

THE WHITE HOUSE

WASHINGTON

March 22, 1999

MEMORANDUM FOR: CHARLES RUFF, COUNSEL TO THE PRESIDENT
MARIA ECHAVESTE, DEPUTY CHIEF OF STAFF

FROM: *EC* EDDIE CORREIA, SPECIAL COUNSEL FOR CIVIL RIGHTS

RE: STATUS REPORT ON CIVIL RIGHTS INITIATIVES

You asked for a status report on the civil rights initiatives identified by the Civil Rights Coordinating Council. This memo addresses three of these initiatives -- eliminating hate crimes, closing the wage gap, and increasing diversity in the workforce.

Hate Crimes

The Hate Crimes Prevention Act of 1999 has been introduced in both the House and Senate. Kennedy and Specter are the leaders in the Senate. Conyers, Morella and Forbes will be leaders in the House. There were 106 original cosponsors in the House, up from about 30 last Congress. Several Members participated in the introduction event, including Kennedy, Specter, Leahy, Conyers, Gephardt, Smith of Oregon and others. White House and DOJ staff have been very involved in drafting the bill and organizing support for it.

We have a number of challenges, including increasing support by state and local law enforcement and addressing federalism and First Amendment concerns. Unfortunately, the ACLU has written a highly critical letter. We meet with ACLU representatives on March 23 to try to resolve their concerns. There will be some type of White House event in early April, probably a radio address for broadcast on April 3. OPL has been helpful in planning the event and in reaching out to possible supporters, including the religious community.

We might want to extend this effort to include harassment, in addition to violent hate crimes. OCR has published a well-received guide on harassment in schools, and I will include them in any expanded effort in this area.

Wage Gap

Both the Equal Pay Act and Title VII can be used to challenge pay discrimination by employers. However, these cases, which usually focus on differences in pay for specific individuals, are difficult to prove. A broader policy concern is that employers may adopt policies (perhaps some of them unconsciously) that result in unfair wage differences between men and women or between minorities and non-minorities. There is now no regular collection of wage

*2 cents
go to
b/het
p/g/ser*

data by any federal agency. Consequently, we do not have an adequate basis for monitoring wage patterns by individual employers or by industry as a whole. At the very least, such data could be useful in conducting research. Depending on how it is provided and the limitations placed on it, it could be used for enforcement efforts as well.

Most of the effort within the White House regarding wage gap issues has been coordinated by DPC. One question has been whether to support comparable worth legislation, sponsored by Senator Harkin. DPC and most of the agencies involved in the review oppose the Harkin bill. DPC and the agencies are continuing to discuss alternative legislation, sponsored by Senator Daschle, which would require additional data collection. There appears to be a consensus that industry-wide data collection should be mandated by legislation rather than by administrative action, for example, an EEOC regulation. However, there is no consensus, at least yet, about what data collection requirements the Administration would support in the Daschle bill.

A remaining issue is whether we should require additional data from government contractors. OFCCP in DOL has recommended a revision of its current data collection requirements. The revised form would reduce the burden on contractors in some ways, but for the first time it would also require contractors to provide wage data by race and gender. The proposal is now pending in DOL where there is concern about the opposition such a requirement would generate. I believe that the OFCCP proposal is worth discussing within the White House. A summary of the proposal is attached. If you wish to pursue this matter, I would suggest a discussion on the issues involved in implementing this proposal with interested persons within the White House, Shirley Wilcher, Kitty Higgins, and possibly the Secretary.

Diversity in the Workforce

We are proceeding in three areas: 1) increasing diversity in the science, technology and engineering (ST&E) workforce; 2) increasing opportunities for disabled Americans; and 3) eliminating job barriers stemming from discrimination based on sexual orientation. Our first efforts have focused on the ST&E workforce.

The working group has identified a number of possible administration actions: 1) reaching out to high-tech firms; 2) improving recruiting efforts by federal agencies; 3) holding an EEOC Commission meeting to highlight the lack of minorities and women in some job categories; and 4) calling attention to an upcoming report by the Office of Science and Technology on the lack of diversity in the ST&E workforce. All of these steps have promise and can be done in the near term, without the need for legislation or additional funding. In my view, the most important and effective effort we can make involves reaching out to high-tech firms to call on them to make substantial efforts to increase the number of minorities and women who pursue ST&E careers.

Meeting with High-Tech Firms

The working group's tentative recommendation is for the President or the Vice-President to meet with industry leaders in about two months with the expectation that he could announce a number of commitments by industry. These commitments could include: 1) setting aside funds for scholarships; 2) forming partnerships with HBCU's, Hispanic Serving Institutions, inner-city schools, state and local governments, or others; 3) developing corporate internship programs; and 4) establishing a permanent industry-funded organization to promote these kinds of opportunities in the future. (There is now an effective industry-funded organization to promote minority engineers, but we envision a parallel organization with a broader focus.)

A number of high-tech firms make substantial contributions to achieve these goals now, such as AT&T, United Technologies. Other very successful firms do little. Our plan is to identify a small group of industry leaders who are sympathetic with our efforts and to seek their advice in reaching out to other firms. We would then meet with a larger group of firms with the hope that we could obtain some commitments about their expanded efforts. We envision presentations by agencies that have particular opportunities for linkages, such as the Gear Up program. In addition, we can arrange presentations by outside groups such as HBCU's. I would appreciate your thoughts as to whether and how these meetings should proceed.

I realize that we cannot make an advance commitment to an event with the President. However, after some initial conversations with private firms, we will be in a better position to judge the feasibility of significant industry commitments. At that point, it would be very useful to determine if such an event can occur.

cc: Peter Rundlet
✓ Irene Bueno
Clara Shin

60-2 Affirmative Action Program Summary

The regulations pertain to federal contractor obligations under Executive Order 11246. Current OFCCP regulations at 41 CFR § 60-2.14 require that federal contractors summarize and update their affirmative action program annually. This helps contractors conduct self-audits, that prevent discrimination.

Section 60-2.14 further provides that the program summary shall be prepared in a format prescribed by the Director (Deputy Assistant Secretary), and submitted to OFCCP each year on the anniversary of the AAP. Although the AAP summary has been included in the Part 60-2 regulations since 1979, it has yet to be implemented through the establishment of a prescribed format.

The 60-2 proposal would implement the AAP Summary requirement. Proposed § 60-2.31 would require that contractors prepare and annually submit to OFCCP an AAP Summary for each of their establishments. The AAP Summary would contain information about the hiring and advancement of minorities and women, and the contractor's affirmative action performance as of the end of each calendar year. The AAP Summary requirement would apply to every contractor that is required by § 60-2.1 to develop an AAP.

Proposed paragraph (b) describes the contents of the AAP Summary. The proposed AAP Summary consists of the following parts: Part A — Establishment Identification and Background Data; Part B — Personnel Activity Summary; Part C — Goal Summary by Job Groups within EEO-1 categories; Part D — Salary Data Summary, and Part E — Certification. The proposed regulation would require contractors to prepare their AAP Summaries in accordance with the format specified in proposed Appendix A.

Thus, except as provided in proposed paragraph (c), a contractor would be required to annually report in the AAP Summary: demographic data on the incumbents and

individuals who were hired, terminated, or promoted during the preceding calendar year in each EEO-1 category; the number of job groups in each EEO-1 category for which placement goals were established during the preceding calendar year; and data concerning the median salaries or wages paid to minorities and women under its compensation system during the preceding calendar year. Proposed paragraph (c) provides that when a contractor becomes subject to the requirements of the Executive Order after June 1, information about personnel activity and the number of job groups with goals need not be provided for the initial calendar year.

Proposed paragraph (d) establishes the submission deadline for the AAP Summary no later than March 15 of the succeeding year. Paragraph (d) also would encourage contractors to submit their AAP Summaries in electronic format. Submission in electronic format should result in savings for many contractors. It also will greatly expedite OFCCP's receipt and analysis of submitted data.

A recurring concern of contractors is that information submitted to OFCCP may be disclosed to competitors or the public under the Freedom of Information Act (FOIA). Proposed paragraph (e) states that OFCCP will treat information contained in the AAP Summary as confidential to the maximum extent the information is exempt from public disclosure under FOIA. OFCCP explains in proposed paragraph (e) that it considers contractor data to be confidential such that disclosure would subject the contractor to commercial harm, and indicates that its practice is not to release data where the contractor still is in business.

The AAP Summary would be phased in gradually to allow contractors that are smaller employers, those with fewer than 150 employees, more time to comply. A gradual phase-in would also allow OFCCP more time to provide any needed technical assistance. During the first year the regulation is effective, the requirement to file an annual AAP Summary would apply only to contractors with 150 or more employees. Beginning the second year after the effective date of the regulations all contractors would be required to file an annual AAP Summary.

OFCCP believes that implementation and enforcement of the AAP Summary requirement will benefit contractors, women and minorities, and the agency. The data reported in the AAP Summary would enable OFCCP to perform a basic audit of each contractor's compliance each year. Historically, only 3 to 4 percent of the covered contractor establishments are identified for compliance evaluation or complaint investigation each year. In addition, the data reported in the AAP Summary would enable OFCCP to develop more refined methods of selecting contractor establishments for compliance evaluations, thus enhancing the agency's ability to target its enforcement resources on those establishments most likely to be out of compliance. Finally, an AAP Summary requirement would engender heightened contractor awareness of each establishment's equal employment opportunity performance, including with regard to pay disparities. OFCCP expects that the heightened awareness of performance, along with increased compliance presence, will improve the level of compliance.

The AAP Summary should require no additional recordkeeping on the part of a contractor. Current regulations already require a contractor to keep the information needed to complete the AAP Summary. To complete the AAP Summary, a contractor would use information taken from the AAP, from employment records required to be preserved according to § 60-1.12(a), or from documentation of selection procedures required under § 60-3.4 and § 60-3.15. For example, the information a contractor would submit in Part B is required in current § 60-1.12(a), § 60-2.12(m), § 60-3.4, and § 60-3.15. Current § 60-2.12 requires a contractor to set goals; goal information would be included in Part C. Under § 60-1.12(a), a contractor is required to keep records concerning pay and compensation. This information would be used to complete AAP Summary Part D, Salary Data Summary.

SALARY DATA SUMMARY

Incumbent Employees As Of:

AAP Summary Part D Page 5

MEMORANDUM

TO: BRUCE REED, ELENA KAGAN
FROM: TOM FREEDMAN, MARY L. SMITH
RE: CIVIL RIGHTS INITIATIVE
DATE: DECEMBER 3, 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 federal civil rights offices are reformed 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, 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, be part of a \$15 million technology upgrade to reduce paperwork and create paperless filing systems, and be coordinated for the first time in a federal civil rights working group. The package of improvements totals \$73 million, including a 12% increase above 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, although the percent figures for EEOC and HUD listed above are accurate under OMB numbers. An attached memo lists the \$16 million in new, unapproved, spending.]

as yet

backlogs

I. Reducing Backlogs

One of the most commented upon problems in civil rights enforcement are delays in hearing cases at the EEOC. Delays sap the faith of Americans that the system will protect them if they are discriminated against. Although substantial progress has been made in reducing

② HUD

**PRESIDENT CLINTON ANNOUNCES NEW
CIVIL RIGHTS ENFORCEMENT INITIATIVES**

December 12, 1997

Info | President Clinton today announced a comprehensive package of civil rights enforcement initiatives that will be implemented at the Department of Justice, the Equal Employment Opportunity Commission, the Department of Labor's Office of Civil Rights, the Department of Labor's Office of Federal Contract Compliance Programs, and the Department of Health and Human Services' Office of Civil Rights. These initiatives focus on the following performance goals: increasing the use of alternate dispute resolution; targeting future compliance and technical assistance efforts; reducing backlog; creating a paperless office; and improving coordination among the civil rights agencies.

Alternate Dispute Resolution

3 | The President announced 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 the 80,000 new charges. The President also announced a \$1.5 million package of alternative dispute resolution programs at the civil rights offices at Education, Labor, and HHS that will improve case-processing times and facilitate the closure of compliance reviews by contracting with outside mediators and assisting the states to take an active role in addressing discrimination complaints.

4 | **Targeting Future Compliance and Technical Assistance Efforts**

EEOC. The President announced a comprehensive package of initiatives for the EEOC to target its technical assistance efforts by performing a benchmark survey on the Americans with Disabilities Act, producing informational videos for employers, conducting a public service announcement campaign, holding stakeholder meetings across the country, and translating its materials into several languages. Collectively, these initiatives will cost approximately \$980,000.

Education. The President announced that the Department of Education will conduct a \$1.7 million survey of the approximately 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.

HHS-OCR. The President announced a three-pronged data collection initiative, estimated at \$1.9 million, that will help HHS to effectively target outreach efforts, streamline compliance activities, and ensure effective oversight of non-discrimination provisions of various programs. These data collection efforts will disclose the number of minorities served by various programs and measure outcomes, particularly in the areas of medical decision-making at individual facilities and at managed care plans to see how these decisions are influenced by race and ethnicity..

Labor. The President also announced a number of initiatives at the Department of Labor that will improve the efficiency of future compliance and technical assistance efforts, most particularly through expanding the use of a multi-tiered level of review. The President also announced a \$1.5 million initiative to increase the use of the Ombud Office at DOL's Office of Federal Contract Compliance which provides technical assistance that focuses on prevention rather than enforcement.

Reducing Backlog

To reduce the backlog from the over 9.4 months it currently takes to resolve private-sector complaints to 6 months by the year 2000, the President announced an approximately \$6 million increase in EEOC resources. The President also announced two new initiatives at HHS that will reduce significantly any backlogs by expanding pilot programs that use 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 help to reduce any increased workloads resulting from the Patients' Bill of Rights and Adoption 2002 initiatives.

Paperless Office

 The President announced an \$15 million technology initiative that would include the EEOC, HHS, Labor, and Education in order 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.

Coordination Among the Civil Rights Agencies

Inter-agency Civil Rights Coordination Group. The President announced the creation of a standing inter-agency group that 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; and coordinated training initiatives, data collections, reviews, and investigations.

Inter-agency training program. The President announced a \$1 million training program, coordinated by the Department of Justice, that 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 will also provide civil rights investigative and outreach training to state and local partners.

Intra-agency civil rights councils. The President announced that each Department would establish a high-level civil rights advisory council that will be a forum for review of agency-wide

policies and practices and that will serve as a forum for external organizations to present civil rights concerns associated with individual agency programs.

Geo-coded/Mapping Data Base on a Civil Rights Intranet. The President announced that HHS, in conjunction with the Census Bureau and the Department of Justice, will develop a \$350,000 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 will enable civil rights agencies to have immediate access to tract-level data during the course of investigations and reviews and would provide a government-wide index of administrative decisions, letters of findings, and entities under civil rights investigation.

Intranet technology. The President announced that Intranet technology will be used to create a network for used by selected civil rights enforcement agencies. The system will be used for various purposes such as sharing data and posting information like current research, historical document, special alerts, best practices, scheduled meetings/conferences, newsworthy events, and training opportunities.

EEOC delays, this plan uses improvements in technology and a \$6 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 rural program developed by HHS, and a program to assist states in developing ADR programs run by Labor.

↑ from Labor

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. Included in these projects are EEOC funds for 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. In addition, 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. HHS will use the funds to investigate medical decision-making to determine how it is influenced by race and ethnicity. 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.

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 provides funds for a \$1 million training program, coordinated by the Department of Justice, to focus on investigative methodologies, examination of best practices in non-discriminatory service delivery, litigation review and strategy, and compliance techniques. Finally, 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.

II. HUD

III. Alternate Dispute Resolution

The President announced 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 the 80,000 new charges. The President also announced a \$1.5 million package of alternative dispute resolution programs at the civil rights offices at Education, Labor, and HHS that will improve case-processing times and facilitate the closure of compliance reviews by contracting with outside mediators and assisting the states to take an active role in addressing discrimination complaints.

IV. Targeting Future Compliance and Technical Assistance Efforts

EEOC. The President announced a comprehensive package of initiatives for the EEOC to target its technical assistance efforts by performing a benchmark survey on the Americans with Disabilities Act, producing informational videos for employers, conducting a public service announcement campaign, holding stakeholder meetings across the country, and translating its materials into several languages. Collectively, these initiatives will cost approximately \$980,000.

Education. The President announced that the Department of Education will conduct a \$1.7 million survey of the approximately 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.

