



Fiscal Year 2000

CONGRESSIONAL
TRANSMITTAL

February 1999

GPRA ANNUAL
PERFORMANCE
PLAN

Equal Employment Opportunity Commission

INTRODUCTION

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This is the Equal Employment Opportunity Commission's second Annual Performance Plan under the Government Performance and Results Act (GPRA). The process for developing and implementing our Fiscal Year 1999 Annual Performance Plan helped us clarify measures for this Fiscal Year 2000 Annual Performance Plan.

Additionally, we significantly enhanced the collaborative development of our budget and planning documents during the Fiscal Year 2000 cycle. We will continue this process further. We believe these steps strengthen our implementation of the principles articulated in the Government Performance and Results Act by bringing the budget process in line with our strategic planning.

This Annual Performance Plan incorporates our Mission, Goals and Objectives from our

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Strategic Plan for Fiscal Years 1997-2002. No substantive adjustments are made to the Strategic Plan in this Annual Performance Plan.

Also, this Annual Performance Plan, like our first Plan, was developed by agency employees as an inherently governmental function, and no non-federal assistance was involved in its preparation. Finally, we do not request in the Plan any waivers to administrative requirements to provide managerial flexibility.

MISSION

Our mission is to promote equal opportunity in employment by enforcing the federal civil rights employment laws through administrative and judicial actions, and education and technical assistance.

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Our Mission--to enforce federal civil rights employment laws--has two mutually supportive components: "administrative and judicial actions" and "education and technical assistance." A wide range of activities associated with these components is designed to promote equal opportunity through the enforcement of the federal laws prohibiting employment discrimination.

We utilize administrative and judicial actions to enforce the laws through investigation, adjudication, settlement, conciliation, alternative dispute resolution techniques, such as voluntary mediation, litigation, and issuance of policy guidance and regulations.

Education and technical assistance include outreach to employers and employees, as well as to many individuals, groups and organizations affected by our laws. Education and technical assistance activities include seminars, training sessions, technical assistance site visits, speeches, meetings with constituent groups, consultations, customer-service activities, and other information and guidance

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provided on employment discrimination issues and the law.

Our Fiscal Year 2000 Budget Request and this Annual Performance Plan are crafted to complement each other. The Plan briefly describes the context for each measure. In addition, the Budget document refers to the linkage to the Plan's measures.

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GENERAL GOAL I:

PROMOTE EQUAL OPPORTUNITY IN
EMPLOYMENT BY ENFORCING THE
FEDERAL CIVIL RIGHTS EMPLOYMENT
LAWS THROUGH ADMINISTRATIVE AND
JUDICIAL ACTIONS

GOAL I.A.

Improve the effectiveness of the administrative
process and litigation program, including the use of
mediation, in private-sector enforcement activities
utilizing charge prioritization and National
Enforcement Plan and Local Enforcement Plan
priorities.

DISCUSSION

Historically, the agency's greatest challenge has been to effectively address a large number of private-sector charges with limited resources. The Commission's successful implementation of our Priority Charge Handling Procedures (PCHP) has resulted in the dramatic reduction of our charge inventory and a significant improvement in the management of our case load. In fiscal year 2000 the Commission will bring an integrated and strategic approach to all of the Commissions work, and instill a culture of customer service excellence throughout the entire organization.

We will implement a strategic enforcement approach in both the private and public sector programs. This will be accomplished through the Comprehensive Strategic Enforcement Model that will increase collaboration among outreach, investigatory and legal staff in all phases of the Commission's work, from outreach through expedited efforts to resolve charges; and, when efforts to conciliate fail, to litigate to protect the rights of

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working Americans. Secondly, we will build stronger relationships with partners in the public and private sectors, including the business community, private bar, State and local agencies, civil rights groups, unions, and other employee groups through outreach programs to educate, train, and provide technical assistance to increase voluntary compliance with anti-discrimination laws. A top priority will be effective implementation of the President's Equal Pay Initiative which will provide extensive technical assistance and training to employers, reach thousands of individuals and groups representing American workers through outreach and education and train our private sector staff on the identification and analysis of wage discrimination.

Our Goal I.A. measures will help us concentrate our efforts on critical areas of the enforcement process. The Commission believes that achieving these measures will result in more effective enforcement of the employment discrimination laws. We will devote resources to improve our processes so that charging parties and employers receive better and more timely resolution of charges. Measures #4 and

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#5 are designed to help achieve this important purpose.

