can be employed by many agencies, including HHS, ED, HUD, DOL, DOT, and EEOC. The center could also provide civil rights investigative and outreach training to state and local partners. A training center with dedicated staff could either be contracted or use federal agency staff. A rough estimate of the cost for rent, staff support, curriculum development, scholarships for non-federal participants, equipment, trainers, etc. is \$1,000,000 government-wide per year. (\$1,000,000) (new)
- Intra-agency civil rights councils. These councils would be a means for furthering civil rights compliance throughout individual departments and agencies. Each Department would establish a high-level body that would be advisory to the Secretaries or Agency Heads on civil rights issues. A Civil Rights Council would be a forum for review of agency-wide policies and practices and could serve as a forum for external organizations to present civil rights concerns associated with individual agency programs. Such a council would be headed by the Department or Agency's chief Civil Rights Official and would require minimal staffing (an Executive Secretary to the Council and perhaps one support staff) in addition to staff that could be provided from within the agencies. (\$200,000) (new)

- Geo-coded/Mapping Data Base on a Civil Rights Intranet. OCR proposes development, in conjunction with the Census Bureau and the Department of Justice, of a government-wide pilot project that would make geo-coded mapping of race, ethnicity, and national origin Census data available to all civil rights agencies on a Civil Rights Intranet. This resource would enable civil rights agencies to have immediate access to tract level data during the course of investigations and reviews. Other uses of this system could include a government-wide index of administrative decisions, letters of findings, and entities under civil rights investigation. (\$350,000) (new)

B. Proposed by DOL-OCR

- Coordination between DOJ and OMB. In order to achieve enhanced civil rights enforcement, OMB will be required to review the civil rights enforcement function on a cross-cutting basis to achieve performance goals. DOJ could work with OMB and the respective agencies to promote a comprehensive civil rights agenda. This would provide the framework and overall reporting relationships to integrate civil rights enforcement within the budget process. (\$90,000) (new)

C. Proposed by DOL-OFCCP

- The Civil Rights Working Group, made up of all the civil rights agencies in the Federal government and a liaison from the White House, should be formalized and meet on a regular basis to integrate efforts to achieve civil rights in America.
- Coordination with DOJ and Veterans Affairs. Increase compliance on national origin discrimination and to share a database with Veterans Affairs so that veterans have equal employment opportunities. (\$400,000) (new)

D. Proposed by ED-OCR

- Intranet technology. Civil rights enforcement agencies need to improve their communication network. Intranet technology could be used to create a network for used by selected civil rights enforcement agencies. The system could be used for various purposes such as sharing data; posting information like current research, historical document, special alerts, best practices, scheduled meetings/conferences, newsworthy events, and training opportunities. The system could also be used to communicate essential information and materials to agencies' staff on Presidential initiatives. (\$100,000 to 500,000) (new)

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FAX TRANSMITTAL SHEET

DATE: 11/21/97

PAGES: _____

TO: Mary Smith
Domestic Policy Council

FAX NO: 456-7431

FROM: Lynne Pratico

DCR/USDOL

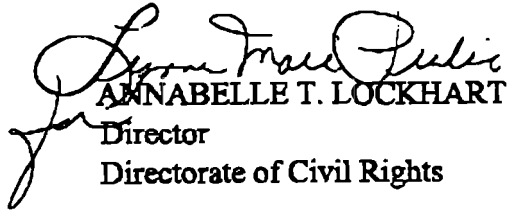
COMMENTS:

November 21, 1997

MEMORANDUM FOR MARY SMITH

Domestic Policy Council

FROM:


ANNABELLE T. LOCKHART
Director
Directorate of Civil Rights

SUBJECT:

Request for Additional Information

As requested, attached is the additional narrative you requested. If you need anything further, please call Ms. Lynne Pratico, as I will not be back from leave until December 1. She can be reached on 202-219-8927. Thank you for the opportunity to provide input.

Attachment

Department of Labor's Proposal for Enhanced Civil Rights Enforcement of Financially Assisted Programs

Background

The Directorate of Civil Rights (DCR) is responsible for enforcing the varied Federal statutes and regulations, that (1) prohibit discrimination in all DOL programs, (2) prohibit discrimination on the basis of disability by certain public entities and in DOL conducted activities; (3) prohibit discrimination within DOL workplaces.