HHS-OCR. The President announced a three-pronged data collection initiative, estimated at \$1.9 million, that will help HHS to effectively target outreach efforts, streamline compliance activities, and ensure effective oversight of non-discrimination provisions of various programs. These data collection efforts will disclose the number of minorities served by various programs and measure outcomes, particularly in the areas of medical decision-making at individual facilities and at managed care plans to see how these decisions are influenced by race and ethnicity.

Labor. The President also announced a number of initiatives at the Department of Labor that will improve the efficiency of future compliance and technical assistance efforts, most particularly through expanding the use of a multi-tiered level of review. The President also announced a \$1.5 million initiative to increase the use of the Ombud Office at DOL's Office of Federal Contract Compliance which provides technical assistance that focuses on prevention rather than enforcement.

V. Paperless Office

The President announced an \$15 million technology initiative that would include the EEOC,

HLW

MEMORANDUM

TO: BRUCE REED, ELENA KAGAN

FROM: TOM FREEDMAN, MARY L. SMITH

RE: CIVIL RIGHTS INITIATIVE

DATE: DECEMBER 3, 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 federal civil rights agencies are reformed so they are more effective at prevention and are better coordinated.

The plan was submitted

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, be part of a \$15 million technology upgrade to reduce paperwork and create paperless filing systems, and be coordinated for the first time in a federal civil rights working group. The package of improvements as approved by OMB totals \$57 million, including a 12% increase above enacted FY 1998 budget for EEOC, and a roughly 50% increase for the relevant HUD office.

Make, the full plan described below includes an additional approximately \$16 million of expenditures that have not been approved by Director Reines. An attached memo lists the programs that are new and those that have been approved.

I. Reducing Backlogs

One of the most commented upon problems in civil rights enforcement are delays in hearing cases at the EEOC. Delays sap the faith of Americans that the system will protect them if they are discriminated against. Although substantial progress has been made in reducing EEOC delays, this plan uses improvements in technology and a \$6 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 ~~the~~ 80,000 new charges. In addition, pilot programs will be introduced at several agencies including a rural program developed by HHS, and a program to assist states in developing ADR programs run by Labor. ib3

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. Included in these projects are EEOC funds for 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. In addition, 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. HHS will use the funds to investigate medical decision-making to determine how it is influenced by race and ethnicity. 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. X

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

C.V. 1/1
A common complaint by rights groups who work with the 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; 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; and coordinated training initiatives, data collections, reviews, and investigations.~~ *and* In addition the plan provides funds for a \$1 million training program, coordinated by the Department of Justice, to 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.~~ Finally, the plan recommends that the President call upon each Department to establish an internal high-level civil rights advisory council to ~~be a forum for~~ review of agency-wide policies and practices and serve as a forum for external organizations to present civil rights concerns associated with individual agency programs. *X*

MEMORANDUM

TO: BRUCE REED, ELENA KAGAN
 FROM: TOM FREEDMAN, MARY L. SMITH
 RE: CIVIL RIGHTS CROSSCUT
 DATE: DECEMBER 2, 1997

OMB	NW	
4.0	.25	
4.8	.99	1.5
10	.2	
8.0	.1	
	.25	
	.225	
	.1	
	.125	
	.28	
	1.7	
	2.6	
	1.0	6.2
	.55	
	.25	
	.1	
	1.6	
	.36	2.0
	.27	
	1.7	2.0
	.4	
	.5	
	.2	
	.25	
	.5	
	.15	
	4.0	4
	.2	
	.35	7.5
	.1	
	.4	1
	.5	

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 provide 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)

For Immediate Release

August 4, 1994

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Civil Rights Working Group

I am writing to you about our responsibility to promote equal opportunity for all Americans. We have accomplished much in our pursuit of a society in which all our people can achieve their God-given potential. But we still have a long way to go.

Americans believe that in spite of our differences, there is in all of us a common core of humanity that obliges us to respect one another and to live in harmony and peace. We must build on this belief and give real meaning to civil rights by tearing down all remaining barriers to equal opportunity -- in education, employment, housing, and every area of American life.

Throughout the Nation, each of us must bring new energy to our efforts to promote an open and inclusive society. Those of us who are public servants have a special obligation. At the Federal level, we will do this by re-evaluating the civil rights missions, policies, and resources of every agency, so that they carry out their missions in a manner consistent with the Administration's commitment to equal opportunity. In reviewing our activities, we must seek not only to eliminate barriers to equal access and opportunity, but also to identify opportunities for innovation. No Federal office should be exempt from the obligation to further the struggle for civil rights. And every State and local government should be encouraged to do the same.

On January 17, 1994, I issued an Executive order establishing a President's Fair Housing Council to be chaired by the Secretary of Housing and Urban Development. Working across agencies and programs, this Council will bring new focus and leadership to the administration of the Federal Government's fair housing programs. On February 11, 1994, I issued an Executive order directing agencies to develop strategies to identify, analyze, and address environmental inequities that are the result of Federal policies. That order will increase public participation in the environmental decision-making process.

In addition to these efforts, I believe more can be done to exercise leadership for civil rights enforcement. That is why I hereby establish a Civil Rights Working Group, under the auspices of the Domestic Policy Council, to evaluate and improve the effectiveness of Federal civil rights enforcement missions and policies. The Civil Rights Working Group will identify barriers to equal access, impediments to effective enforcement of the law, and effective strategies to promote tolerance and

more

10: 2 001 27 97 23:18 NO.001 P.03

understanding in our communities and workplaces. Most important, I expect the Working Group to develop new approaches to address these issues.

The principal focus of the Working Group will be our civil rights enforcement efforts. We must recognize, however, that public and private enforcement resources will never be fully adequate to the task, and all of the remaining obstacles to opportunity cannot be removed through litigation alone. Therefore, I direct the Working Group to identify innovative strategies that can leverage our limited resources to provide new avenues for equal opportunity and equal rights. Among those potential strategies are new measures relying on civic education and voluntary efforts to engage citizens in overcoming the effects of past discrimination. These new strategies should be designed to complement our improved and reinvigorated enforcement efforts.

The Attorney General and the Director of the Office of Management and Budget will co-chair the Working Group. The following Administration officials will serve as members: the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Transportation, the Secretary of Veterans Affairs, the Administrator of the Environmental Protection Agency, the Chair of the Equal Employment Opportunity Commission, the Assistant to the President for Economic Policy, the Assistant to the President for Domestic Policy, and the Assistant to the President and Director of Public Liaison. I also have invited the Chairperson of the Commission on Civil Rights to participate in this crucial endeavor on an informal basis, respecting the independent and critical voice we expect of that Commission. Finally, this membership list is not exclusive. I invite and encourage all Cabinet officers and agency heads to participate in the Working Group.

The Working Group will advise appropriate Administration officials and me on how we might modify Federal laws and policies to strengthen protection under the laws and on how to improve coordination of the vast array of Federal programs that directly or indirectly affect civil rights. I direct the Working Group to provide the Cabinet and me with a brief progress report no less than every 6 months, and specifically to:

- (a) examine each Federal agency with a significant civil rights mission and provide me with an evaluation of how well that mission is being implemented. These analyses should examine whether each agency uses the experience gained from enforcement activities of other agencies and other levels of government. Counterproductive and inconsistent practices should be identified and proposals for change recommended;

more

- (b) examine cross-cutting civil rights law enforcement challenges such as voting rights and equal access to government benefit programs and identify innovative means of coordinating and leveraging resources;
- (c) develop better measures of performance for Federal civil rights enforcement programs, taking into account the real impact of programs on the daily lives of all Americans; and
- (d) support and advise all agencies as we reinvent our strategies for the promotion of an open and inclusive society.

With this interagency effort, I underscore the commitment of this Administration to bring new energy and imagination to the opportunity agenda. In departments and agencies throughout the Federal Government, this work is already well underway. The Working Group will provide a mechanism to expand and accelerate that vital work. Its work will be among our greatest contributions to the people we serve.

WILLIAM J. CLINTON

#

DRAFT

1999 DIRECTOR'S REVIEW CIVIL RIGHTS CROSSCUT

DRAFT

Office of Management and Budget
Housing, Treasury, and Finance Division

November 12, 1998

DRAFT

DIRECTOR'S REVIEW FOR THE FY 1999 BUDGET
CIVIL RIGHTS CROSSCUT
Table of Contents

1.	Overview
2.	Summary of Agency Request and Recommended Funding Levels
	Table A. Civil Rights Enforcement Agencies Reviewed in Issue Papers
	Table B. Other Enforcement Agencies and Nonenforcement Programs
3.	Issue Papers:
	Issue #1 Equal Employment Opportunity Commission
	Issue #2 Department of Justice, Civil Rights Division
	Issue #3 Department of Labor, Office of Federal Contractor Compliance Programs
	Issue #4 Department of Education, Office of Civil Rights
	Issue #5 Department of Housing and Urban Development, Fair Housing Grant Programs
	Issue #6 Department of Health and Human Services, Office of Civil Rights
	Issue #7 U.S. Commission on Civil Rights
4.	Presidential Civil Rights Initiative
5.	Other Enforcement Agencies and Nonenforcement Programs
6.	Race-related Civil Rights Initiatives

Clinton Presidential Records Digital Records Marker

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

1

Divider Title: _____

CIVIL RIGHTS CROSSCUT DIRECTOR'S REVIEW OVERVIEW

Numerous Federal programs address disparities in income, education, employment, and housing, and although they transcend race or other classifications, persuasive evidence exists which reveals that minorities have higher rates of poverty, unemployment, educational attainment, or substandard housing than their white counterparts. Although it is often difficult to measure, illegal discrimination is a contributing factor to these differences, and it results in equal access denied in the education, employment, housing, and financial sectors. The persistence of discrimination is dismaying in light of strong Federal anti-discrimination laws that have been in place since the mid-1960's. Since President Clinton's "Initiative on Race" was formed in June 1997, there has been increased interest within the Administration in addressing the effectiveness of Federal civil rights enforcement programs, in addition to working on other issues related to race and civil rights.

This crosscut review has four sections. The purpose of the first section is to review OMB's development of proposals for funding the six principal civil rights enforcement agencies and the U.S. Commission on Civil Rights, and obtain decisions on FY 1999 funding levels. These agencies are discussed in subsequent issue papers. The second section outlines a Presidential Civil Rights Initiative under development by the DPC and OMB with input from the agencies. This proposal would fund increases above those discussed in the RMO approved issue papers, and the initiative would be highlighted in a Presidential announcement. The third and fourth sections are informational only. The third section discusses enforcement programs for which funding decisions are not requested, and programs that have been considered "civil rights" related, but are non-enforcement in nature. Decisions for these programs will need to be made in the context of agency reviews. The fourth section discusses ongoing Administration efforts in a variety of areas that may be considered race-related.

The Domestic Policy Council's Civil Rights Working Group Efforts. The Domestic Policy Council (DPC) has been engaged for several months in meeting with both civil rights advocacy group leaders and agency officials to hear their recommendations for improving Federal civil rights efforts. The advocates recommended a range of ideas including improved White House coordination of civil rights policies and stronger enforcement of civil rights laws by and in the Federal Government. All agreed strongly that a coordinated approach to civil rights policies, with a full-time senior person in the White House responsible for civil rights issues, could assist in numerous ways, including: identifying civil rights priorities and focusing resources incrementally in key areas which could aide the Assistant Secretaries in defending their budgets during the appropriations process; focusing the need for Cabinet Secretaries to play a more visible role in advancing the Administration's civil rights agenda; giving strategic attention to Presidential appointments and the timing of major initiatives; and ensuring the coordination of problems of discrimination by and in the Federal agencies. Every agency which provides financial assistance enforces statutes which prohibit discrimination in its assisted programs and activities, hence, it is the most widely dispersed Federal civil rights enforcement responsibility.

The DPC also conducted a series of meetings with Federal civil rights agencies including the Equal Employment Opportunity Commission (EEOC), the Department of Justice's Civil Rights Division, and the civil rights offices of Education, HHS, Labor, and HUD. These agency meetings were held to discuss their ideas for upcoming initiatives and what can be improved next year to assist the Administration in obtaining its civil rights enforcement budgets from the appropriators.

As a first step, the DPC wants to highlight, in a Presidential announcement in the civil rights area, a recommendation for increased funding and procedural reforms for the civil rights enforcement agencies. A [\$100 million????] increase above the FY 1998 enacted level would be proposed to improve compliance, implement greater use of alternative dispute resolution techniques, and invest in information systems upgrade to provide the agencies with better operational efficiencies in case processing and in data collecting for research purposes. This proposal is discussed more fully in the Presidential Civil Rights Initiative proposal in Section 4. Part of this overall funding initiative is a proposal for EEOC to shorten the length of time it takes to process private sector complaints of discrimination, currently from 9.4 months to 6 months. Also as part of this overall funding initiative is a second proposal, which outlines a more dramatic departure from the current way of doing business for the Department of Housing and Urban Development (HUD), which is to develop an audit-based enforcement initiative. Both of these proposals are discussed in detail in the attached issue papers.

In addition to the proposals described in the Issue Papers for EEOC and HUD, the Presidential Civil Rights Initiative would fund increases above the currently approved RMO recommendation. [Although DPC's proposal is not fully developed at the time of this crosscut,] DPC and HTF Division staff believe that additional funding would send a strong symbolic message of the President's commitment to civil rights as well as provide resources for areas that have often been neglected because of Congressional funding constraints, including improvements in technology and implementation of alternate methods to resolving complaints.

Both the advocates community and the civil rights agencies discussed the need for better and more available data on civil rights programs. During President Clinton's first term, there was no discussion on civil rights programs in the annual budget presented to Congress. For the FY 1998 Budget, a brief discussion on overall funding for civil rights activities in housing and employment was included in the short "Highlights of the Federal Budget" document in "Chapter VI, Expanding Economic Opportunity". This contrasts sharply to fuller analyses of civil rights activities that had been an integral part of the President's Budget through FY 1987. The "Special Analysis J" section listed budget authority for principal federal civil rights activities and descriptions of the coverage and scope of voting rights, equal employment opportunity, fair housing and equal credit, activities of the U.S. Commission on Civil Rights, and non-discrimination in Federally assisted programs. When the FY 1988 budget was consolidated into a single document, the production of most special analyses ceased. With the resurrection of the Analytical Perspectives component of the President's Budget in _____, all of the previous analysis were again included, with the exception of civil rights activities. OMB may want to include a civil rights section in the FY 1999 Budget as part of an Administration effort to highlight government-wide program and financial information for civil rights activities.

President's Initiative on Race. In June 1997, President Clinton launched his President's Initiative on Race (PIR), a campaign to improve race relations in the post-civil rights era by encouraging Americans to "learn together, talk together and act together to build one America" and to "help educate Americans about the facts surrounding issues of race". The seven-member Board agreed at its first meeting July 14 to focus its first initiatives on education and economic opportunity issues. President Clinton and Vice President Gore participated in a second Board meeting on September 30, where the President reiterated his commitment to looking for practical steps that will move the country forward toward common goals. He called on the PIR to consider publishing a compendium of local efforts that address promising practices of diverse communities in successfully promoting tolerance and models of behavior.

Summary of Civil Rights Enforcement Funding. Most of the Federal dollars that go toward civil rights objectives are provided to agencies for enforcing Federal civil rights statutes. In January 1997, at the request of Wade Henderson of the Leadership Conference on Civil Rights, the Housing, Treasury, and Finance Division developed a post-budget crosscut table of FY 1998 spending for civil rights programs. The President proposed \$608.6 million for Federal civil rights programs, a \$51.7 million or 9.3 percent increase in budget authority over FY 1997. Funding increases were proposed for nearly every civil rights agency, spreading scarce Federal resources over a broad group of agencies and programs. The average increase in enforcement programs was 8.3 percent, with increases ranging from 3 percent for the EEOC to between 10 and 30 percent for Education's civil rights programs, Labor's OFCCP, HUD's fair housing activities, and the U.S. Commission on Civil Rights. Non-enforcement programs were proposed to increase 15.6 percent, primarily reflecting a 38 percent increase in SBA's minority and women small business programs, necessary to address the increased workload in overseeing minority contracting in a post-Adarand environment.