Several measures (measures #1 and #3) are aimed at eliminating discrimination that involves multiple aggrieved parties or discriminatory policies in the work place. These types of charges and cases can have a broad impact in the private-sector and a successful outcome can improve the climate for equal employment opportunity. These measures use the concept of "proportion." This type of indicator will enable the Commission to carefully weigh all of its priorities and to ensure in its work load a proper mix of complex or issue-oriented private-sector charges and litigation that require more resources.

The Commission can not be certain of the number of charges filed or the relative merit of charges from year-to-year. Without this information, the Commission must carefully weigh its charge processing and litigation commitments, especially for the complex or policy cases, because of the additional resources they require. Consequently, the two proportional measures increase our commitment to

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multiple aggrieved parties or discriminatory policies charges and cases, but does so in relationship to a category of charges resolved (measure #1) or cases filed (measure #3).

The Commission will continue its expanded mediation program in fiscal year 2000. We believe that mediation can assist in the resolution of appropriate charges to the benefit of both charging parties and employers, while fulfilling the agency's Mission to promote equal opportunity in employment. Our second measure under this Goal clearly demonstrates our continuing commitment to this approach. The agency will evaluate the success of the program and make any necessary adjustments by obtaining feedback from participants and by ascertaining the program's overall effectiveness.

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MEASURES ✧ GOAL I.A.

1. *Increase the proportion of Category "A" charge resolutions that involve multiple aggrieved parties or discriminatory policies, so that the proportion in Fiscal Year 2000 is 7.5% greater than the proportion for Fiscal Year 1998.*

2. *Extend offers to mediate, using the Alternative Dispute Resolution (ADR) Program, to at least 50% of all appropriate charges received in the Fiscal Year.*

3. *Increase the proportion of cases filed in court that involve multiple aggrieved parties or discriminatory policies, so that the proportion in Fiscal Year 2000 is 10% greater than the projected proportion for Fiscal Year 1999.*

4. *Reduce the average time to resolve private-sector charges in the administrative process to approximately 180 days.*

5. *Reduce the number of private-sector charges in the administrative process to approximately 28,000 charges.*

GOAL I.B.

Improve the processing of Federal-sector EEO complaints, appeal actions, and affirmative employment procedures.

DISCUSSION

The federal-sector also generates a significant number of employment discrimination complaints. Again, the Commission has modified its approaches from time-to-time to attempt to address these complaints within its resource constraints. During the past few years, however, the number of requests for Hearings and Appeals has exploded.

The measures in this Goal commit the agency to reduce the time it takes to process these complaints and appeals (measures #2, #3, and #4). Others will help to develop better measures for evaluating agency results in this program (measure #1) and to review federal agency compliance with

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equal employment opportunity principles (measure #6).

As in the private-sector, the Commission believes that ADR procedures will help resolve employee concerns earlier and reduce the number of complaints proceeding further in the process. This result will help both individual federal agencies and the Commission to free resources for other endeavors. Many federal agencies already have implemented or have plans to implement ADR programs in the EEO process. The Commission will assist some of the smaller agencies that do not currently have an ADR program, so that they can benefit from this approach (measure #5).

MEASURES ✧ GOAL I.B.

1. *Implement measures and indicators identified or developed in Fiscal Year 1999 to assess the effectiveness of revisions made to the Federal-Sector EEO Process during Fiscal Year 1999.*

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2. *Reduce the average number of months of inventory of cases in the Hearings process from 17 months in Fiscal Year 1999 to 13 months.*
3. *Reduce by 5% the number of cases in the Hearings process over 180 days old in Fiscal Year 1999.*
4. *Reduce the average number of months of inventory of cases in the Appeals process from 23 months in Fiscal Year 1999 to 17 months.*
5. *Provide technical assistance to at least 5 federal agencies to develop an Alternative Dispute Resolution (ADR) program.*
6. *Conduct 14 on-site evaluations of federal agency EEO programs.*

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GOAL I.C.

Work with State and local Fair Employment Practices Agencies and Tribal Employment Rights Organizations to improve employment discrimination charge processing and other approaches for addressing workplace discrimination.