DOL Jurisdiction

The DOL provides approximately 35 billion dollars in financial assistance to over 900 grant recipients annually. These programs include: The Job Training Partnership Act (JTPA) programs to prepare youth and adults facing serious barriers to employment for participation in the labor force by providing job training and other services that will results in increased employment and earnings, increased education and occupational skills and decreased welfare dependency. They include the Job Corps, State Employment Security Older Worker Program, Migrant and Seasonal Farmworker Program, Disabled Person Program, and Indian and Native American Program and the Unemployment Insurance Program. In addition, \$3 billion of new funding is being provided to DOL for the Welfare to Work program.

This proposal envisions support for the following Civil Rights Performance Goals

Coordination - 1 FTE and 90,000

There is a need for a more comprehensive approach to civil rights enforcement. To achieve the president's desire to enhance civil rights enforcement will require OMB to review the civil rights enforcement function on a cross-cutting basis to achieve performance goals. DOJ could work with OMB and the respective agencies to promote a comprehensive civil rights agenda. This would provide the framework and overall reporting relationships to integrate civil rights enforcement within the budget process. To support this coordination effort, DCR would need a staff year to support this effort.

Moving toward a Paperless Office - \$158, 000

There is a critical need for the establishment of a state of the art data base which can provide management information reports which can respond to GPRA and DOJ requirements. A review needs to be made of the current information technology infrastructure which supports the civil rights enforcement of federal financial assistance programs to determine what is needed to achieve the desired outcomes of improved case processing and case management. A working group could be established to conduct the survey and make recommendations in this area.. Some economies of scale perhaps could be achieved if agencies explored the possibility of selecting a data base system with would meet the needs of agencies with some modifications adaptable to their specific programs.

We have preliminarily explored the possibilities of upgrading our existing system and estimate that at least 75,000 will be needed to obtain license and data base conversions to a new system. Additionally, 83,000 will be required for computers for the additional staff.

Improved Targeting - \$ 100,000

An enhanced management information system could produce reports which would identify problem areas that should be targeted for review. This system could also identify trends in complaints such that compliance activities could be directed towards those entities most in need of assistance. This would maximize the utilization of staff resources to address the targeted problem areas in a given year and enhance development of workplans and results under GPRA. Another \$100,000 is needed to design management information reports to meet this performance goal.

Alternative Dispute Resolution - 11 FTE and \$990,000

Alternative dispute resolution has proven to be an effective tool to resolve complaints in both the private and public sectors in recent years. This tool needs to be incorporated into the federal financial assistance complaint process to produce cost avoidance savings. It is proposed that states be encouraged to establish an ADR process in their existing complaint system. Implementation of ADR within these systems will require extensive marketing and outreach by civil rights staff, since many states do not currently have ADR in place. It is further recommended that where ADR programs have not been established, that ADR be offered as an option to those complainants who file complaints with the civil rights office.

7 FTE will be required to market ADR and to assist states in developing and designing ADR programs. In addition, 4 FTE will be needed to provide ADR for those complainants who request ADR in the processing of their complaints with DCR.

Reducing Backlogs

The implementation of ADR in the complaint process at the state level and at the federal level will reduce complaint backlogs and produce cost avoidance savings. Attached is an example of DOL performance goals designed to achieve this outcome. These performance goals reflect both the internal and external civil rights program.

Compliance Activities - 25 FTE and \$2,250,000

Compliance Monitoring - 18 FTE and \$1,620,000

18 FTE will be required to provide total compliance monitoring coverage on a three year cycle. With existing resources only 4 compliance reviews can not be conducted, due to the regulatory need to process complaints. This will enable staff to conduct 18 reviews per year.

Data Collection - 4 FTE and \$360,000

Currently, applicant data is not captured to identify those seeking entry into programs such as JTPA. While recognizing there is a burden associated with requiring states to record such information, there is no other way of knowing who is being turned away and for what reasons. To ensure that discriminatory factors are not being used in the intake process, a pilot program could be instituted. This would require revisions to ETA's management information system, agreement by the pilot state to participate as well as OMB concurrence to collect this data. A compliance monitoring team would be required to test this alternative approach, including the use of testers.