The agencies reviewed in this FY 1999 crosscut are substantially the same. However, this crosscut reviews only the six key civil rights enforcement agencies, plus the U.S. Commission on Civil Rights. Despite the \$514.5 million proposed in FY 1998 for the six key enforcement agencies plus the U.S. Commission on Civil Rights, Congress funded these Federal civil rights programs at only \$474.4 million, equal to the FY 1997 enacted level, and \$40.1 million, or 8.5 percent, below the President's request for FY 1998. (See Attachment A). For FY 1999, OMB is proposing [\$537.2 million] for key enforcement activities, a [4.4 percent] increase over the President's FY 1998 request and a [13.2 percent] percent increase over the FY 1998 enacted level. Using a 2.3 percent GDP deflator, the real increase for OMB's recommended level over the FY 1998 budget request is 2 percent, and the real increase over the FY 1998 enacted level is 10.6 percent. Individual agency increases range from 33 percent for fair housing activities, to 8 percent for EEOC and level funding for Education's Office of Civil Rights.

In addition to the recommended levels of funding for these seven agencies, the DPC is considering a proposal which would fund a Presidential Civil Rights Initiative at [\$100 million????] for civil rights enforcement agencies, as discussed in Section 4. This would allow the President to make more than a symbolic statement about his commitment to civil rights; it would provide the enforcement agencies with badly needed resources....[More here to end. Endorse proposal.]

**Civil Rights Enforcement 1/
Funding Trends
President's Request v. Appropriations, FY 1992 - FY 1998**
(Budget authority, in millions of dollars)

		FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999 Recom.	FY 1999 - FY 1998 Pres Budget			FY 1999 - FY 1998 Enacted		
									Actual \$	Nominal %	Real Chg %	Actual \$	Nominal %	Real Chg %
EEOC.....	President's Request.....	245.3	234.8	245.7	268.0	268.0	246.0	267.0	21.0	8.54%	6.02%	27.0	11.25%	8.67%
	Appropriated.....	222.0	230.0	233.0	233.0	239.7	240.0	n/a						
	Difference.....	-23.3	-4.8	-12.7	-35.0	-28.3	-6.0	n/a						
DOJ Civil Rights Division.....	President's Request.....	54.1	54.5	71.9	65.3	66.0	67.0	71.0	4.0	5.97%	3.52%	9.0	14.52%	11.86%
	Appropriated.....	53.0	56.0	63.0	64.0	62.0	62.0	n/a						
	Difference.....	-1.1	1.5	-8.9	-1.3	-4.0	-5.0	n/a						
DOL OFCCP.....	President's Request.....	58.1	55.4	59.9	63.8	67.0	69.0	67.0	-2.0	-2.90%	-5.15%	8.0	13.56%	10.93%
	Appropriated.....	56.0	56.0	59.0	56.0	59.0	59.0	n/a						
	Difference.....	-2.1	0.6	-0.9	-7.8	-8.0	-10.0	n/a						
Education Office of Civil Rights.....	President's Request.....	61.4	56.6	61.7	62.8	60.0	61.5	61.5	0.0	0.00%	-2.32%	6.5	11.82%	9.23%
	Appropriated.....	56.4	56.5	58.0	55.3	54.9	55.0	n/a						
	Difference.....	-5.0	-0.1	-3.7	-7.5	-5.1	-6.5	n/a						
HUD Fair Housing Grants.....	President's Request.....	12.4	21.4	33.4	45.0	33.0	39.0	40.0	1.0	2.56%	0.19%	10.0	33.33%	30.25%
	Appropriated.....	12.3	25.0	33.4	30.0	30.0	30.0	n/a						
	Difference.....	-0.0	3.6	0.0	-15.0	-3.0	-9.0	n/a						
HHS Office of Civil Rights.....	President's Request.....	23.4	22.2	22.4	21.3	18.2	21.0	19.7	-1.3	-6.19%	-8.36%	0.0	0.00%	-2.32%
	Appropriated.....	22.2	22.2	22.1	19.7	20.0	19.7	n/a						
	Difference.....	-1.2	0.0	-0.3	-1.6	1.8	-1.3	n/a						
U.S. Commission on Civil Rights....	President's Request.....	9.4	7.9	10.2	11.4	9.3	11.0	11.0	0.0	0.00%	-2.32%	2.3	25.86%	22.94%
	Appropriated.....	7.8	7.8	9.0	8.8	8.7	8.7	n/a						
	Difference.....	-1.6	-0.1	-1.2	-2.7	-0.6	-2.3	n/a						
Total, Civil Rights Enforcement.....	President's Request.....	464.1	452.9	505.2	537.6	521.5	514.5	537.2	22.7	4.41%	1.99%	62.8	13.23%	10.61%
	Appropriated.....	429.7	453.5	477.5	466.8	474.4	474.4	n/a						
	Difference.....	-34.5	0.6	-27.7	-70.9	-47.1	-40.1	n/a						
	Percentage difference....	-8.0%	0.1%	-5.8%	-15.2%	-9.9%	-8.4%							

1/ Six principal civil rights enforcement agencies, plus the U.S. Commission on Civil Rights

Clinton Presidential Records Digital Records Marker

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

2

Divider Title: _____

TABLE A

CIVIL RIGHTS BUDGET CROSSCUT
CIVIL RIGHTS ENFORCEMENT AGENCIES REVIEWED IN ISSUE PAPERS
(in millions of dollars)

add guidance

	<u>FY 1998</u>		<u>FY 1999</u>		<u>FY 2000</u>		<u>FY 2001</u>		<u>FY 2002</u>		<u>FY 2003</u>	
	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>
Equal Employment Opportunity Commission												
Agency Request.....	242	240	287	280	287	285	287	287	287	287	287	287
FY 1999 Recommended Level.....	242	240	267	265	275	273	283	281	292	290	301	298

Explanation: An additional \$31 million over guidance is provided as a Presidential initiative to reach the goal of reducing the private sector complaint inventory from 9.4 months to 6 months.

Department of Justice: Civil Rights Division												
Agency Request.....	65	65	71	70	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
FY 1999 Recommended Level.....	---	---	67	66	69	69	71	71	73	73	75	74

Explanation: [Include an explanation of the recommended level.]

Department of Labor: Office of Federal Contract Compliance Programs												
Agency Request.....	69	69	72	72	74	74	76	76	78	78	80	80
FY 1999 Recommended Level.....	62	62	67	67	67	67	67	67	67	67	67	67

Explanation: At \$67M , the recommendation: 1) provides a \$5 million (8 percent) increase over 1998 likely enacted, \$4 million (6 percent) below their request; and 2) continues OFCCP's streamlining and compliance assistance initiatives. The Human Resources Division recommends providing inflation to maintain the FY 1998 requested FTE level.

Department of Education: Office of Civil Rights												
Agency Request.....	62	60	70	66	72	71	73	73	75	75	77	77
FY 1999 Recommended Level.....	---	---	---	---	---	---	---	---	---	---	---	---

Explanation: [Include an explanation of the recommended level.]

TABLE A

CIVIL RIGHTS BUDGET CROSSCUT
CIVIL RIGHTS ENFORCEMENT AGENCIES REVIEWED IN ISSUE PAPERS
(in millions of dollars)

	<u>FY 1998</u>		<u>FY 1999</u>		<u>FY 2000</u>		<u>FY 2001</u>		<u>FY 2002</u>		<u>FY 2003</u>	
	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>
Department of Housing and Urban Development: Fair Housing Activities												
Agency Request.....	30	27	47	45	47	45	47	45	47	45	47	45
FY 1999 Recommended Level.....	30	27	40	33	41	34	42	35	44	36	45	37

Explanation: \$6 million over guidance (\$10 million over FY 1998 level of \$30 million) is provided for HUD to develop an audit-based enforcement initiative to assist in meeting its goal of promoting equal opportunity in housing. This would be funded as a Presidential initiative.

Department of Health and Human Services: Office of Civil Rights 1/												
Agency Request.....	19	20	22	22	n/a*	---	n/a	---	n/a	---	n/a	---
FY 1999 Recommended Level.....	---	---	20	20	20	20	19	19	19	19	20	20

/1 BA includes transfers from Medicare Trust Funds

* HHS has not submitted outyear estimates

Explanation: Although significant decreases have been proposed for most of HHS' agencies and programs, the Office of Civil Rights is maintained at its FY 1998 likely level for FY 1999; the outyear estimates follow the pattern of the BRD guidance levels.

U.S. Commission on Civil Rights												
Agency Request.....	9	9	11	11	11	11	11	11	11	11	11	11
FY 1999 Recommended Level.....	---	---	11	11	11	11	11	11	11	11	11	11

Explanation: Recommend the planning guidance level of \$11 million. Recommend the Commission undertake a project to develop baselines of discrimination for policy analysis.

TABLE B

CIVIL RIGHTS BUDGET CROSSCUT
OTHER ENFORCEMENT AGENCIES AND NONENFORCEMENT PROGRAMS
(in millions of dollars)

	<u>FY 1998</u>		<u>FY 1999</u>		<u>FY 2000</u>		<u>FY 2001</u>		<u>FY 2002</u>		<u>FY 2003</u>	
	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>

OTHER ENFORCEMENT AGENCIES:**Department of Transportation: Office of Civil Rights**

Agency Request.....	6	6	7	7	7	7	7	7	7	7	7	7
FY 1999 Recommended Level.....	6	6	6	6	6	6	6	6	6	6	6	6

Explanation: DOT requests funding for eight additional Full Time Equivalent positions to address a backlog in EEO complaints.
The RMO recommends no funding for these FTE in favor of ADR techniques and management training to decrease number of complaints.

Department of Labor: Office of Civil Rights

Agency Request.....	5	5	5	5	5	5	5	5	6	6	6	6
FY 1999 Recommended Level.....	5	5	5	5	5	5	5	5	5	5	8	8

Explanation: The Office of Civil Rights requested \$400 thousand to deal with what they believe will be an increased caseload resulting from the upcoming E.O. on discrimination, and to conduct "mini-conferences" on discrimination of delivery of services in programs funded by DOL. The Human Resources Division recommends providing inflation and \$133 thousand and 2 FTEs to deal with increased caseload resulting from welfare-to-work activities and additional training and compliance reviews.

Department of Agriculture: Civil Rights Programs/Office of Civil Rights

Agency Request.....	13	13	15	15	21	21	21	21	21	21	21	21
FY 1999 Recommended Level.....	13	13	15	15	21	21	21	21	21	21	21	21

Explanation: The Office of Civil Rights, Department of Administration: Funding is included to re-establish an investigations unit for current and future complaints, to establish a workforce planning process and personnel evaluation and assistance program, to increase outreach to minority institutions, and to establish a conflict prevention and resolution center.

CIVIL RIGHTS BUDGET CROSSCUT
OTHER ENFORCEMENT AGENCIES AND NONENFORCEMENT PROGRAMS
(in millions of dollars)

<u>FY 1998</u>		<u>FY 1999</u>		<u>FY 2000</u>		<u>FY 2001</u>		<u>FY 2002</u>		<u>FY 2003</u>	
<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>

Environmental Protection Agency: Civil Rights Programs
Agency Request.....

FY 1999 Recommended Level.....

Explanation:

CIVIL RIGHTS BUDGET CROSSCUT
OTHER ENFORCEMENT AGENCIES AND NONENFORCEMENT PROGRAMS
(in millions of dollars)

	<u>FY 1998</u>	<u>FY 1999</u>	<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2003</u>
	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>

NONENFORCEMENT PROGRAMS:**Small Business Administration: Minority Economic Development/8(a) Program**

Agency Request.....	7	7	23	19	23	23	23	23	23	23	23	23
FY 1999 Recommended Level.....	---	---	12	10	12	12	12	12	12	12	12	12

Explanation: An additional \$5 million over the anticipated FY1998 base of \$7 million is proposed for 7(j) technical assistance grants as a Presidential initiative.

Department of Commerce: Minority Business Development Agency

Agency Request.....	26	27	29	29	29	29	29	29	29	29	29	29
FY 1999 Recommended Level.....	---	---	26	27	26	26	26	26	26	26	26	26

Explanation: \$26M is provided to either a) fund MBDA at current levels or b) close down the Agency (\$15M) and fund other civil rights initiatives (\$11M).

Department of Transportation: Office of the Secretary/Minority Business Resource Center**Funding for Minority Business Outreach:**

Agency Request.....	3	3	3	3	3	3	3	3	3	3	3	3
FY 1999 Recommended Level.....	---	---	---	---	---	---	---	---	---	---	---	---

Explanation: Minority Business Outreach funds are used to help small and disadvantaged businesses participate more fully in DOT projects and programs. A recommended funding level has not yet been developed.

Funding for Minority Business Resource Center Loans

Agency Request.....	2	2	2	2	2	2	2	2	2	2	2	2
FY 1999 Recommended Level.....	---	---	---	---	---	---	---	---	---	---	---	---

Explanation: The Minority Business Resource Center provides short-term loans and lines of credit to minority business enterprises and small disadvantaged businesses in partnership with commercial banks. The goal is to help such businesses participate in Federal procurements. The \$1.9 million in subsidy BA shown in this account supports \$15 million in direct loans. A recommended funding level is not yet developed.

CIVIL RIGHTS BUDGET CROSSCUT
OTHER ENFORCEMENT AGENCIES AND NONENFORCEMENT PROGRAMS
(in millions of dollars)

Explanation: Financial assistance to non-profits to assist minority farmers through technical assistance to enhance their ability to operate farming and ranching operations.

TABLE B

CIVIL RIGHTS BUDGET CROSSCUT
OTHER ENFORCEMENT AGENCIES AND NONENFORCEMENT PROGRAMS
(in millions of dollars)

	<u>FY 1998</u>		<u>FY 1999</u>		<u>FY 2000</u>		<u>FY 2001</u>		<u>FY 2002</u>		<u>FY 2003</u>	
	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>
Department of Labor: Women's Bureau												
Agency Request.....	8	8	10	10	10	10	10	10	11	11	11	11
FY 1999 Recommended Level.....	8	8	8	8	8	8	8	8	8	8	8	8

Explanation: The Women's Bureau requested \$2M for initiatives related to welfare-to-work and balancing work and family. The Division recommendation provides for inflation but does not fund either of the requested program increases .

Department of Justice: Community Relations Service
Agency Request.....

FY 1999 Recommended Level.....

Explanation:

Clinton Presidential Records Digital Records Marker

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

3

Divider Title: _____

PREPARER/EXT: Susan Carr/5-7881

TYPE OF ISSUE: Funding for base programs/Presidential initiative

Issue Paper #1
Equal Employment Opportunity Commission
(In millions of dollars)

ISSUE: Funding level for the Equal Employment Opportunity Commission

	FY 1997 <u>Actual</u>	FY 1998 <u>Enacted</u>	FY 1999				
			<u>Agency Request</u>	<u>Guidance Level</u>	<u>Recommended Level</u>	<u>Change from Request Level</u>	<u>Change from '98 Enacted</u>
BA/OB.....	240	240	287	236	267	-20	+27
OL.....	239	239	285	233	265	-20	+26

Option 1: OMB Guidance provides \$236 million, a \$4 million decrease below FY 1998 enacted.

Option 2: EEOC requests \$287 million, a \$47 million, or 20 percent, increase over FY 1998 enacted.

Option 3: OMB staff recommends \$267 million, a \$27 million, or 11 percent, increase over FY 1998 likely enacted.

DESCRIPTION OF ISSUE: For the past several years, Congress has reduced the Administration's full requests for funding the Equal Employment Opportunity Commission (EEOC) and has provided marginal or no increases - from \$233 million in FY 1996 to \$240 million in FY 1997 and \$240 million likely in FY 1998. Because 90 percent of the agency's budget is salaries, benefits and overhead, these small increases have barely provided the funding necessary to maintain current staffing levels (at the lowest level in 20 years), but have been insufficient to support upgrades to technology and staff competency. Furthermore, increased enforcement responsibilities and formal Commission policies for charge processing resulted in a dramatic rise in private sector complaints received by the agency during the first half of the decade, from 62,000 complaints received in 1990 to 91,000 complaints received in 1994 -- a 47 percent increase. Consequently, the backlog of private sector complaints rose from 73,124 charges at the end of FY 1993 (the highest level of the previous 10 years), to an all-time high of 111,000 in FY 1995.