DISCUSSION

The Commission has diligently worked over the years with our partners at the FEPAs and TEROs to address employment discrimination. We are committed to continuing this relationship. Key measures for Fiscal Year 2000 are to provide technology (measure #1) and training (measure #2) so that FEPA and TERO staff can have the tools to enhance their effectiveness and efficiency and can learn new skills or remain current with the latest developments in equal employment law.

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MEASURES ✧ GOAL I.C.

1. *Improve technological capabilities of 13 Fair Employment Practices Agencies (FEPAs) to enhance the efficiency and effectiveness of charge processing procedures.*

2. *Provide a national training conference to FEPAs and Tribal Employment Rights Organizations (TEROs), and distribute materials for at least 2 training programs to each FEPA with which EEOC has a charge resolution contract.*

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GENERAL GOAL II:

PROMOTE EQUAL OPPORTUNITY IN
EMPLOYMENT BY ENFORCING THE
FEDERAL CIVIL RIGHTS EMPLOYMENT
LAWS THROUGH EDUCATION AND
TECHNICAL ASSISTANCE

GOAL II.A.

Encourage and facilitate voluntary compliance with
equal employment opportunity laws in the
private- and public-sectors.

DISCUSSION

Throughout its history, the Commission has strongly promoted voluntary compliance with federal equal employment opportunity laws to foster the prevention of discrimination before it occurs. We provide education and technical assistance to employers and the many other constituencies

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interested in or affected by our interpretations of law and how we do our work to encourage voluntary compliance.

We have also benefitted, however, from the ongoing dialogue we have had with these constituencies about our policies and procedures. This dialogue helps us develop better approaches to prompt voluntary compliance, and we will continue to seek their input (measure #1).

As part of our comprehensive outreach plan, our measures also commit us to increase our efforts to assist these groups, again to foster voluntarily compliance with the equal employment opportunity laws (measures #2, #3, and #4). In particular, we will emphasize the benefits of alternative dispute resolution approaches, such as our mediation process, for resolving discrimination claims earlier in the process (measure #5).

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MEASURES ✧ GOAL II.A.

1. *Increase consultations with employer Stakeholders on operational and legal issues from 500 in Fiscal Year 1999 to 550.*
2. *Continue to conduct 75 Revolving Fund activities for private-sector and public-sector employers.*
3. *Increase technical assistance efforts, other than Revolving Fund activities, from 10,000 individuals from private-sector and public-sector employers in Fiscal Year 1999 to at least 15,000 individuals.*
4. *Implement, as part of the agency's comprehensive outreach efforts, the plan developed in Fiscal Year 1999 to provide education and technical assistance and to proactively distribute EEOC's education and information materials to the public, including small private-sector employers, and to public-sector employers.*
5. *Produce educational videos on the private-sector charge and the Alternative Dispute Resolution (ADR) processes, and make them available in each field office to employers and charging parties.*

GOAL II.B.

Increase knowledge about individual rights under equal employment opportunity laws.

DISCUSSION

The Commission has benefitted from a dialogue with both employer and employee constituencies about our policies and procedures. We seek a wide range of viewpoints and will continue to seek input from the employee community (measure #1). In addition, the Commission provides education and technical assistance to potential charging parties in the private sector and complainants in the public sector to help them understand our processes and know their rights and responsibilities under the employment laws we enforce. As part of our comprehensive outreach plan, we will increase our efforts under this Goal to reach more individuals, especially under served constituency groups (measure #2).

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MEASURES ✧ GOAL II.B.

1. *Increase consultations with employee Stakeholders on operational and legal issues from 500 in Fiscal Year 1999 to 550.*

2. *Implement, as part of the agency's comprehensive outreach efforts, the plan developed in Fiscal Year 1999 to inform under served constituencies of their rights and to proactively distribute EEOC's education and information materials to employee Stakeholders.*

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GENERAL SUPPORTING OBJECTIVE

*ENHANCE THE EFFECTIVENESS OF OUR
EMPLOYEES TO ACHIEVE OUR MISSION
AND GENERAL GOALS*

OBJECTIVE III.A.

Enhance staff capabilities and substantive knowledge to improve work processes and job functions through training, partnership, team-based approaches, and customer-based principles.