Compliance Assistance - 3 FTE and \$270,000

3 FTE will be required to conduct 20 technical assistance visits per year. This represents staff being on the road two week out of every month.

Summary

This request is for a total 37 FTE and \$3,588,000. When added to the existing budget for DCR, this represents less than one-half of one percent of the total DOL financial assistance dollars.

FAX TRANSMISSION

OFFICE FOR CIVIL RIGHTS
DEPARTMENT OF HEALTH & HUMAN SERVICES

Date: 11-20-97

TO: Mary Smith
Domestic Policy Council

Pages w/ cover: 5

Telephone:

FAX # 456 7431

COMMENTS:

Civil Rights Initiatives - Performance Goals

FROM: Dennis Hayashi
Office for Civil Rights
Department of Health and Human Services
200 Independence Avenue, SW
Washington, D. C. 20201

Room No./Bldg.
522A - Humphrey

Phone No.
202-619-0403

Fax
202-619-3437



November 20, 1997

Director
Office for Civil Rights
Washington, D.C. 20201**MEMORANDUM**

TO : Mary Smith
Associate Director for Policy Planning
Domestic Policy Council

FROM : Dennis Hayashi
Director
Office for Civil Rights

Omar W. Hussein
for Dennis Hayashi

SUBJECT : Civil Rights Initiatives - Performance Goals

This follows up on our telephone conversation concerning recasting of several civil rights initiatives that I had proposed in my memo to Tom Freedman dated November 6. Activities have been related to the performance goals that we discussed yesterday. Further descriptions of the activities previously submitted or new items are noted in italics. New items include, as you asked in a conversation this morning with Steve Melov, a discussion of activities under a civil rights "coordination" performance goal.

I. Performance Goal: Targeting Future Compliance Activities

Analysis of Differential Treatment Modalities: OCR, working with the HHS Data Council, would investigate medical decision-making at the individual facility level to see how it is influenced by race and ethnicity. OCR would contract for the development of methodologies to determine potential areas of discrimination or differential access to services through assessment of Departmental and State level administrative data sets. The analyses would focus on differential treatment modalities and would address both access and quality of care issues at the facility and area-wide levels. (\$500,000)

The purpose of this initiative is to identify potentially non-complying hospitals and to target and implement Title VI compliance reviews and outreach initiatives. This initiative would provide a detailed quality of care- focused assessment of hospital services that would build on a recently completed survey of minority access to care. During 1996, OCR requested compliance reports from hospitals that received assistance under the Hill-Burton Act and, for the first time since 1981, from a random sample of non-Hill-Burton hospitals that are subject to Title VI of the Civil Rights Act of 1964. In both the analysis of Hill-Burton and general Title VI facilities' data, inpatient censuses were compared with reported service area demographics to determine any statistically significant disproportions between patients served and the service area population. Based on the access-related data in the 1996 survey, we would expect that a follow up assessment of differential treatment modalities would identify at least 400 facilities for follow up compliance reviews or other compliance activities. Experience indicates that, from 55 to 70 percent of such reviews have found and corrected compliance problems. Therefore, we would expect to change the compliance status of from 220 to 280 facilities. If we were to undertake all such reviews over a three year period, we would need approximately \$565,000 per year, beyond the initial \$500,000 noted above for survey design and analysis, to support the staffing needed to carry out such reviews while simultaneously avoiding backlogging of complaints and other priority casework.