Congressional concerns about the pending backlog and lack of alternative dispute resolution methods have been addressed by the EEOC. Despite relatively flat appropriations and increasing Congressional mandates, the agency has, in the past three years under Chairman Gil Casellas, made a fundamental shift in its approach to its business, and in its effectiveness. In that time, EEOC has developed a clear statement of its mission and implemented several major changes: the elimination of its full investigation and litigation policies; the implementation of its targeted and prioritized charge processing system for private sector cases; and the development of its National Enforcement Plan and Local Enforcement Plans. For example, two years after implementing the priority

charge handling procedures, EEOC reduced its charge inventory 35 percent - - from 111,000 pending charges at the end of the third quarter of FY 1995 (just prior to implementation) to 72,000 pending charges at the end of the third quarter of FY 1997. However, EEOC is now faced with a caseload that is approximately 70 percent category "B" charges (those needing further investigation to determine whether they have merit) and 20 percent "A" charges (those with potential merit requiring extensive investigation).

However, without additional resources to continue procedural reforms, implement greater use of ADR, and invest in technology, the Commission is unlikely to make further progress in reducing the average time it takes to resolve private sector complaints from over 9.4 months to 6 months by 2002. DPC and the HTF Division agree that addressing this goal is important to demonstrate the Federal government's commitment to reducing employment discrimination and benefit both the complainant and the employer by resolving cases as quickly as possible.

Option 1: OMB Guidance level of \$236 million. At \$236 million, EEOC's funding would be \$4 million, or 2 percent, below its expected FY 1998 level of \$240 million, and \$10 million below the President's FY 1998 request of \$246 million. Because EEOC is a labor-intensive organization, this funding level would likely result in a reduction of 150 staff and further postponement of critical information systems investments, greater use of mediation, and staff training. The impact of the guidance level would cause caseload inventories to rise each year as fewer staff were available to investigate, and cause the average time it takes to process a complaint to go from 9.4 months to 1 year by the year 2002. EEOC is already at its lowest staffing level in 20 years, down from a high of ____ in FY ____ to 2,680 in FY 1997. Further, this level would be insufficient to address the President's commitment to providing the EEOC with resources necessary to enforce employment discrimination laws.

Option 2: EEOC request level of \$287 million. At \$287 million, EEOC would increase its private sector and federal sector enforcement staffs by 203 FTE, upgrade its technology, and put more resources into litigation, systemic programs, and an alternative dispute resolution program. The agency would reduce its charge inventory to 6 months by FY 2001.

Option 3: Recommended funding level of \$267 million. At \$267 million, EEOC would reduce its charge inventory to 6 months by FY 2002 through a combination of investments in information technology capabilities, increased use of mediation, and an increase in staffing by 114 FTEs.

Funding for Information Systems. Several components comprise the agency's three-year, \$25 million initiative to upgrade hardware, communications infrastructure, and the deployment of integrated information systems through the agency. The FY 1999 request of \$10 million would provide a basic communication infrastructure that would allow EEOC to complete the development and procurement of new information systems capabilities. These upgrades will enhance intra- and inter-office communication, eliminate redundant data entry procedures, and provide for greater operational efficiency through the sharing of information and enhanced research capabilities for investigators and attorneys.

Funding for the Alternative Dispute Resolution Program. Voluntary mediation is an effective method of complaint resolution that can be used in enforcement efforts. EEOC currently uses some of its trained investigators to mediate, but this diverts scarce

investigative resources from the majority of cases that do not lend themselves to mediation. While volunteers have also been used since the program's inception in FY 1996, EEOC will need to use more experienced and credible mediators in the future. We believe the most viable option for ramping up this program is to provide mediators through contracts. Additionally, using contractors would encourage employer participation by removing perceived neutrality concerns that exist if EEOC staff mediate claims, and could encourage claimants to elect mediation by removing perceived competency concerns when volunteer trainees mediate.

EEOC's FY 1999 budget request for its mediation program was \$640 thousand. Funding would have provided travel related costs of investigators and limited contract mediators with the goal of mediating approximately 1,250 complaints. However, DPC, HTF staff, and EEOC now believe that with significant additional resources targeted to the mediation program, EEOC could mediate an expected 10 percent of the estimated 80,000 newly filed charges in FY 1999. Additional resources of \$500 per mediation, or \$4 million total, could provide the agency with resources directly related to increasing the use of mediation. This would also free up money to spend on pursuing the more complex cases faced by the Commission that do not lend themselves to the mediation model.

Funding for Additional for Staffing. Although EEOC's budget request included funding for an additional 203 FTEs, we believe that the agency should implement its technology upgrades and enhanced mediation program, but fund a lower level of staff in the compliance and Federal sector programs. We recommend funding 114 additional FTEs as follows:

- 65 private sector compliance investigators
- 12 field attorneys
- 4 additional staff to implement information technology investments
- 33 Federal hearings attorneys and administrative judges to address the growing caseload of Federal employee complaints

RECOMMENDATION: The Administration is taking a more visible role in addressing the resource concerns of the EEOC. White House staff have held meetings with civil rights advocates and the EEOC, all of whom suggest additional resources are necessary. Moreover, President Clinton remarked at his commencement speech at the University of California at San Diego, June 14, 1997, that increased funding for EEOC is "necessary to enforce the law of the land". The Domestic Policy Council has indicated it would like the President to announce a performance goal for EEOC of reducing the time it takes to process private sector cases from 9.4 months to 6 months, while also implementing a more aggressive use of additional procedural reforms. In lieu of spending more money on staffing increases, we believe the best way to achieve this goal is through a combination of providing the agency's request for technology funding and providing EEOC the resources to increase its use of voluntary mediation.

Therefore, we recommend Option 3: Propose \$267 million for the EEOC in FY 1999, a \$27 million increase over FY 1998 enacted and a \$31 million increase over guidance. The \$31 million over guidance would be a Presidential initiative. This would support \$6.6 million for cost increases, \$6 million for an additional 114 FTEs, \$10 million for technology upgrades and \$4 million for increased use of contract mediation.

PREPARER/EXT: John Thompson/ 5-3730

TYPE OF ISSUE: Funding for base programs/Presidential initiative.

Issue Paper **#2**
Department of Justice: Civil Rights Division
(In millions of dollars)

ISSUE: Should the Civil Rights Division's law enforcement efforts be expanded?

	FY 1999						
	FY 1997 <u>Actual</u>	FY 1998 <u>Estimate</u>	Agency <u>Request</u>	Guidance <u>Level</u>	Recommended <u>Level</u>	Change from <u>Request Level</u>	Change from <u>'98 Enacted</u>
BA.....	62	65	71	67	67	(4)	+2
OL.....	58	65	70	66	66	(4)	+1

Option 1: **Guidance (\$67 million).** The guidance level would fund the base program, but provide no program increases. Alternatively, fund the highest priority increases (see Option 3) from the base by reducing funding for lesser priorities.

Option 2: **Agency request (\$71 million).** The agency is requesting \$4 million in increases for: .

Option 3: **Alternative (\$69 million).** Funds \$2 million for highest priority increases: police misconduct cases and litigation support as a Presidential initiative.

DESCRIPTION OF ISSUE: The Civil Rights Division serves as the chief civil rights enforcement agency of the federal government. It not only has primary responsibility for federal civil rights litigation, but also is charged with coordinating federal civil rights policy. Areas of enforcement include hate crimes, police misconduct, voting rights, employment, housing, education, credit, and public accommodations. While the Division's budget increased by 125 percent from 1989 to 1995 (in nominal terms), it has been held flat since 1995.

ANALYSIS: It is very difficult to quantify the impact of the Civil Rights Division's activities on society. Even if it were possible to measure the overall level of discrimination in America, it is questionable whether the Division can significantly affect this level, in light of other social and economic factors. The Division uses workload statistics and anecdotal evidence, rather than outcome measures, to measure its performance. Thus, while more resources should allow the Division to bring more cases, it has been unable to quantify the benefit to society.

The agency is requesting increases for police brutality and hate crimes (\$0.6 million); ADA enforcement (\$1.3 million); automated litigation support (\$1.5 million); institutionalized persons and pattern and practice of police misconduct cases (\$0.55

million); and redistricting litigation (\$0.4 million). The guidance level would fund the Division's adjustments to base, providing a current services level in 1999, but it would not provide additional resources for program enhancements. Holding the Civil Rights Division to guidance would require the Division to fund priority initiatives by shifting base resources. For example, if the Division wants to step up its efforts to investigate and litigate cases involving a pattern and practice of police department misconduct, or individual charges of police brutality, as many civil rights groups would like, it would have to shift funds away from lesser priorities or areas where complaints are declining. For example, the Criminal Prosecution Section received fewer complaints in 1997 than in 1996.

The alternative level would provide \$1.8 million as a Presidential initiative for the two increases most critical the Division's ability to carry out its mandate, including the requested \$1.5 million for litigation support and the requested \$0.3 million for police brutality and misconduct cases. Improving the Division's litigation support capabilities (including exhibit preparation, customized databases, statistical analysis, and imaging systems) would make the personnel already on board more effective, enhancing the ability of the Division's attorneys to prepare for litigation and make more effective courtroom presentations. In addition, a \$0.3 million program increase would allow the Division to initiate four police misconduct investigations in 1999. The 1994 Crime Act authorized the Attorney General to initiate civil litigation to remedy a pattern and practice of civil rights violations by law enforcement officials, but no program increases have been appropriated for this purpose, although the Division has received allegations of police misconduct from hundreds of sources. The alternative level would not provide additional resources for ADA enforcement, hate crimes, institutionalized persons, and redistricting litigation.

PREPARER/EXT: Debra Bond/ 5-7751
TYPE OF ISSUE: Funding for base program.

Issue Paper #3
Office of Federal Contract Compliance Programs
Department of Labor
(In millions of dollars)

DRAFT

ISSUE: What funding level should be requested for the Office of Federal Contract Compliance Programs (OFCCP)?

	FY 1997	FY 1998	FY 1999				
	<u>Actual</u>	<u>Enacted</u>	<u>Agency Request</u>	<u>Guidance Level</u>	<u>Recommended Level</u>	<u>Change from Request Level</u>	<u>Change from '98 Enacted</u>
BA/OB.....	59	62	72	69	67	4	5
OL.....	59	62	72	69	67	4	5

Option 1: Recommended funding level of \$67M. At \$67M and 823 FTE, the OFCCP would be \$5 million (8 percent) above the FY 1998 likely enacted level and \$1.4 M (2 percent) below guidance. This funding level will enable the agency to continue streamlining and compliance assistance initiatives. HRD recommends providing inflation and maintaining FY 1998 requested FTE.

Option 2: DOL request level of \$72M. At \$72M and 823 FTE, the OFCCP would be \$10 million (15 percent) above the FY 1998 likely enacted level and \$3 million (4 percent) above guidance. This funding level will enable the agency to continue streamlining and compliance assistance initiatives.

Option 3: Guidance level of \$69M. At \$69M and 823 FTE, the OFCCP would be \$6 million (9 percent) above the FY 1998 likely enacted level. This funding level will enable the agency to continue streamlining and compliance assistance initiatives. Guidance is the FY 1998 request level. It was developed by HRD; DOL did not provide a guidance level to agencies based on the August targets.

DESCRIPTION OF ISSUE: The Office of Federal Contract Compliance Programs enforces equal opportunity standards and affirmative action for women, minorities, Vietnam era veterans, and persons with disabilities employed by more than 200,000 Federal contractors. OFCCP is emphasizing improved efficiency and effectiveness by streamlining their review process to ease contractor burden while implementing targeted enforcement. The key issue facing OFCCP is the same as other DOL enforcement agencies - - balancing compliance assistance with traditional enforcement. Because the goals of these laws is compliance, the Administration and DOL have tried to shift the enforcement agencies focus away from the traditional "cop on the beat." Although this shift has met with some resistance from the advocates, DOL continues to support and emphasize this change, but without abandoning tough enforcement.

ANALYSIS: In FY 1998, OFCCP began implementing their Fair Enforcement Initiative which involves a three-pronged strategy of:

(1) regulatory reform: This prong consists of two regulatory projects: (1) implemented a tiered compliance review process (completed 8/19/97), and (2) streamline the Affirmative Action Plans and issue the Affirmative Action Plan Summary (expect a proposed rule in fall of 1998).

(2) Affirmative Action Plan Summary

(3) tiered compliance review process: This prong leverages current resources by implementing compliance checks, limited and full compliance reviews (versus the old full compliance review in all cases). OFCCP anticipates a 10% increase in FY 1999 in the number of compliance reviews conducted. OFCCP implemented a tiered compliance review system in FY 1998 which enables them to target serious cases. The compliant contractor is only subject to a limited review, thereby decreasing contractor burden. OFCCP also recently instituted compliance checks which allows them to ascertain whether previous information submitted by the contractor is accurate without having to launch a review. When enforcement is necessary, OFCCP uses fixed term and indefinite debarment.

OFCCP Workload Chart						
	FY 1994 Actual	FY 1995 Actual	FY 1996 Actual	FY 1997 Actual	FY 1998 Projected	FY 1999* Projected
FTE	785	775	727	739	788	823
Compliance Reviews	4,179	3,991	3,476	4,100		
Total Other Compliance Actions**	4,799	4,324	4,097	4,100		
BA (\$ in millions)	\$56	\$59	\$56	\$59	\$62	\$67
* Based on Division recommendation						
** Including compliance investigations (result of a complaint), workers in facilities reviewed and compliance case inventories.						

OFCCP plans to establish a baseline measure for compliance in FY 1998. To date, they only have output measures: in FY 1999 the number of compliance reviews are expected to increase by 10% over FY 1998 (due to the new tiered system that prioritizes case investigations), and in FY 1998 OFCCP recovered \$30 million in back pay. OFCCP provided anecdotal information that: 1) their impact is increasing, 2) their level of respect in the contracting universe has increased, and 3) they are beginning to implement creative ideas that will reach their goals. However to date, OFCCP does not have information on the percentage of contractors that are in compliance.

OFCCP is proposing a compliance assistance initiative that will enable them to leverage resources and promote self-regulation. This is a continuation of FY 1998 activities. The initiative includes: research grants for the development of technical assistance guidance, implementation of the annual Affirmative Action Plan Summary Report, research into the best practices used by companies, and continuation of their annual awards to exemplary companies. One part of the initiative relies on OFCCP finalizing a proposed regulation that will reduce contractor burden by 30%. In addition, they are working with other Federal agencies, such as SSA, to identify employment opportunities for persons with disabilities and linking them with Federal contractors. In the past, OFCCP contacted only 3% of the contractor universe. The compliance initiative added, to their tiered compliance approach, will enable OFCCP to reach more of the contractor universe, however we do not know how much more. The disadvantage of this initiative is that it will be viewed as rhetoric because OFCCP has been talking about compliance assistance for years but has not delivered, instead they have continued to rely on traditional “cop on the beat” enforcement measures.

RECOMMENDATION: At \$67M and 823 FTE, the OFCCP would be \$5 million (8 percent) above the FY 1998 likely enacted level and \$1M (2 percent) below guidance. This funding level will enable the agency to continue streamlining and compliance assistance initiatives. HRD recommends providing inflation and maintaining the FY 1998 requested FTE level. HRD’s estimates of the OFCCP’s resource needs based on more recent information than was available before leads us to believe the agency can maintain the FY 1998 staff request in FY 1999 with fewer dollars than requested in 1998. We believe the personnel costs (category 11 and 12) presented by OFCCP are unnecessarily inflated. The FY 1999 agency request is based on the FY 1998 request, most of which we did not receive. The FY 1999 request does not propose any “new” initiatives, it simply continues FY 1998 request activities with inflation.

PREPARER/EXT: Leslie Mustain, x57768
TYPE OF ISSUE: Funding for Base Program

Issue Paper #4
Department of Education
(In millions of dollars)

DRAFT

ISSUE:	Funding for the Department of Education Office for Civil Rights						
	FY 1999						
	FY 1997 <u>Actual</u>	FY 1998 <u>Enacted</u>	Agency <u>Request</u>	Guidance <u>Level</u>	Recommended <u>Level</u>	Change from <u>Request Level</u>	Change from <u>'98 Enacted</u>
BA/OB.....	55	62*	70	63	64**	-6	+2
OL.....	57	60	66	62	62	-4	+2

* Likely Conference outcome as of 10/29/97

** Tentative HRD Recommendation

Option 1: Fund ED OCR at \$64 million. This increase would provide projected increases for personnel compensation and benefits to support the additional FTE OCR plans to hire in FY 1998, support some additional personnel hires (non-attorneys) in FY 1999 and fund some improvements in ADP support. OCR is projected to receive a \$7 million appropriations increase in FY 1998. It plans to use the majority of this increase to hire 40 additional attorneys, reducing its current attorney/case ratio from 1/65 to 1/48. Improvements in ADP support would increase productivity and customer service by funding a new document management system and upgrading the LAN to connect OCR Headquarters and regional offices. **(Tentative HRD recommendation)**

Option 2: Fund ED OCR at the Agency Request level of \$70 million. This increase would enable OCR to hire additional personnel, increase travel, and make all requested improvements to its ADP support.