DISCUSSION

Our commitments to investigate, litigate, assist, and educate can only be carried out if we invest in our employees. Measure #1 makes a commitment to provide training to all of our employees so that they can improve their skills and

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give better service to the public and our own employees.

MEASURE ✧ OBJECTIVE III.A.

1. *Provide training to all EEOC employees in skills relevant to their primary job duties and responsibilities.*

OBJECTIVE III.B.

Evaluate organizational components, procedures,
and processes aimed at allocating more
resources towards General Goal activities.

DISCUSSION

We must improve the ability of our employees to provide excellent customer service to the public by reducing unnecessary internal processes and procedures (measure #1). Also, we must set an example for the larger federal community through our commitment to the efficient resolution of internal EEO complaints, including the increased use of ADR by voluntary mediation (measure #2). The measures here will help us gauge our success in these areas.

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MEASURES ✧ OBJECTIVE III.B.

1. *Continue to review internal directives and streamline, update, or eliminate 10% of those in effect as of September 30, 1998, in order to improve internal processes and free resources for front-line enforcement activities.*

2. *Reduce by 15% from Fiscal Year 1999 the average number of days to process internal EEO complaints, and use innovative approaches, such as Alternative Dispute Resolution (ADR) by voluntary mediation.*

OBJECTIVE III.C.

Attain and maintain technological competency.

DISCUSSION

The information age requires all federal agencies to have a sound technological infrastructure and for the staff to have technological competence. This will allow the agency to sustain its programs and business operations; support its mission, goals and objectives; and have employees use the most modern and efficient tools to do their jobs and serve the public. The Commission is committed to providing the best technology it can within its resources. Measures #1 through #4 are aimed at fulfilling that promise.

MEASURES ✧ OBJECTIVE III.C.

1. *Provide wide area network connectivity and Internet access throughout the agency.*
2. *Continue to develop the Integrated Mission System (IMS), which will consolidate EEOC's major mission-related information systems into a single, shared database that will improve functionality, expand employee access, and allow for future integration with administrative systems.*
3. *Develop a standardized federal EEO Complaint Tracking and Reporting System to improve the collection of data from federal agencies and provide more efficient reporting of federal EEO complaints.*
4. *Implement travel and procurement modules for the Integrated Financial Management System to provide enhanced service to the staff.*

VERIFICATION AND VALIDATION

The agency, throughout Fiscal Year 1999, began to assess its data collection approaches and systems and their capability to demonstrate performance results for the measures contained in, or proposed for, its Performance Plans. In addition, we began to integrate our budget and planning processes and documents. During this endeavor, the agency considered future data collection approaches and systems to more effectively meld these processes.

As we developed this Fiscal Year 2000 Annual Performance Plan, the agency greatly benefitted from the dialogue among Commission offices. Future GPRA Plans, and the measures developed, will use better data collection approaches and systems. We will continue to rely heavily on the Commission's core data systems already in place throughout the agency; however, we plan to upgrade many of them, consolidate separate systems, and use advanced technology to obtain data more effectively. All of these approaches will help us make more informed management decisions.

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For example, the Commission's Charge Data System (CDS) contains administrative charge processing information that can be used to track multiple aggrieved parties or discriminatory policies cases for Goal I.A. reporting purposes. The CDS also uses various procedural steps to verify the accuracy of all entered data. Litigation, however, is tracked in a separate data system.

The Commission is developing a new system that will combine the information from these two systems--and other separate systems--into one integrated data base. We will benefit from one unified system containing enforcement data, and the advanced technology to enable managers to configure data in formats they need to make quicker and better operational decisions.

The Fiscal Year 1999 Annual Performance Plan will help us develop approaches to verify and validate information. Also, our discussions about critical data collection and verification procedures have already helped focus our dialogue about measures. The agency will continue to refine these approaches and we anticipate that our collection and verification processes in future years will improve significantly.

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Also, the Commission is exploring different data needs in order to develop more outcome-type measures and assess levels of accomplishment. The most difficult problem is to establish causal relationships for particular outcomes. We need to consider which data are appropriate, how much value they will add towards our ability to evaluate our achievements, what level of resources are needed to establish a causal relationship, and how the data will be verified. Some of the efforts we took this year with some of our measures will help us build a foundation for developing future outcome-oriented measures.