Managed Care: OCR's FY 1999 budget request seeks consultant services funding of approximately \$200,000 to develop data collection measuring the effect of managed care arrangements on Hill-Burton facilities and others. Additional funding would support pilot implementation of the collection and analysis of data to address issues regarding marketing and enrollment, member disenrollment, participating provider selection and compensation, quality assurance and utilization review, performance standards, member access to services, treatment of patients with certain conditions and disabilities, State oversight of plan practices and State standards of licensure and performance for Medicaid providers, and State payment methods for services. (\$250,000)

The purpose of this initiative is to target compliance reviews and outreach activities in support of both the President's Initiative on Race and to ensure effective oversight of the nondiscrimination provisions of the Patients' Bill of Rights endorsed by the President on November 19. Ensuring the quality of health care and nondiscriminatory access and treatment in managed care plans and other insurance arrangements requires design of methods for determining the Title VI, ADA, §504, and Age discrimination compliance status of plans and providers for the plans. OCR would use the data collected through this survey instrument to implement systemic reviews focusing on approximately one plan per state per year during the next three years. Based on our limited experience to date in this arena, we anticipate that these reviews will be significantly more resource intensive than facility-based reviews and investigations. Assuming that such reviews will require 50 percent more time than individual facility reviews, we estimate that we would need approximately \$300,000 per year, beyond the initial \$250,000 noted above for survey design and analysis, to support the staffing needed to carry out 50 such reviews per year, while simultaneously avoiding backlogging of complaints and other priority casework.

Outcome Measurement: OCR is moving from output and process measures to assessing the extent to which the number and quality of services to protected classes has changed. Data from HHS and State and local administrative data sets are critical in determining service changes. OCR would contract for design of systems for using current data, or to collect data during investigative work and in post-findings monitoring on increases in services and the quality of such services for minorities and persons with disabilities. (\$250,000)

The purpose of this initiative is: (1) to collect data on program performance that focuses on the public and how our services are affecting their ability to access and benefit from HHS services and (2) to focus performance goals and reporting on outcome measures identified in the Annual Government Performance and Results Act Plan. By collecting outcomes data focusing on service to individuals, OCR will be able, over time, to more effectively target activities based on which compliance strategies result in the greatest number of additional minority persons served by programs, the greatest number of additional services, or changes in the quality of services provided.

II. Performance Goal: Reducing Backlogs and Increasing Responsiveness to the Public through Expedited Complaint Processing

Changes in Complaint Processing to Respond to Additional Complaint Workload: During the past three years, under its Strategic Plan, OCR has developed new methods for handling complaints. These include triage of cases to determine which cases may require more intensive use of resources and which can be handled on an expedited basis. This program has been successful in reducing processing time and inventories of complaints. As part of this program, OCR has piloted using teams of investigators to review incoming cases and to case manage. OCR proposes to expand the use of such teams. This will require further team training estimated to cost approximately \$40,000.

OCR anticipates increased complaint workload resulting from publicity associated with the Patients' Bill of Rights quality of health care initiative and Adoption 2002 initiatives. Recently enacted changes in adoption provisions, specifically the interracial adoption provisions of the Small Business and Job Protection Act of 1996 and more recently changes from a focus of reunification with biological families for children in foster care to a focus on children's needs for permanency, will have an effect on OCR's complaint workload. OCR's coordinated activities with the Administration for Children and Families (ACF) will result in referral by ACF to OCR of complaints or other potential discrimination allegations under Title IV-E State Plan provisions. Although it is difficult to project how many additional complaints will result, OCR estimates that if it receives 100 citizen allegations requiring investigation, approximately eight investigators nationwide would be required in order to ensure against backlogging complaints. OCR estimates that \$360,000 would be needed both to continue to enhance expedited complaint processing and prevent development of a backlog.

State and Local Program: OCR's Strategic Plan promulgates increasing partnership with state and local agencies to expand the scope of civil rights compliance coverage of HHS grantees. OCR proposes to pilot test contracting with states and local civil rights agencies to conduct investigations, thus expanding our capacity to enforce civil rights while giving states an active role in such enforcement. (\$500,000)

The purpose of this partnership is to enhance our ability to target OCR staff resources on precedent-setting and high priority complaint investigations while continuing to improve response times to citizen complaints.

III. Performance Goal: Coordination among Civil Rights Agencies

Inter-Agency Civil Rights Coordination Group: A standing inter-agency group composed of Department civil rights principals or their deputies would address cross-cutting issues including broad strategic planning, coordination of litigation strategies, development of performance outcome measures, outreach and partnership strategies, coordinated public service announcement and public relations initiatives, coordinated town meetings on civil rights issues, coordinated training initiatives, data collections, reviews and investigations.