Option 3: Fund ED OCR at its Guidance level of \$63 million. This level would offset inflation.

DESCRIPTION OF ISSUE: ED seeks \$70 million, an increase of \$8 million over \$62 million likely level for FY 1998. The majority of the increase would fund additional FTE to address rising caseloads, reduce the attorney/case ratio, and perform more compliance reviews, as well as increases in travel and ADP support.

ANALYSIS: The mission of ED's Office for Civil Rights (OCR) is to ensure equal access to education and to promote educational excellence throughout the Nation through vigorous enforcement of civil rights laws and regulations. Priority issues for OCR currently include: over-representation of minorities in special education and remedial courses, under-representation of women, girls, and minorities in math and science and other advanced placement courses; access to programs for limited English proficient (LEP) students; racial and sexual harassment; admissions/testing/assessment; gender equity in athletics; and higher education and elementary and secondary school desegregation. As the following chart shows, the majority of complaints received are for disability. The compliance reviews are selected by OCR based on field assessments of the greatest problems of unredressed discrimination in the regions. OCR targets those areas where no other action is currently being taken to address the discriminatory practices.

FY 1997 Regular Complaint Receipts and Compliance Review Starts

Basis	Number of Complaints Received	% of Complaints Received	Number of Compliance Review Starts	% of Compliance Review Starts
Disability	2,611	50%	3	2%
Race	946	18%	134	88%
Sex	383	7%	2	1%
Age	51	1%	0	0%
Multiple*	447	9%	4	3%
Other**	791	15%	9	6%

*Combination of the above

** Cases for which OCR does not have jurisdiction -- usually referred to EEOC

OCR is a well-managed organization, having won 3 VP Hammer awards, and continues to make progress in its enforcement efforts in case resolution and in the number and type of active compliance reviews initiated. The following chart shows the number of complaints received and the number resolved for the past 5 years. However, as the chart shows, in FY 1997, OCR expects to reverse its trend of keeping current with case and compliance review resolutions. OCR attributes this decline to increases in cases and case complexity, with basically static or declining resources.

Year	FTE Ceiling/Usage	Cases Received	Cases Resolved	Compliance Review Starts	Compliance Resolutions
1993	858 854	5090	4484	101	82
1994	851 821	5302	5751	144	90
1995	833 788	4981	5559	96	178
1996	763 745	4828	4886	146	173
1997	724 681	5229	4900	152	133

OCR plans to hire 40 additional attorneys in FY 1998 based on its projected appropriation level of \$62 million. This will reduce the current attorney/case ratio to 1/48. However, rising caseload projections in FY 1999 will likely increase it to 1/50. OCR feels this is still an acceptable ratio and is not requesting to increase its FTE above the 724 ceiling it plans to reach in FY 1998. Hiring the additional staff in FY 1998, and maintaining it in FY 1999, will enable OCR to continue to invest significant resources in a complex investigation in California, based on a complaint it received, regarding the current higher education admissions process and in higher education desegregation reviews in Texas, Ohio, Florida, and Pennsylvania. It must also complete the Elementary and Secondary Education School Survey, at a projected cost of \$.8 million, which provides data to numerous Federal and other institutions for a variety of purposes such as identifying trends and targeting civil rights problems. Areas OCR would like to emphasize more are building collaborative relationships with parents, students, and educators -- involving parents more in monitoring of civil rights plans - - and building partnerships with States to address statewide compliance with civil rights laws and regulations. These approaches require a significant investment in time and resources to provide the necessary technical assistance. OCR has shown anecdotal evidence of statewide improvements in civil rights monitoring using these approaches, which preliminarily show them to be a good use of funds.

Though OCR has made progress in developing its performance indicators, it continues to have difficulty identifying and quantifying data that show the outcome of OCR's efforts. OCR's performance indicators are more outcome than output focused, but they are still in the process of developing data sources, baselines, and the methodology for quantifying their results. However, they have, for example, published a very informative booklet on the statistical impact of the civil rights laws in Education. One area in the booklet -- removing disability barriers to education -- states that in 1975 over 1 million children with disabilities were excluded from public schools and the 4 million children with disabilities attending school were not receiving educational services they needed. Today, 5.5 million children are having their education needs met under the Individuals with Disabilities Education Act (IDEA). OCR needs to quantify its specific contribution to the improvements achieved through its enforcement of these laws. OCR has some

excellent anecdotal success stories where its work has had a significant impact. For example, this past year OCR began investigating a county in Georgia about student selection for Gifted and Talented classes. The selection process -- which was discriminatory to minorities -- was determined to be a statewide problem and OCR and Georgia entered into an agreement that changed the entire state process for selecting students for these programs. The agreement, which had a positive impact on minority students in Georgia, is directly attributable to OCR's actions. It is this type of anecdotal data with which OCR is working to develop a methodology to enable it to systematically quantify its other outcomes and tie them to budget resources.

RECOMMENDATION: Funding for OCR needs to be considered in the context of the overall strategy for Education, which is not yet complete.

PREPARER/EXT: Susan Carr/5-7881

TYPE OF ISSUE: Funding for base programs/Presidential initiative

Issue Paper **#5**
Department of Housing and Urban Development
Fair Housing Grant Programs
(In millions of dollars)

ISSUE: Should HUD's fair housing initiatives be expanded? If so, what form should they take?

		FY 1999					
	FY 1997 <u>Actual</u>	FY 1998 <u>Enacted</u>	Agency <u>Request</u>	Guidance <u>Level</u>	Recommended <u>Level</u>	Change from <u>Request Level</u>	Change from <u>'98 Enacted</u>
BA/OB.....	30	30	47	34	40	-7	+10
OL.....	22	22	25	22	25	0	+3

Option 1: OMB Guidance provides \$34 million, a \$4 million, or 13 percent, increase over FY 1998 enacted.

Option 2: HUD requests \$47 million, a \$17 million, or 57 percent, increase over FY 1998 enacted.

Option 3: HTF staff recommends \$40 million, a \$10 million, or 33 percent, increase over FY 1998 enacted; Audit-based Enforcement proposal as a Presidential initiative.

"It's clear to me now that there is more housing discrimination in America than I have thought there was when I became President, and that that has been kept alive too long in too many neighborhoods, keeping, among other things, too many families from sending their children to the schools of their choice."

- - President Clinton in Remarks to the President's Race Advisory Board Meeting, September 30, 1997.

DESCRIPTION OF ISSUE: The Office of Fair Housing and Equal Opportunity (FHEO) administers two grant programs that each received \$15 million for FY 1998. The *Fair Housing Assistance Program (FHAP)* provides financial assistance to supplement enforcement activities of States and localities which have passed laws substantially equivalent to Federal fair housing laws. The *Fair Housing Initiatives Program (FHIP)* is a competitive grant program that provides funding to private fair housing groups to carry out activities that assist in enforcement and furthering compliance with the Fair Housing Act. The issue is what strategy and funding level would enable HUD to meet its goals of reducing discrimination and ensuring equal opportunity in housing, and assist the President in his recently announced Federal crackdown on housing discrimination?

Option 1: Guidance level of \$34 million. At \$34 million, HUD's fair housing grants would be \$4 million, or 13 percent, above the FY 1998 enacted level of \$30 million. This funding level would enable the Department to continue its current fair housing activities such as increasing the number of substantially equivalent agencies and targeting outreach to underserved communities. However, civil rights advocates may view this level as inconsistent with the Administration's stated commitment to civil rights in light of both the FY 1998 budget request of \$39 million and the President's recent statement.

Option 2: HUD request level of \$47 million. For FY 1999, HUD proposes an "Anti-Discrimination in Housing Initiative", and requests \$17.4 million above the \$30 million appropriated in FY 1998, all of which is directed at increasing enforcement activity by State and local agencies and private fair housing groups to enable HUD to reach its goal of doubling the number of enforcement actions during the President's second term.

First, HUD seeks to strengthen the Department's enforcement and litigation roles by augmenting the ability of local agencies and private fair housing groups to address discriminatory fair housing problems. It also seeks to meet a goal of increasing to 2,170 the number of enforcement actions taken against housing discrimination. In its proposal, HUD requests \$23 million for FHAP, an \$8 million, or 53 percent, increase above the \$15 million appropriated in FY 1998, as follows:

- \$15.5 million would reimburse FHAP agencies to process an estimated 6,100 cases of housing discrimination, which includes a proposed \$100 increase in the reimbursement rate to FHAP agencies, from \$1,700 to \$1,800;
- \$2.1 million would be used to develop complaint processing resources at 18 new FHAP agencies; and
- \$5.8 million would support special enforcement activities, provide for training, and improve coordination among the local agencies, private fair housing groups, and HUD's own enforcement efforts.

Secondly, HUD requests \$24.4 million for the FHIP program, a \$9.4 million, or 63 percent, increase above the FY 1998 enacted level of \$15 million, as follows:

- the private enforcement initiative would be funded at \$15.9 million, an increase of \$6.6 million over FY 1998. This would provide funding to private fair housing groups to do testing and other investigative activities and develop special projects aimed at identifying and remedying discrimination in their communities;
- a \$3 million setaside would fund fair housing groups to work with FHAP agencies and HUD to address jointly serious regional enforcement issues identified through their analysis of impediments and to file their complaints with HUD;
- an additional \$3.6 million setaside would fund enforcement projects that focus on systemic issues of discrimination;
- \$5 million would support education and outreach programs, including \$2.8 million to fund a National Fair Housing Education Campaign. This campaign would focus on educating the public about the subtle forms that housing discrimination can take and the remedies that are available. HUD believes that many people who are victims of discrimination are not aware of HUD's role in enforcing Federal fair housing laws; and
- \$3.5 million would support eleven existing organizations and the creation of two new private fair housing groups in underserved areas.

HUD's "Anti-Discrimination in Housing Initiative" is designed to double the number of enforcement actions HUD takes during the President's second term. It is not clear what impact doubling the number of enforcement actions will have on meeting HUD's goals of reducing discrimination and ensuring equal opportunity; indeed, HUD staff believe that because the number of complaints is low - 1,089 filed in the President's first term - that doubling this number would be relatively easy and the Department should have little trouble in meeting the Secretary's publicly announced objective without a significant increase in resources. Furthermore, providing the grantees with an additional 58 percent of resources for the purpose of increasing the supply of complaints generated in the field does not promote the broader goal of increasing neighborhood diversity. HUD's proposal also funds efforts that are responsive to serious violations of the law, such as responding to racial tensions and violence, that are better met by the Department of Justice's Community Relations Service. Neither HUD nor its grantees have the capacity to execute this plan in a cohesive way.

Option 3: Propose \$40 million and an audit-based enforcement initiative. This option would provide a combination of increased funding and a new way of addressing HUD's responsibility to enforce the Fair Housing Act. *We believe that Federal dollars would be more wisely spent by HUD on a targeted, audit-based enforcement initiative*, piloted in several communities, that would raise the Nation's and communities' awareness of the extent of discrimination through focused and publicly released audit results and subsequent enforcement action. An audit-based enforcement initiative could be piloted in 20 communities around the country. \$5 million would provide each of the 20 community-based organizations with \$250,000 to establish an organizational capacity to administer paired testing in the rental and sales markets. An additional \$5 million would provide the 20 communities with sufficient funds to conduct 500 paired audits.

This proposal could be modeled on the recent work of the Fair Housing Council of Greater Washington's (FHCGW) Fair Housing Index. Community analyses of impediments to fair housing have seldom tried to identify an overall level of illegal discrimination in the marketplace. In fact, the FHCGW's Fair Housing Index was the first serious attempt by a community based organization to develop an index of discrimination in a marketplace. Partially using FHIP grant funding, FHCGW determined that blacks and Hispanics face discrimination more than 40 percent of the time when they try to rent an apartment in the Washington area. In the sales market, blacks experienced discrimination 33 percent of the time, and Hispanics 42 percent of the time. These results received substantial publicity, leading to numerous enforcement actions. DC-area counties pledged more resources to address illegal housing discrimination. Montgomery County, for example, pledged \$400,000 for a two-year initiative to perform its own "tests" of the market and enforce housing discrimination laws against landlords and real estate agents who use discriminatory practices.

Replicated across the country, this strategy could reduce levels of housing discrimination. First, local or HUD-investigated enforcement actions could result, which are an important tool in changing people's behavior. Second and more important, communities could use the results to attract additional local resources to address the problem of discrimination. Third, HUD could use its voluntary fair housing agreements with local lenders and housing organizations in a proactive approach to promote equal housing opportunities where those communities have initiated programs to confront discrimination.

Under this option, funding for FHAP would remain constant at \$15 million. HUD would continue to reimburse State agencies \$1,700 per case. While State and local agencies often complain to Congress about the rate they are reimbursed from EEOC to process

employment discrimination cases, currently at \$500, HUD reports that there have been no strong objections to the rate it reimburses for agencies to process housing discrimination cases. Further, HUD historically overestimates the expected number of complaints received by FHAP agencies. We expect FHAPs to process 5,100 in FY 1999, on par with the level of complaints processed when the FHIP program was last funded at \$26 million, its highest level ever.

FHIP would be funded at \$25 million, \$10 million over the FY 1998 enacted level of \$15 million. The FHIP program has been cut substantially over the past few years -- from \$26 million in FY 1995 to \$15 million in FY 1998. As discussed, the recommended increase of \$10 million would be used for the audit-based enforcement initiative.

RECOMMENDATION: Option 3: A Presidential initiative to support fair housing enforcement is timely and desirable, but it should be bolder than simply providing more money for HUD's existing approaches. Increasing HUD's fair housing resources by \$10 million for a new audit-based enforcement initiative would demonstrate a renewed and serious Administration effort in this area.

PREPARER/EXT: Melany Nakagiri 5-4926
TYPE OF ISSUE: Funding for Base Programs

Issue Paper #6
 Department of Health and Human Services
 (In millions of dollars)

ISSUE: Funding Level for HHS' Office for Civil Rights

	FY 1997 <u>Actual</u>	FY 1998 <u>Enacted</u>	FY 1999				
			<u>Agency Request</u>	<u>Guidance Level</u>	<u>Recommended Level</u>	<u>Change from Request Level</u>	<u>Change from '98 Enacted</u>
BA/OB.....	19.5	19.7	22.4	19.7	19.7	-2.7	0
OL.....	20	19.6	20.4	19.7	19.7	-.7	0

Option 1: Funds the HHS' Office for Civil Rights (OCR) at its FY 1998 Likely level of \$19.7 million.

Option 2: HHS requested \$22.4 million for OCR to expand its existing activities (more compliance reviews and investigations) and to undertake new management initiatives (e.g., staff training, information technology investments).

Option 3: Same as Option 1.

DESCRIPTION OF ISSUE: Basis for recommended funding level for the Office for Civil Rights in FY 1999

ANALYSIS:

Funding Considerations: OCR is one of the activities within the \$200 million HHS Office of the Secretary accounts, and the funding level for FY 1999 is determined within the context of the other activities within the Office of the Secretary. Therefore, while decreases are being proposed for the other Office of the Secretary activities, OCR is maintained at the FY 1998 Likely level, indicating the importance of this office relative to other programs within the Office of the Secretary.

Current Activities: HHS' Office for Civil Rights (OCR) enforces compliance with Civil Rights statutes¹ to ensure that people have equal access to HHS programs and the opportunity to participate in and receive services from all HHS programs without facing unlawful discrimination. The priority areas OCR focuses on include: 1) enforcement of the inter-ethnic adoption provisions of the Small Business Job Protection Act of 1996; 2) medical redlining in home health care agencies; 3) discrimination in Medicaid and Medicare managed care; 4) allegations of discrimination of people with HIV/AIDS; 5) compliance with Title VI for Hill-Burton hospitals, and 6) providing government-wide guidance and assistance on non-discrimination in the TANF program.

Streamlining Efforts: OCR is trying to front-end more of its work by streamlining the amount of time processing complaints to focus more of its resources on outreach and technical assistance activities to prevent discrimination from occurring in the first place. OCR now "triages" complaints by preliminarily reviewing cases and making an initial assessment of how much resources should be devoted to a particular case so that they direct most of their resources towards high priority areas (e.g., adoption, HIV/AIDS, managed care). OCR is also trying to resolve complaints earlier through alternative methods such as ADR.