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PROGRAM ACTIVITY AND THE BUDGET

The Fiscal Year 2000 Budget Request is for \$312,000,000, an increase of \$33,000,000 over the President's Fiscal Year 1999 budget request.

The EEOC has two Program & Finance (P&F) schedules. The schedules cover salaries and expenses, and a small "enterprise fund," known as the "Revolving Fund," which enhances the agency's education and outreach efforts.

The yearly appropriation for the major P&F schedule covers salaries and expenses in three program activity areas: (1) *Executive Direction and Program Support*, (2) *Enforcement*, and (3) *State and Local*. The salaries and expenses are linked to agency activities within each identified program activity area.

The agency's Fiscal Year 2000 budget request for both the *Executive Direction and Program Support* and *Enforcement* program areas is \$283,000,000; \$33,000,000 over the Fiscal Year 1999 budget

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request. This amount will allow the agency to improve the efforts described in the Fiscal Year 2000 Budget Request for these two program areas, which include our extensive technology efforts.

The Fiscal Year 2000 budget request is for \$29,000,000 for the third program activity area, *State and Local*. This funding represents level funding for the program activity area and will allow EEOC to support achievement of the measures for this activity area.

The second P&F schedule addresses an enterprise fund, which was established under the *EEOC Educational, Technical Assistance, and Training Revolving Fund Act of 1992*. This Revolving Fund provides money to enhance the Commission's education and outreach efforts. Achievement of the Goals in this Annual Performance Plan for education and outreach is predicated upon this dual funding approach.

The Annual Performance Plan's measures assume that the Commission receives its full budget request at the beginning of the fiscal year. The amount and timing of our appropriation directly affects the accomplishment of the agency's measures and goals.

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We began to integrate our budget and planning processes, which will help us enhance managerial decision-making. This effort includes the identification of data needed to more accurately assess the resources necessary to perform the Commission's different activities. Currently, our systems may not be capable of collecting specific data or it may take a disproportionate amount of resources to collect the data. We will use other approaches to allocate expenditures among our activities to improve planning and budget decisions, while we continue to develop better data and data collection systems.

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PROGRAM EVALUATION

As noted in our Strategic Plan, the agency conducted many strategic planning activities in the past, particularly since the fall of 1994 when former Chairman Gilbert Casellas, current Acting Chairman Paul M. Igasaki, and Commissioner Paul Steven Miller arrived. Since then, they have been joined by Commissioner Reginald E. Jones. The Commission has voted on policy and process changes covering the administrative, litigation, and federal sector responsibilities of the agency. These activities and evaluations were noted in our Fiscal Year 1999 Annual Performance Plan. We continue to build on this substantial record. Some examples of our accomplishments during the past Fiscal Year are:

- Established the structure for the EEOC Alternative Dispute Resolution (ADR) program, throughout all of the District Offices and the Washington Field Office nationwide;
- Realized substantial gains in the quality and results of enforcement activities from the adoption of the National Enforcement Plan

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(NEP) and the Priority Charge Handling Procedures (PCHP);

- Issued a task force report assessing the effectiveness of implementing its Priority Charge Handling Procedures (PCHP) and litigation program;
- Issued a task force report reviewing the federal sector's charge processing procedures and recommended improvements to significantly enhance them;
- Issued a task force report on the "best" equal employment opportunity policies, programs, and practices in the private-sector;
- Upgraded computer equipment at a large number of Fair Employment Practices Agencies (FEPAs), which will substantially improve the effectiveness and efficiency of charge processing and data reporting;
- Conducted over 1,600 technical assistance and outreach activities reaching over 100,000 individuals, nationwide, from the employer and employee community;

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- Provided technical assistance and outreach activities to a large number of federal agencies on the federal-sector EEO complaint process;
- Developed educational and technical assistance materials to aid the public in the understanding of laws enforced by the EEOC and how charges are filed with and processed by the EEOC;
- Resolved a case against a major national automobile manufacturer which resulted in a settlement which revamped the company's sexual harassment policy and procedures and provided \$34 million in monetary relief to 300-400 women who suffered on-the-job harassment based on their gender;
- Negotiated a settlement with a manufacturing company which addressed racial harassment affecting a class of 90 African-Americans, and bringing an end to a hostile work environment that included graffiti, name-calling, and offensive jokes;
- Negotiated a settlement with a national pharmaceutical firm that provided for a non-