A coordinated training strategy could entail creation of an Inter-agency training program. In the 1970's the Department of Health, Education and Welfare ran a training center in Denver. In the late 1980's, a fledgling training academy was initiated under Department of Labor auspices. The locus for such an academy could be within the Department of Justice. It would focus on investigative methodologies, examination of best practices in non-discriminatory service delivery, litigation review and strategy, data collection techniques and other compliance techniques that can be employed by several agencies, including HHS, ED, HUD, DOL, DOT, EEOC, etc. The center could also provide civil rights investigative and outreach training to state and local partners. A training center with dedicated staff could either be contracted or use Federal Agency staff. A very rough estimate of the cost for physical plant (rent), staff support, curriculum development, scholarships for non-Federal participants (as appropriate), equipment, trainers, etc. is \$1,000,000 government-wide per year.

Intra-agency civil rights councils would be a means for furthering civil rights compliance throughout individual Departments and agencies. Each Department would establish a high-level body that would be advisory to the Secretaries or Agency Heads on civil rights issues. A Civil Rights Council would be a forum for review of agency-wide policies and practices and could serve as a forum for external organizations to present civil rights concerns associated with individual agency programs. Such a council would be headed by the Department or Agency's chief Civil Rights Official and would require

Page 4 - Proposed Civil Rights Initiatives

minimal staffing (an Executive Secretary to the Council and perhaps one support staff) other than what could be provided from within Offices for Civil Rights. The estimated annual cost for such agency bodies, including periodic public forums is \$100,000 to \$200,000.

Geo-coded/Mapping Data Base on a Civil Rights Intranet: OCR proposes development, in conjunction with the Census Bureau and the Department of Justice of a government-wide pilot project that would make geo-coded mapping of race, ethnicity and national origin (language) Census data available to all civil rights agencies on a Civil Rights Intranet. Such a resource would enable civil rights agencies to have immediate access to tract level data during the course of investigations and reviews. Other uses of such an Intranet could include a government-wide index of administrative decisions, letters of findings, and entities under civil rights investigation or review and findings. (\$350,000)

This initiative is an example of a government-wide coordinated data strategy that could be pursued by the Inter-agency Coordinating Group.

IV. Performance Goal: Paperless Office

Civil Rights on the Internet: To date, OCR's Internet presence has consisted of home pages (HQ and two regions) that give the public basic information about the civil rights compliance program. OCR proposes to expand its Internet presence to enhance interactivity. For example, OCR would bring in technology that would enable the public to file complaints with us by computer, making it easier for them to access OCR services. Similarly, technical assistance to grantees could be accomplished using the Internet and computerized correspondence. Survey data collections, pre-grant certifications, investigative data requests and responses could also be expedited. (\$250,000)

V. Performance Goal: Mediation

Mediation Partnerships: OCR would contract with providers of mediation services in from five to ten pilot urban and rural areas to test expansion of third party mediation (in HHS, currently only Age Discrimination Act complaints are mediated by a third party - the Federal Mediation and Conciliation Service). OCR proposes decentralizing the use of third party mediation services for a subset of complaints assessed through its case triage process. (\$250,000)

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FAX TRANSMITTAL SHEET

DATE: 11-21-97

PAGES: 5

TO: Mary Smith

FAX NO: 456-7431

FROM: Lynne McHew

DCR/USDOL

COMMENTS:

U.S. Department of Labor

Office of the Assistant Secretary
for Administration and Management
Washington, D.C. 20210



November 21, 1997

MEMORANDUM FOR MARY SMITH
Domestic Policy Council

FROM:

Lynne Pratico
ANNABELLE T. LOCKHART
Director
Directorate of Civil Rights

SUBJECT: Request for Additional Information

As requested, attached is the additional narrative you requested. If you need anything further, please call Ms. Lynne Pratico, as I will not be back from leave until December 1. She can be reached on 202-219-8927. Thank you for the opportunity to provide input.