Performance measures: OCR has done a good job linking their performance plan to their budget proposal. Both the budget and performance plan focus on the high priority issues for OCR. The performance plan primarily includes output or process measures. However, OCR plans to develop baselines for its performance measures in FY 1998 and will try to develop more outcome measures once they better understand how their activities help reduce and prevent discrimination in HHS programs through enhanced data collection activities.

RECOMMENDATION: Maintain OCR at its FY 1998 Likely level. This will encourage OCR to absorb some of its costs, but by sparing it the average 4% reduction taken by other HHS discretionary activities at recommended levels, recognizes OCR's importance in civil rights enforcement.

¹The Civil Rights statutes that OCR is responsible for enforcing include Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act on 1973, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, Title VI and XVI of the Public Health Service Act, and the Small Business Protection Act of 1996 (inter-ethnic adoption provisions).

PREPARER/EXT: Susan Carr/5-7881
TYPE OF ISSUE: Funding for base programs

Issue Paper ^{#7}
U.S. Commission on Civil Rights
(In millions of dollars)

ISSUE: What funding level should be proposed for the U.S. Commission on Civil Rights? Should we recommend that the Commission undertake one particular project?

	FY 1997	FY 1998	FY 1999				
	<u>Actual</u>	<u>Enacted</u>	<u>Agency Request</u>	<u>Guidance Level</u>	<u>Recommended Level</u>	<u>Change from Request Level</u>	<u>Change from '98 Enacted</u>
BA/OB.....	8.7	8.7	13.8	11.0	11.0	-2.8	+2.3
OL.....	8.6	8.6	13.8	11.0	11.0	-2.8	+2.4

Option 1: Fund at \$11 million, a \$2 million, or 22 percent, increase over FY 1998 enacted. Recommend that the Administration urge the Commission to include in its final planning for FY 1999 a project to develop measures of discrimination that could be used for public policy analysis.

Option 2: The Commission requests \$13.8 million, a \$5.06 million, or 58 percent, increase over FY 1998 enacted.

DESCRIPTION OF ISSUE: It appears that the bipartisan decision-making body of the Commission has been unable in recent years to obtain from its staff competent and reliable information about its operations. Without a clear and accurate breakdown of cost estimates associated with each of the projects the Commission undertakes, it has been difficult for OMB to assess the Commission's operations, and it is unclear what funding level would optimize the Commission's performance. Confirming this assessment was a GAO report issued in July 1997, titled, "U.S. Commission on Civil Rights - - Agency Lacks Back Management Controls". The report concluded that the Commission appears to be "an agency in disarray, with limited awareness of how its resources are used". At the House Judiciary Subcommittee hearing, Chairwoman Mary Frances Berry noted that the Commission would address the problems raised in the report and implement GAO's recommendations. However, promised reforms by Chairwoman Berry need to be reviewed and their impact assessed before OMB can undertake a serious evaluation of alternative funding scenarios on Commission projects.

The Commission monitors and evaluates at least one Federal civil rights program annually. With its proposed "Measuring Discrimination" project, the Commission could play a valuable role by assisting Federal agencies in fine-tuning their strategic plans and annual performance measures, which are required under GPRA's efforts to connect resources to results. The development of appropriate methods of determining baselines of discrimination that provide for a more effective targeting of resources to meet the Federal government's roles in eliminating and preventing discrimination would be valuable information for public policy makers in the civil rights arena. These roles include, but are not limited to, the fields of voting, education, housing, employment, the use of

public facilities, transportation, and the administration of justice.

ANALYSIS:

Option 1: Fund at the HTF recommended level of \$11 million and direct the Commission to undertake a project that evaluates and recommends measures of discrimination to use in addressing public policy issues. Although the guidance level of funding provides the Commission with a 22 percent increase over its likely FY 1998 level, HTF staff recommend that the Administration also encourage the Commission to prioritize its focus and undertake only those projects which provide the highest return on the Federal investment. The HTF staff recommendation is to provide the Commission \$11 million, and urge the Commission to undertake a project that evaluates and recommends measures of discrimination to use in addressing public policy issues. The issues relating to defining and measuring discrimination are complex and controversial. The Commission stands in a unique position, as a bipartisan agency, to provide leadership in efforts to promote national discussions about matters related to race and all civil rights issues in a way that a single-purpose agency may not be able to. We believe this type of project -- the development of baselines of discrimination in various sectors -- could also enhance the Commission's "watchdog" role over Federal enforcement efforts and is necessary to fulfill the Commission's duty to appraise the policies of the Federal Government with respect to discrimination.

The Commissioner will probably argue that, unless the full request of \$13.8 million is requested by the Administration, they will be unable to undertake such an ambitious project. In addition, it may not be possible for Commissioner Berry to persuade the other Commissioners to approve such a project. Moreover, staff may not have the capacity to oversee such a project. This could be mitigated by bringing in Federal detailees to augment staff, as suggested in FY 1998 appropriations report language by both the House and Senate.

The Administration has, in each of the past two years, proposed an \$11 million funding level for the Commission. Civil rights advocates would view a subsequent \$11 million for FY 1999 as favorable. However, recent Congressional concerns about the Commission's operations indicate it is unlikely Congress will provide the Commission with additional funding over the likely FY 1998 appropriation of \$8.74 million until, at a minimum, the Commission demonstrates improvement in its operations. In light of this, HTF staff recommend that in addition to the guidance level of \$11 million, the Administration urge the Commission to begin the development of baselines of discrimination and performance measures for civil rights agencies.

Option 2: Fund at the Commission request level of \$13.8 million. The Commission's request for FY 1999 is \$13.8 million, \$5.06 million more than its current level of \$8.74 million. The Commission would increase funding for civil rights projects by 92 percent from \$1.9 million to \$3.6 million, increase program support by 56 percent from \$3.2 million to \$5 million, and provide significant percentage increases for State Advisory Committee activities and its Library and Information dissemination activities. Staffing would increase by 35 FTE, or 36 percent, over its current FTE level of 97. Staffing costs comprise \$2.275 million, or 45 percent, of the \$5.06 million requested increase. These increases would support two Federal assessment reviews: (1) "Evaluation of Fair Employment Enforcement", and (2) "Enforcement of the Americans with Disabilities Act", and would support work on four additional projects: (1) "The Crisis of Young African American Men in Inner Cities", (2) "Schools and Religion", (3) "Expanding the Economic

Opportunities of African, Asian and Pacific Islander, and Latino American Youth”, and (4) “Measuring Discrimination”. The first two are projects that will continue from FY 1998. The latter two are new projects that the Commission proposes to undertake with an increased funding level.

The Commission’s proposed “Measuring Discrimination in America” project is to develop appropriate standards for defining and measuring discrimination. These standards could then provide a basis for consistently and effectively assessing the nature and extent of discrimination in the country and assist Federal agencies in assessing the effectiveness of their civil rights enforcement programs. The requested level funds a consultation in FY 1999 that would bring together experts from different fields and perspectives to share their research relating to measuring discrimination. Based upon this initial discussion, the Commission may decide to proceed with further investigations in FY 1999.

It is noteworthy that the Commission is considering such an overarching project in its 1999 agenda; however, it is unlikely that the Commission could manage a 58 percent increase in its budget over 1997, given its historic inability to provide basic programmatic and operational data to its Board. Although the request level of \$13.8 million would allow completion of more projects, possibly providing useful information to the public and policy-makers, the Commission’s annual agenda of numerous projects, based on its request to OMB and not on an appropriated level of funding, has had the effect of delaying hearings and reports over the past several years. It is also improbable that the Congress would fund such a large increase over the FY 1998 level.

RECOMMENDATION: Option 1: Fund at the guidance level of \$11 million, a 22 percent increase over the likely FY 1998 enacted level of \$8.7 million. With the creation of the President’s Initiative on Race and the President’s commitment to civil rights, the Administration is taking a more visible role in addressing the resource concerns of civil rights enforcement agencies. Furthermore, the civil rights advocates community believe that the Commission could be a valuable resource for information and Federal government enforcement. Although the Commission has faced criticism from Congress and the GAO report, it appears to be willing to address these concerns.

In addition, HTF staff recommend that the Commission undertake a project that evaluates and recommends measures of discrimination to use in addressing public policy issues. HTF staff also recommend that the commission complement their workforce by using agency detailees, as Congress itself has recommended. Whatever decision is made, OMB’s recommendation should be fully vetted with White House/EXOP staff and probably should be underscored by a call from an OMB policy official to Commissioner Berry.

Clinton Presidential Records Digital Records Marker

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

4

Divider Title: _____

Clinton Presidential Records Digital Records Marker

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

5

Divider Title: _____

OTHER CIVIL RIGHTS ENFORCEMENT AGENCIES

**DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
CIVIL RIGHTS ENFORCEMENT PROGRAMS**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Enacted	FY 1999 Agency Request	FY 1999 RMO Recommendation
10	10	12	10

Key civil rights programs: The civil rights enforcement functions within the Office of the Secretary of Transportation act to enforce the rights of Departmental employees. The Office of the Secretary also manages programs in the Minority Business Resource Center, which are discussed in a separate paper under Nonenforcement Programs).

An assessment of how well they are doing: The average time to investigate an EEO case in FY 1997 was 323 days, as compared with the statutory limit of 180 days. At the end of the first half of FY 1997, nearly half of DOT'S's's EEO compliance investigations were more than 180 days old. At the same time, the office was able to close more than 77% of the cases it received in the first eight months of 1997.

An assessment of current enforcement efforts: The Departmental Office of Civil Rights is undertaking a pre-complaint counseling process aimed at reducing the number of personnel matters before they become complaints. The Office plans to implement a pilot program built on this process and Alternative Dispute Resolution in FY 1998.

Proposed civil rights initiatives in the agency's FY 1999 budget request: The Department of Transportation's Office of Civil Rights requests additional funding to hire eight EEO Specialists to investigate and process EEO complaints. This funding would be directed to reduce case back-logs and address an anticipated increase in complaints.

**DEPARTMENT OF LABOR
OFFICE OF CIVIL RIGHTS**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Enacted	FY 1999 Agency Request	FY 1999 RMO Recommendation
4.5	N/A (Likely: 4.6)	5.2	4.8

Key civil rights programs: The Office of Civil Rights (OCR) is responsible for ensuring compliance with a variety of civil rights laws for programs receiving or benefiting from DOL financial assistance. OCR is also responsible for monitoring and evaluating DOL's Affirmative Employment Program and EEO complaint system.

An assessment of how well they are doing: OCR primarily responds to complaints. They have not had the resources to do many compliance reviews of grant recipients. OCR receives and closes about 1,300 complaints yearly for Title VI of the Civil Rights Act relating to programs receiving DOL funds. They receive and close about 150 complaints from DOL employees or applicants.

An assessment of current enforcement efforts: In FY 1999, OCR would like to increase the number of compliance reviews from 4 to 8, and increase the number of training sessions from 8 to 16. OCR is participating in a DOL Alternative Dispute Resolution pilot.

Proposed civil rights initiatives in the agency's FY 1999 budget request: OCR requested an increase of \$333 thousand and 5 FTE to handle what they believe will be a larger caseload resulting from the anticipated Executive Order addressing discrimination in Federally conducted education programs. The request also would increase compliance reviews and training activities. The Human Resources Division (HRD) does not believe the E.O. will significantly add to OCR's workload. HRD's recommendation includes inflationary increases and provides \$133 thousand and 2 FTE to address the new caseload from welfare-to-work grants and to provide additional compliance reviews and training.

OCR requested \$100 thousand "in support of the President's racial reconciliation initiative" to conduct "mini-conferences" to determine the impact of discrimination on DOL-financed programs' services, and to develop strategies to address identified problems. HRD believes this would not significantly contribute to the President's initiative.

Prepared By/Date: Lori Schack (5-3263), October 28, 1997

AGRICULTURE ENFORCEMENT PROGRAM - OCR

**ENVIRONMENTAL PROTECTION AGENCY
CIVIL RIGHTS PROGRAMS**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Enacted	FY 1999 Agency Request	FY 1999 RMO Recommendation
21	21	21	21

Key civil rights programs:

- The EPA-wide Office of Civil Rights provides policy direction and guidance on equal employment opportunity, civil rights and diversity issues, as well as external enforcement of the Civil Rights Act of 1964 in programs and activities receiving financial assistance from EPA.
- Several EPA programs provide funds for Historically Black Colleges and Universities, for the purpose of addressing environmental concerns within their communities, and to encourage students to pursue careers in environmental science.
- EPA's environmental justice programs, including the EPA-wide Office of Environmental Justice, identify and address disproportionately high and adverse human health or environmental effects on minority populations.

An assessment of how well they are doing: EPA has strong internal EEO and civil rights programs. The Office of Civil Rights conducts extensive training for managers and employees on issues of discrimination, sexual harassment and cultural diversity. The Office also resolves approximately 80 internal discrimination complaints per year.

It is too early to assess EPA's environmental justice activities. Among other things, the Office of Environmental Justice has convened an interagency working group to coordinate implementation of E.O. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations." Many EPA programs have environmental justice components. EPA and other agencies have undertaken a few small place-based initiatives specifically because of the environmental threats to minority populations. They have also held public meetings to discuss environmental justice issues. A Federal Advisory Committee, the National Environmental Justice Advisory Council, provides overall guidance. EPA and other agencies are studying how environmental programs should consider minority and low-income populations who subsist on seafood and may receive dangerous levels of exposure

through what they catch from contaminated waters. There are no quantitative performance measures for any of these activities.

An assessment of current enforcement efforts: The Agency is making some progress with regard to its external compliance activities. EPA's Office of Civil Rights is currently investigating thirteen administrative complaints filed under Title VI of the Civil Rights Act alleging discrimination in State environmental programs. An additional nine administrative complaints are under consideration for investigation if they meet jurisdictional requirements. Twenty-two complaints have been rejected since 1993. The Office is also developing a separate plan to enforce Title IX of the Educational Amendments of 1972 in EPA-assisted programs, as well as an ongoing compliance review of State programs that will include all of the civil rights statutes.

EPA and DOJ have targeted a few enforcement actions to address environmental justice concerns. They are also working together to evaluate legal tools for enforcing Title VI in an environmental context. There are no performance measures for these activities.

Proposed civil rights initiatives in the agency's FY 1999 budget request: EPA is requesting an increase of \$0.5 million for its Office of Civil Rights, to enhance the external civil rights compliance programs. There is no change in funding for environmental justice. Among its new environmental justice initiatives, EPA plans to work closely with the Department of Housing and Urban Development (HUD) to determine whether any HUD activities and projects are near known environmental hazards.

Prepared By/Date: Zach Church (5-6944), October 28, 1997

NONENFORCEMENT PROGRAMS

**SMALL BUSINESS ADMINISTRATION
MINORITY ECONOMIC DEVELOPMENT PROGRAM**

FUNDING SUMMARY
(budget authority in millions of dollars)

	FY 1997 Enacted	FY 1998 Estimate	FY 1999 Agency Request	FY 1999 RMO Recommendation
MED/8(a)	3.8	4.3	5.1	4.3
7(j) Tech. Assistance	2.7	2.6	17.6	7.6

Key civil rights programs: SBA's Minority Economic Development Program (MED) has two related civil rights components. The 8(a) business development program helps disadvantaged businesses establish themselves and become more competitive through providing special access to federal procurement activities. The 8(a) program does not operate as a race-based set-aside program. It operates as a business development program, and firms must qualify under size standards to show a need for assistance.

In addition, participating 8(a) firms are also eligible for specialized technical assistance through the agency's 7(j) program. This assistance usually takes the form of week-long business training programs at schools like Dartmouth University and Howard University.

An assessment of how well they are doing: SBA's 8(a) program has been heavily criticized recently. Certain House members (Cox, R-CA) have argued that the program is unconstitutional. However, we believe this is not the case. The Department of Justice (DOJ) has made preliminary determinations that SBA's 8(a) program meets the "strict scrutiny" and "narrow tailoring" requirements set forth by the Supreme Court in Adarand Constructors, Inc. v. Peña.

The program also has had difficulty developing performance measures and data to show how successful participating firms are after they are graduated from the 9-year program. If the program is to continue to meet the new DOJ legal requirements, substantial improvements likely will be needed in performance measures. The program also may have to be targeted to industries in which disadvantaged firms are under represented in Federal contracting.