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hostile work place for a class of 13 Native Americans who had been subjected to demeaning and offensive slurs and conduct relating to their heritage, culture and traditions;

- Negotiated settlements that resulted in essential injunctive relief, including such things as training and preventative approaches to discrimination issues as well as monetary compensation for affected individuals. The employer in one case, seeking to promote a more positive and productive work environment, established a \$100,000 Partnership Training Program designed to improve employee relations and to enhance problem-solving skills;

- In Faragher v. City of Boca Raton and Burlington Industries v. Ellerth - EEOC participated as an *amicus curiae* to advise the Court of the Commission's longstanding views. The Supreme Court's decision clarified the circumstances under which employers are legally responsible for sex harassment by their managers and the steps employers can take to protect themselves from liability;

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- Negotiated a settlement with a union that establishes a system for gender-neutral work referrals as longshore workers, and provides 18 women with union membership, seniority rights and bonus pay going forward three years;
- Negotiated a settlement with a health care provider which resolved claims of retaliation and disparate treatment in conditions of employment. EEOC obtained relief for Hispanics by rolling back an English-only policy, removing disciplinary records from personnel files and providing monetary compensation to six persons;
- In a suit against a national retail merchant, persuaded a jury to find that the merchandiser violated the ADA when it refused to hire a job applicant for a store clerk position because he uses a wheelchair, and awarded the applicant back pay, \$75,000 in compensatory damages and \$3.5 million in punitive damages. The compensatory and punitive damages were reduced by the court to a total of \$300,000, the maximum available under the cap in the 1991 Civil Rights Act;

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- Successfully settled a case involving a school that denied a parent a full-time job because she had a disabled child;
- In a suit against a trucking company, achieved a jury verdict on liability in favor of the EEOC for a class of more than 150 persons, age 40 and over, who were denied hire into truck driver positions. Company interviewers commented to several applicants that they could not handle the hard work and that the jobs might be more suitable for younger drivers;
- In Oubre v. Energy Operations, Inc., - the Supreme Court agreed with EEOC's position presented in an *amicus curiae* brief and ruled that older workers who believe they have been discharged because of their age can have their rights adjudicated under the Age Discrimination in Employment Act (ADEA) without having to first tender back any consideration they received in exchange for signing a separation waiver and release that they allege was invalid;
- Conducted the EEOC's first Regulatory Negotiation with a wide range of stakeholders,

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representing employees, management and unions, on the issue of waiver agreements under the Age Discrimination in Employment Act (ADEA). A final regulation was published in June 1998;

- Trained our employees in areas enhancing critical skills required to continue quality charge processing, including training modules in developing priority "A" cases and negotiation techniques, continued participation in a career development program for support personnel, conducted extensive technology training throughout the agency to enhance skills to utilize desk top computers, conducted partnership training throughout the agency to enhance the efforts of many labor-management partnership councils in order to improve the work place environment and enforcement activities;

- Completed the installation or upgrade of Local Area Networks (LANs) in headquarters, the Washington Field Office, and 22 of the 24 District Offices. This technology will improve communications within each Office, enhance charge- and case-processing productivity, and

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continue the agency's efforts to become year-2000 compliant;

and,

- Improved technological capabilities so that over 6,000 employers were able to report employment profiles electronically, eliminating the need to file over 40,000 survey forms, which would have taken 160,000 hours a year to prepare, and conservatively would have cost over \$1.6 million.

We will integrate the results of Program Evaluations into the development of better, more effective performance measures, as we gain more strategic planning experience. Program Evaluations will help us determine what programs worked and how well they worked. We will be able to quantify results and adjust programmatic approaches with more specific, accurate information on hand.

We intend to focus on several critical program areas in Fiscal Year 2000. Although specific areas currently have not been decided, they will be conducted in important areas of the Commission's work, similar to the ones described below:

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- The agency may evaluate the quality of decisions for categorizing charges as “A,” “B,” or “C” under the Priority Charge Handling Process (PCHP).

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CONCLUSION

The Equal Employment Opportunity Commission believes that this second Annual Performance Plan continues our efforts to implement the Government Performance and Results Act. This Plan defines those goals and measures for Fiscal Year 2000 that will enhance our programs and their effectiveness.