Attachment

Department of Labor - Directorate of Civil Rights Civil Rights Performance Goals

Coordination

There is a need for a more comprehensive approach to civil rights enforcement. To achieve the president's desire to enhance civil rights enforcement will require OMB to review the civil rights enforcement function on a cross-cutting basis to achieve performance goals. DOJ could work with OMB and the respective agencies to promote a comprehensive civil rights agenda. This would provide the framework and overall reporting relationships to integrate civil rights enforcement within the budget process. Some thought should be given to resurrecting the OMB Exhibit on Civil Rights but in GPRA format. A focal point at OMB would greatly assist in ensuring effective implementation of this initiative.

Moving toward a Paperless Office

There is a critical need for the establishment of a state of the art data base which can provide management information reports which can respond to GPRA and DOJ requirements. A review needs to be made of the current information technology infrastructure which supports the civil rights enforcement of federal financial assistance programs to determine what is needed to achieve the desired outcomes of improved case processing and case management. A working group could be established to conduct the survey and make recommendations in this area. Some economies of scale perhaps could be achieved if agencies explored the possibility of selecting a data base system which would meet the needs of agencies with some modifications adaptable to their specific programs.

Improved Targeting

An enhanced management information system could produce reports which would identify problem areas that should be targeted for review. This system could also identify trends in complaints such that compliance activities could be directed towards those entities most in need of assistance. This would maximize the utilization of staff resources to address the targeted problem areas in a given year and enhance development of workplans and results under GPRA.

Alternative Dispute Resolution

Alternative dispute resolution has proven to be an effective tool to resolve complaints in both the private and public sectors in recent years. This tool needs to be incorporated into the federal financial assistance complaint process to produce cost avoidance savings. It is proposed that states be encouraged to establish an ADR process in their existing complaint system. Implementation of ADR within these systems will require extensive marketing and outreach by civil rights staff, since many states do not currently have ADR in place. It is further recommended that where ADR programs have not been established, that ADR be offered as an option to those complainants who file complaints with the civil rights office.

Reducing Backlogs

The implementation of ADR in the complaint process at the state level and at the federal level will reduce complaint backlogs and produce cost avoidance savings. Attached is an example of DOL performance goals designed to achieve this outcome. These performance goals reflect both the internal and external civil rights program.

Conclusion

The formulation of a vigorous civil rights agenda requires vision, leadership, and commitment. However, effective implementation and execution of that vision can only come about when civil rights becomes an inextricable part of the government's business and a proper infrastructure is provided to achieve those performance goals.

OASAM Strategic, Goals, Objectives, and Measures
(continued)

Strategic Goals	Objectives	Measures
Goal 5 (continued) Ensure Equal Opportunity for recipients and beneficiaries of DOL financial assistance programs and DOL employees and applicants for employment, and reduce the incidence of discrimination in DOL-assisted and administered programs by 10 % by FY 2002.	Objective 5.1 (CRC - continued) By the end of FY 2002, expand education and outreach activities to DOL managers/supervisors and to grant recipients to increase their understanding of applicable nondiscrimination laws and regulations and promote voluntary compliance and self-regulation.	By FY 1999, use focus groups, complaint analysis, and other means to define core information/training/TA needs and delivery options for each target group. By FY 2000, expand training and technical assistance contacts (individuals served) by 10 percent over FY 1998. By FY 2000, improve the stakeholders' approval rating for training and technical assistance activities by 5% over FY 1998 through the use of customer surveys. In FY 2002, evaluate the overall effectiveness of training/technical assistance effort on the number of discrimination charges with CRC.
	Objective 5.2 (CRC) Process all complaints of discrimination within regulatory timeframes.	By FY 1999, identify and repair all barriers to reporting the timely completion of complaint process and identify average processing time baseline. By FY 2000, reduce average complaint processing time by 5% of FY 1998 average. By FY 2001, reduce average processing time by 10% of FY 1998 average. By FY 2002, reduce average processing time to 15% of FY 1998 average.
	Objective 5.3 (CRC) Apply alternative forms of dispute resolution to achieving voluntary compliance with nondiscrimination regulations.	By FY 1999, establish baseline of costs and time associated with achieving compliance with statutes and regulations