Proposed civil rights initiatives in the agency's FY 1999 budget request: SBA is requesting a \$15 million increase in 7(j) technical assistance funding above the likely FY 1998 appropriated amount of \$2.6 million. The agency also has requested \$5.1 million for MED/8(a) administrative expenses in FY 1999. (The President's FY 1998 budget requested \$9.2 million for both 8(a) and 7(j) activities.)

Prepared By/Date: Bill Wiggins (5-1098), October 8, 1997

**DEPARTMENT OF COMMERCE
MINORITY BUSINESS DEVELOPMENT AGENCY**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Likely Enacted	FY 1999 Agency Request	FY 1999 RMO Recommendation
28	26.4	28.7	26.4*

Key civil rights programs: MBDA's primary responsibility is to coordinate minority business programs for the Federal government and to assist minority businesses in obtaining access to market and resource opportunities. The Agency provides access to market and resource opportunities through Minority Business Development Centers, Minority Business Opportunity Committees, and Business Resource Centers jointly developed with the Small Business Administration to conduct these activities.

An assessment of how well they are doing: MBDA continues to struggle to develop outcome measures for their activities. Minority entrepreneurs and the Congressional Black and Hispanic Caucuses have been generally supportive of MBDA activities. Most of this support, however, seems to center on the need for a clear Federal presence in the minority business sector as opposed to support for MBDA activities in particular.

Over the past five years Congressional criticisms that MBDA activities are ineffective and/or largely duplicate SBA activities have led to a 40% reduction in the MBDA budget. Both OMB and the DOC IG have expressed concern with the apparent lack of management and policy guidance within the Agency and in a 1997 report CBO recommended the elimination of MBDA as an option to reduce the deficit.

Proposed civil rights initiatives in the agency's FY 1999 budget request: No new civil rights initiatives are proposed in MBDA's 1999 Request. MBDA is requesting \$600 thousand over the 1999 estimated base to implement recommendations of a DOC internal management review. Recommendations include a reorganization to minimize the impact of leadership turnover at the Agency, improvement of staff skills to provide better assistance to MBDA stakeholders, and increased partnerships with other Federal agencies that provide technical business assistance.

Both OMB and the DOC IG have long advocated management reforms at MBDA. The merits of the 1999 proposal are unclear, however, as details surrounding the budget request (what recommendations will be implemented on what time schedule) are ambiguous.

Recommendation: Currently, the GGF recommendation for MBDA is \$26.4 million although MBDA's activities and performance do not merit these resources. Close-out costs for the Agency have been estimated at \$15 million. The additional \$11 million recommended for MBDA could be used to fund other civil rights initiatives, although we recognize the political difficulty of such a decision.

Prepared By/Date: Rob Nabors (5-5604), November 3, 1997

**DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY/MINORITY BUSINESS RESOURCE CENTER**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Enacted	FY 1999 Agency Request	FY 1999 RMO Recommendation
10	10	12	to be determined

Key civil rights programs: In addition to functions Office of Civil Rights functions related to enforcing the rights of Departmental employees the Office of the Secretary is responsible for enhancing the opportunities for minority enterprises and small and disadvantaged businesses to participate in federally funded transportation programs and projects through its minority business outreach and loans programs.

An assessment of how well they are doing: This office provided no evidence of success or failure in the provision of its programs with its FY 1999 budget request. Absent adequate performance metrics, an assessment of their programs is impossible.

Proposed civil rights initiatives in the agency's FY 1999 budget request: The Department does not request any new initiatives for this program.

Prepared By/Date: Jonathan Ball (5-3100), October 8, 1997

**DEPARTMENT OF AGRICULTURE
CIVIL RIGHTS PROGRAMS**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Enacted	FY 1999 Agency Request	FY 1999 RMO Recommendation
162	139	170	179

Key civil rights programs: The Department of Agriculture administers several programs that are wholly or partially targeted toward minorities (The Department's Natural Resource Conservation Service, Outreach for Socially Disadvantaged Farmers, is discussed as a separate paper under Nonenforcement Programs). These include: financial assistance to the 16 historically-black land-grant institutions and Tuskegee University to encourage careers as agricultural scientists and professionals; grants and loans to construct housing for migrant farm laborers; farm loans to minorities for operating and ownership purposes; and grants to non-profits to assist small and minority farmers with technical assistance to enhance their ability to operate farming and ranching operations. In addition, the Department's Office of Civil Rights (OCR) is tasked with reducing and eventually eliminating under representation of minorities in the workforce, increasing workforce diversity, and aggressively working to eliminate discrimination in the delivery of USDA programs.

An assessment of how well they are doing: By most accounts the programs that are targeted to minorities are largely successful, with the exception of the farm loan programs and USDA's own internal employee complaints. The farm loan programs (formerly administered by the Farmers Home Administration, now the Farm Service Agency) have a checkered past. A 1965 U.S. Commission on Civil Rights first identified discrimination problems in the farm loan programs. This report has been followed by similar reports in 1982 and 1990 and the current discrimination complaints in 1996 and 1997. In September 1997, the USDA OIG has found that FSA had a backlog of 474 discrimination complaints. In addition, USDA's OCR has a backlog of 984 complaints (including the 474 related to the FSA).

An assessment of current enforcement efforts: Current enforcement efforts are marginal at best. In response to complaints by minority farmers in December 1996, Secretary Glickman appointed a team of USDA leaders to investigate the discrimination complaint backlog and make recommendations for change. This Civil Rights Action Team (CRAT) produced a report with recommendations to the Secretary in February 1997. The Secretary supports nearly all of the 92 recommendations in the report. Many

of the recommendations have not yet been implemented.

In addition, the Department is attempting to settle discrimination complaints against it filed by minority farmers, but has an insufficient number of complaint investigators. To date, five claims out of 71 have been settled and paid for \$2 million. The potential liability to USDA from all known complaints is roughly \$100 million. OCR is currently taking steps to hire complaint investigators and to have investigations performed through contracts with private firms.

Proposed civil rights initiatives in the agency's FY 1999 budget request: In response to the CRAT report, the Secretary has proposed increases in the programs mentioned above. In addition, the Secretary is requesting an FY 1998 supplemental (\$7.8 million) to directly address the backlog of discrimination cases and to improve oversight and outreach efforts within the Department.

Prepared By/Date: Stephen Frerichs (5-4796), September 29, 1997

**DEPARTMENT OF AGRICULTURE
NATURAL RESOURCE CONSERVATION SERVICE
OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Enacted	FY 1999 Agency Request	FY 1999 RMO Recommendation
1	3	10	to be determined

Key civil rights programs: The Natural Resource Conservation Service's (NRCS) Outreach for Socially Disadvantaged Farmers is aimed at offering small and minority farmers technical assistance and agricultural education to enhance their ability to operate farming and ranching operations. The program works by establishing cooperative agreements with different non-profit entities, including 1890/1862 Land Grant Institutions, American Indian community colleges and community-based organizations for them to provide the farmers intensive training and management assistance. Each farmer is visited 1 to 3 times a month by a farm specialist.

An assessment of how well they are doing: The program has established cooperative agreements with 28 organizations in 21 States.

Proposed civil rights initiatives in the agency's FY 1999 budget request: Additional funds will allow greater numbers of farmers to participate and more geographic outreach for the program.

Another option would be to use these funds for sociological analysis of an area before project implementation begins. NRCS's programs have been criticized as frequently rewarding the same large producers, the same town leaders and innovators. Outreach to smaller, more isolated and poorer landowners has been limited. Similarly, strategies to examine what types of technologies the different landowners want (divided by size of land holdings, land tenure arrangements, wealth, cultural inclination, among other considerations). By examining preferences, USDA should be able to assist the broader community and improve overall conservation benefits.

Prepared By/Date: Stuart Kasdin (5-4649), September 29, 1997

**DEPARTMENT OF LABOR
WOMEN'S BUREAU**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Enacted	FY 1999 Agency Request	FY 1999 RMO Recommendation
7.7	N/A (likely: 7.7)	9.8	7.8

Key civil rights programs: The Women's Bureau's mission as prescribed by Congress in 1920 is "to promote the welfare of wage-earning women." The Bureau also considers its mission to "advocate and inform women and the public...of women's work rights and employment issues." The Bureau primarily provides information on women's employment issues and advises DOL and other agencies on issues affecting women's employment. In FY 1998 they are focusing on issues of fair pay, work and family, workers' rights, and training.

An assessment of how well they are doing: The Bureau produces useful publications and reaches out to large numbers of women through means such as teleconferences and the Internet. Too often they may be "preaching to the choir". They believe they have a clear constituency of women's organizations and labor unions, and reach out less to employers.

Proposed civil rights initiatives in the agency's FY 1999 budget request: **Work and Family Initiative (\$1.5 million and 3 FTE):** The Bureau intends to launch a campaign aimed at employers, particularly small businesses, to help them implement policies which help employees balance work and family. They intend to do this primarily by establishing on their homepage an Honor Roll of employers with model policies, conducting a media campaign, and producing publications. While the Human Resources Division (HRD) supports the Women's Bureau addressing the issue of work and family, we do not believe that its proposal would effectively address the issue. It is repetitive of another honor roll the Bureau recently established. Funding is not recommended.

Welfare to Work (\$500 thousand and 1 FTE): WB would hold 4 regional conferences aimed at helping women on welfare gain employment, and research and publish findings on best practices for moving women from welfare to work. HRD does not recommend funding this proposal because many other public and private agencies conduct research on this topic.

Prepared By/Date: Lori Schack (5-3263), October 28, 1997

**DEPARTMENT OF JUSTICE
COMMUNITY RELATIONS SERVICE**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Enacted	FY 1999 Agency Request	FY 1999 RMO Recommendation
5	5 (likely)	10	6

Key civil rights programs: The Community Relations Service (CRS) provides assistance to communities and persons in the prevention and resolution of disputes, disagreements, and difficulties relating to perceived discriminatory practices based on race, color, or national origin.

An assessment of how well they are doing: The CRS budget has declined from \$29 million in 1994 to \$5.3 million in 1997, resulting in staff reductions (41 employees) and a decline in the number of cases handled by CRS (800 cases in 1996). CRS reports that all regional offices maintain backlogs exceeding their present capability to respond, forcing them to decline or postpone requests for services. CRS does not have quantitative performance indicators which measure the effect of their activities on the racial climate in American communities. It does have anecdotal evidence of successes. For example, CRS has provided services to over 150 communities affected by church burnings over the last couple years. CRS claims that this effort has reduced racial polarization in these communities.

Proposed civil rights initiatives in the agency's FY 1999 budget request: The Community Relations Service is requesting a \$4.4 million increase in 1999 to address heightened community racial tensions. Increased funding would allow CRS to expand the delivery of conciliation and conflict resolution services. To the extent that some local disputes are the result of hate crimes, increased funding for CRS is part of the Attorney General's hate crimes initiative. It is not clear on what basis CRS is predicting increased racial tensions in 1999.

Prepared By/Date: John Thompson (5-3730), October 29, 1997

Clinton Presidential Records Digital Records Marker

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

6

Divider Title: _____

List of Federal Race-Related Initiatives for a Civil Rights Agenda

**FY 1999 RMO
Recommendation
(\$ millions)**

Department of Housing and Urban Development

1. Audit-based Enforcement Initiative

\$10

This initiative, as discussed in the Issue Paper, would provide \$10 million for an audit-based enforcement initiative that could be piloted in 20 communities around the country, that would raise the Nation's and communities' awareness of the extent of discrimination through focused and publicly released audit results and subsequent enforcement action.

2. Hate Crimes - Make 'em Pay Initiative

N/A

Within the Hate Crimes Task Force, HUD will proactively make victims aware of their right to a civil remedy and will then bring lawsuits on behalf of victims in order to help them recover from perpetrators of hate crimes in the housing context.

2. Housing Mobility Programs - Regional Opportunity Counseling

\$20

HUD's budget submission includes \$20 million for regional opportunity counseling to encourage wider geographic dispersion of subsidy holders. The DPC/NEC working group on community empowerment is considering proposals for urban areas that will include housing mobility proposals. HUD's strategic objectives include not only ensuring equal housing opportunity but also reducing isolation of low-income groups. Thus, it seems a housing mobility initiative would fit multiple policy agendas.

3. Diverse Neighborhoods Initiative

N/A

A work in progress developed by HUD and the Domestic Policy Council, this initiative is to develop stronger links between HUD's fair housing efforts, local block grant planning efforts, and Community Reinvestment Act efforts. Through this

coordination we could achieve more diverse neighborhoods. Budgetary impact and performance measures have not yet been developed. This program would work in tandem with another small FHIP program, the Community Tension Reduction Initiative, which provides funds to partnerships between nonprofits and State and local governments to encourage more diverse neighborhoods.

Equal Employment Opportunity Commission

\$20

1. Improve private sector charge processing

As discussed in the Issue Paper, the HTF Division recommends increased and targeted funding, to assist EEOC in reducing the time it takes to process private sector charges down from 9.4 months currently to 6 months, on average. The proposal includes \$10 million for information technology upgrades, \$4 million for an enhanced mediation program, and \$6 million to fund an additional 114 FTEs.

Department of the Treasury/Department of Housing and Urban Development/Department of Justice

1. Fair Lending/Fair Housing Initiative

The DPC/NEC working group on community empowerment is considering a Department of Treasury proposal to ensure equitable access to the credit markets. This initiative could include: 1) an examination of the impact of credit scoring loan systems and risk-based pricing on lower-income and minority individuals; 2) a presidential initiative urging the banking regulators to obtain more data on reasons for home mortgage denials; 3) a presidential request to the GSEs to retain loan denial data for further analysis of lending patterns; 4) increased funding for DOJ/HUD “testing” of how applicants are treated; 5) public education accompanying the 30 year anniversary of the Fair Housing Act.

Department of Health and Human Services

1. “Healthy Life” Initiative to Address Racial Disparities in Health

\$30 million

At the request of the Domestic Policy Council, HHS has drafted a possible FY 1999 initiative called “Healthy Life” to address

current disparities in health status among racial groups. Using the Health Resources Services Agency's Healthy Start Infant Mortality Demonstration program as a model, this initiative would grant a total of \$360 million (BA) over 5 years to 30 communities to address current health disparities in one of the six health areas cited below. In theory, five communities would address one of the six goals.

- | | |
|--------------------------------|-------------------|
| (1) Infant Mortality | (4) Diabetes |
| (2) Breast and Cervical Cancer | (5) AIDS |
| (3) Heart Disease and Stroke | (6) Immunizations |

Of this total, \$30 million would be for grants in FY 1999 to the 30 communities (\$1 million per community). In the first year, each community would establish baseline data and set goals to eliminate racial disparities in one of these health areas over a five year period. In the following years, the state and local health departments would work with representatives from the community to establish priorities and fund health services directed to minority populations. **This initiative was not included in HHS' original FY 1999 submission in September, and according to HHS these funds are not officially requested in the Department's submission to OMB.**

Department of Labor

1. Compliance Assistance Initiative

N/A

OFCCP is proposing a compliance assistance initiative that will enable them to leverage resources and promote self-regulation. This is a continuation of FY 1998 activities. The initiative includes: research grants for the development of technical assistance guidance, implementation of the annual Affirmative Action Plan Summary Report, research into the best practices used by companies, and continuation of their annual awards to exemplary companies. One part of the initiative relies on OFCCP finalizing a proposed regulation that will reduce contractor burden by 30%. In addition, they are working with other Federal agencies, such as SSA, to identify employment opportunities for persons with disabilities and linking them with Federal contractors. In the past, OFCCP contacted only 3% of the contractor universe. The compliance initiative added, to their tiered compliance approach, could enable OFCCP to reach more of the contractor universe.

Department of Justice

Hate Crimes

1. Federal-State-Local Partnerships

DOJ is proposing federal-state-local partnerships that would coordinate the prosecution of hate crimes centered in the approximately 100 U.S. Attorney Offices throughout the country. Members of the working groups would be the U.S. Attorney's offices, the FBI, state and local law enforcement, state and local prosecutors, schools, and advocacy groups. In addition to prosecuting hate crimes, the groups would seek to increase enforcement of hate crime laws, to maximize reporting of hate crimes, and to educate the public about hate crimes.

2. Additional FBI Agents

The FBI has proposed seeking additional funding the FY 1999 budget to add approximately 193 new FBI agents to investigate hate crimes.

3. Other prosecution and enforcement initiatives

Other prosecution and enforcement initiatives include encouraging police academies nationwide to include hate crime as part of their basic training and providing funding so that state and local law enforcement can attend federal training on hate crimes; developing best practices guide to local law enforcement organizations; and surveying 800 district attorneys offices to identify the policies and practices prosecutors use in hate crimes cases.

4. Additional Reporting Requirements and Statistical Initiatives

\$35 million

DOJ has submitted a budget enhancement of \$35 million for FY 1999 to provide for further implementation of the National Incident Based Reporting System, which will assist 35 large law enforcement agencies in converting to a system which will provide "incident-based" crime statistics rather than the mere tallies currently available, and will also provide for preparation of a series of analyses of hate crimes.

Other initiatives regarding statistics include adding hate crime inquiries as part of the annual National Crime Victimization Survey conducted each spring and a study aimed at improving collection of statistics on hate crimes and methods to improve

reporting.

Department of Education:

Hate Crimes

N/A

Educational initiatives include:

- a teacher's guide for hate crimes awareness,
- a national survey to gather statistical information on the occurrence of hate-based violence in public schools,
- a manual that would catalog all available resources to assist school administrations,
- a middle school curriculum entitled "Healing the Hate", and
- a Hate Crimes Internet site.

MEMORANDUM

TO: ELENA KAGAN
FROM: TOM FREEDMAN, MARY SMITH, TANYA MARTIN, JULIE MIKUTA
RE: FEDERAL ENFORCEMENT OF CIVIL RIGHTS LAWS
DATE: AUGUST 1, 1997

SUMMARY

Attached is a brief description of the structure and legal authority of the civil rights offices across the federal government, the current status of the office and potential improvements that might be pursued as a part of the Race Initiative. The last section describes a process/timetable for potential next steps for the workgroup addressing administration of justice.

I. OVERVIEW OF FEDERAL CIVIL RIGHTS ENFORCEMENT

- Prior to the Civil Rights Act of 1957, the federal civil rights effort was limited to the enforcement of a few post-Civil War criminal statutes.
- Since 1957, Congress and the President have expanded greatly the Federal civil rights effort through the creation of additional substantive rights and additional enforcement agencies.
- The Civil Rights Act of 1964, the Voting Rights Act of 1965 and the Fair Housing Act of 1968 are among the initial pieces of legislation that were enacted to address barriers to equal opportunity in employment, voting, public accommodations, education and federal financial assistance.¹

A. Methods of Enforcement

Every government agency, department and commission is involved in some aspect of civil rights enforcement -- external or internal -- and in most cases, both:

- **External** - agencies are responsible for prohibiting discrimination by recipients of federal financial assistance (Title VI of the Civil Rights Act of 1964); moreover, some agencies have additional freestanding civil rights enforcement authority;
- **Internal** - Equal Employment Opportunity Commission (EEOC) regulations apply to all agencies in their own hiring activities.

¹Attached as Appendix A is a list of the relevant civil rights laws.

While this memorandum focuses on external enforcement activities, information on internal compliance with civil rights requirements should also be gathered from agencies, as agency hiring practices and external enforcement of programs are often discussed in tandem.(see Section XIV).

B. Federal Agencies

The July 15 memorandum on the race initiative policy process, identified nine participating agencies for the workgroup on the administration of justice. All nine, along with the U.S. Commission on Civil Rights, are discussed in this memorandum. Brief descriptions are provided of civil rights activities in other federal agencies.

- **Agencies with broad overview.**

These agencies have responsibility across the government for civil rights enforcement:

- U.S. Commission on Civil Rights -- civil rights monitoring and reporting
- Justice Department -- government-wide civil rights enforcement
- EEOC -- employment

- **Agencies with principal responsibilities.**

The U.S. Commission for Civil Rights identified the following agencies, along with Justice, as having principal responsibility for civil rights enforcement:

- Department of Education -- educational opportunity
- HHS, Office for Civil Rights -- health care; welfare
- HUD --housing
- Labor -- federal contracts

- **Other agencies with civil rights enforcement activity participating in workgroup.**

- Treasury -- fair lending
- Interior - Indian civil rights
- USDA - minority farmers

- **Other agencies with civil rights enforcement activities.**

Finally, there are a number of other agencies that have active civil rights issues including the Small Business Administration (Section 8/minority businesses); Commerce (minority business development); EPA (environmental justice); Transportation (road/transit system location and maintenance); and the FCC (broadcaster preferences).

II. U.S. COMMISSION ON CIVIL RIGHTS

A. Structure

The U.S. Commission on Civil Rights is an independent, bipartisan agency first established by Congress in 1957 and reestablished in 1983. It is directed to:

- **Investigate complaints** alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, disability, or national origin, or by reason of

fraudulent practices;

- **Study and collect information** relating to discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice
- **Serve as a national clearinghouse** for information with respect to discrimination or denial of equal protection of the laws;
- **Submit reports, findings, and recommendations** to the President and Congress;
- **Issue public service announcements** to discourage discrimination or denial of equal protection of the laws.

B. Current Status

- In FY 1998, the Commission requested a budget of \$11 million, an increase of \$1.3 million over the 1997 level of \$8.7 million.
- In July 1997, GAO reported the Commission lacks basic management and financial controls: key documents are lost or nonexistent; accurate cost data on programs or project is unavailable; and reports take so long to complete that published data is often outdated or inaccurate.
- The Citizens' Commission on Civil Rights, which monitors civil rights enforcement, has also recently released a report critical of the U.S. Commission.

III. JUSTICE -- CIVIL RIGHTS DIVISION (CRD)

A. Structure

- Unless otherwise specified by law, the conduct of government litigation is reserved to the Department of Justice. CRD enforces a broad range of civil and criminal statutes and presidential executive orders. Although its initial focus was on voting and post-civil war criminal statutes, the Civil Rights Act of 1964 greatly expanded its authority.
- CRD can receive, investigate, and litigate complaints of discrimination in places of public accommodation, in school and colleges, in public facilities owned by State or local governments, in programs or activities receiving Federal financial assistance, and in employment.

- CRD has an office of Redress Administration (WWII internment/national origin), an office of Administrative Management, and 10 subject-matter sections:
 - Appellate;
 - Civil Rights Prosecution (criminal prosecutions e.g., hate crimes);
 - Coordination and Review (coordination of enforcement activity of all federal agencies);
 - Disability Rights (ADA);
 - Education Opportunities (school desegregation);
 - Employment Litigation;
 - Housing and Civil Enforcement;
 - Special Litigation (civil rights of institutionalized persons);
 - Voting; and
 - the Office of Special Counsel.

B. Process

The various sections of CRD have broad authority to receive, investigate, and litigate complaints of discrimination under the Constitution and civil rights laws. Alternatively, the sections can initiate litigation upon referral from the designated federal agency conducting investigations under the applicable civil rights law.

C. Current Status

- For FY 1998, CRD has requested a budget of \$67.4 million, an increase of \$6 million (8%) from FY 1997 level, to enhance prosecution of hate crimes and police misconduct, as well as for enforcement of the Americans with Disabilities Act.
- CRD started FY 1996 with 1,406 cases pending, received 366 new cases and terminated 406, ending the year with 1,366 cases pending.
- CRD started FY 1996 with 8,359 matters pending, received 4,358 new matters and terminated 4,177, ending the year with 8,720 matter pending.
- For FY 1998, Justice requested \$7.5 million for the Community Relations Service, established by the Civil Rights Act of 1964, to provide assistance to communities in preventing and resolving disputes arising from discriminatory practices.

D. Possible Improvements

- Caseload improvements -- because of the vast jurisdiction of the CRD, its overall workload is affected by nearly every expansion of civil rights protections.
- Coordination -- improve data collection/dissemination among agencies.

IV. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

A. Structure

- The EEOC was created in 1964 to investigate employment discrimination charges relating to race, color, religion, sex, or national origin.
- Since that time, the EEOC has become responsible for administering additional laws: (1) the Equal Pay Act of 1963, (2) the Age Discrimination in Employment Act of 1967, (3) the Equal Employment Act of 1972, (4) Section 501 of the Rehabilitation Act of 1973, (5) the Americans With Disabilities Act (ADA) of 1990, and (6) the Civil Rights Act of 1991.
- EEOC carries out its mission through 50 field offices that receive, investigate, and resolve charges of discrimination in the private sector, and it coordinates these activities in the public sector.
- A 5-member commission heads the EEOC. The President appoints the members, with the consent of the Senate, for rotating 5-year terms. No more than 3 members can be from the same political party.

B. Process

- Plaintiff has 180 days to file a charge of discrimination with EEOC.
- EEOC investigates whether there is cause to believe discrimination occurred.
 - However, even if EEOC investigation is not completed, 180 days after the charge is filed, a plaintiff can request a “right to sue” letter, which permits the filing of the case in federal court
 - Plaintiff has 90 days to file complaint in federal court after receiving “right to sue” letter
- If the EEOC does investigate, then it either issues a “cause” finding or a “no cause” finding.
 - “Cause” finding issued: EEOC encourages the parties to enter into conciliation procedures which either result in a settlement or if no settlement, the plaintiff is given a “right to sue” letter
 - “No cause” finding issued: potential plaintiff is given a “right to sue” letter and the EEOC’s determination of “no cause” is entitled to no deference in court

C. Current Status

- For 1998, the EEOC has requested a budget of \$246 million, an increase of \$6 million (2.65%) over the current level for 1997.
- During 1994, the EEOC issued 36,377 determinations following a full investigation, and 94.7% or 34,451 resulted in “no cause” findings in favor of the defendant. There were only 1,926 determination of “cause”, a mere 5.3% of the total determinations.

- In 1994, the EEOC filed 347 substantive lawsuits, 26% involved sex discrimination, 21% involved age discrimination, 19% concerned race discrimination. The majority, 53% involved unlawful termination, 18% concerned discriminatory hiring.
- At one time the backlog was over 100,000 cases, but recently the Chairman testified before Congress that this backlog has been reduced to 75,000.
- In 1994, the EEOC stated that the average investigation of a claim took 328 days and that its backlog would take 18.8 months to clear.

D. Possible Solutions

- More funding for staff to address the backlog.
- Give the EEOC “cease and desist” authority, that is, authority to issue injunctions in cases of egregious violations.
- Give judicial deference to an EEOC determination of “cause” or “no cause,” permitting only appellate review based on a “substantial evidence” standard of review.
- Encourage binding ADR on an accelerated schedule before EEOC does investigation.
- Criminalize job discrimination in the strongest cases, where there is profound damage and willful violations of the law with direct economic impact.

E. Solutions the EEOC Has Adopted Already

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

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

A. Structure

- ED-OCR is responsible for ensuring that no person is unlawfully discriminated against on the basis of race, color, national origin, sex, disability, or age in the delivery of services or

the provision of benefits in programs or activities of schools, and institutions receiving financial assistance from ED.²

- Its enforcement authorities are rooted in five statutes: Title VI of the Civil Rights Act of 1964 (race/ethnic); Title IX of the Education Amendments of 1972 (sex); section 504 of the Rehabilitation Act of 1973 (disabilities); the Age Discrimination Act of 1975 and the Americans with Disabilities Act of 1990.
- ED-OCR has field staff in each of ED's regional offices whose activities include complaint investigations, compliance reviews, corrective action plan monitoring, enforcement litigation, policy development and program reviews. The majority of ED-OCR staff and resources are devoted to complaint investigations and compliance reviews.

B. Process

- ED-OCR conducts investigations and compliance reviews to ensure that federal assistance recipients adhere to nondiscrimination requirements. If a determination is made that a violation has occurred, an attempt is made to achieve voluntary compliance by the recipient.
- If ED-OCR cannot obtain voluntary compliance, it proceeds in one of two ways: it initiates an administrative enforcement proceeding seeking to terminate Federal financial assistance, or it refers the matter to the Department of Justice to seek injunctive relief in Federal Court.

C. Current Status

- For 1998, ED-OCR has requested a budget of \$61.5 million, an increase of \$6.5 million over 1997.
- In FY 1996, OCR received 4,828 complaints and resolved 4,886; it also initiated 146 compliance actions and resolved 173. By comparison, during FY 1991, OCR received 3,809 complaints and resolved 3,497 --- and initiated 41 compliance actions and resolved 22. During this same period FTEs have decreased from 820 in 1991, to 763 in 1996.
- OCR recently announced an investigation of complaints made against the admissions process at the University of California law schools following the implementation of Proposition 209.

D. Potential Improvements

- 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

²Civil rights enforcement for programs and services provided by schools of medicine, dentistry, nursing and other health-related schools remains with HHS.

School Survey data.

- Provide more proactive technical assistance/guidance to school districts/states.

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

A. Structure

- HHS-OCR administers numerous statutes that prohibit discrimination by providers of health care and social services: (1) Title VI of the Civil Rights Act of 1964; (2) Title IX of the Education Amendments of 1972; (3) section 504 of the Rehabilitation Act of 1973; and (4) the Age Discrimination Act of 1975 which prohibit discrimination by recipients of Federal financial assistance based on race, color, national origin, sex, age and disability.
- HHS-OCR estimates that approximately 230,000 group and institutional providers of federally assisted services are subject to the nondiscrimination laws it enforces.

B. Process

- HHS-OCR relies on a compliance program that includes complaint investigations, compliance and other reviews, monitoring of corrective action plans, and voluntary compliance and other outreach activities.
- If a matter cannot be resolved voluntarily to the satisfaction of all parties, HHS-OCR may effect compliance by terminating Federal financial assistance, referring the matter to the Attorney General for enforcement proceeding, pursuing HHS administrative proceedings or invoking applicable State or local law.

C. Current Status

- The FY 1998 budget request for HHS-OCR is \$20.5 million, a \$1 million (5%) increase over the FY 1997 budget authority of \$19.5 million.
- This \$1 million increase will be used to help implement initiatives that address discriminatory issues involving immigration, inter-ethnic adoption, managed care, Medicaid waivers, nursing home care, home health care and welfare reform.
- The number of complaints received in FY 1993 (2,094) reflected an 82 percent increase over the FY 1987 level (1,148). This rise in complaints was, in part, attributable to large increases in the number of AIDS-related complaints and other §504 disability cases. These cases focus on protecting persons with AIDS against unlawful discrimination and ensuring that minorities have an equal opportunity to participate in federally assisted programs and activities designed to combat AIDS.
- In the North Carolina Law Review, Professor Sidney Watson criticizes HHS-OCR as

being “ineffective in ending the health care discrimination caused by the myriad policies that disproportionately exclude minorities.” Although numerous studies document the underutilization of health services by minorities, few studies have analyzed Title VI compliance by health-care facilities.

D. Potential Improvements

- 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

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

A. Structure

- The majority of FHEO’s civil rights responsibilities lie in its authority to enforce Title VIII of the Civil Rights Act of 1968 and the Fair Housing Amendments Act of 1988, which prohibit discrimination on the basis of race, color, religion, sex, disability, familial status or national origin in the sale or rental, provision of brokerage services, or financing of housing.
- FHEO also enforces provisions of Title VI (race/ethnic), section 504 (disability), Section 109 (housing and community development), the Americans with Disabilities Act, and related executive orders to ensure nondiscrimination in federally assisted programs and activities relating to housing and urban development
- FHEO’s fair housing duties include the administration of two programs: (1) the Fair Housing Assistance Program (FHAP) provides financial assistance to supplement the enforcement activities of State and local enforcement agencies to ensure the prompt processing of Title VIII complaints; (2) the Fair Housing Initiatives Program (FHIP) provides support to public and private organizations for the purpose of eliminating or preventing discrimination in housing and for enhancing fair housing opportunities.

B. Process

- FHEO investigates complaints received from any person who claims to have been injured by a discriminatory housing practice or believes that an injury is about to occur.
- Those Title VIII complaints that fall within the jurisdiction of a substantially equivalent State or local agency are referred to those agencies for initial processing.
- After investigation, FHEO issues a determination indicating whether reasonable cause exists to believe that discrimination has occurred.

- If reasonable cause is found, any of the parties may elect to resolve the matter in Federal court through a HUD referral to Justice. Otherwise, the matter is resolved through the HUD administrative process.
- FHEO also conducts investigations, and compliance reviews to enforce the provisions of civil rights laws applicable to federal assistance recipients. If a violation is found, HUD may refuse to approve an application for federal funds, or terminate funds of a current recipient.

C. Current Status

- The FY 1989 budget request for FHEO is \$39 million, a \$9 million (30%) increase over FY 1997.
- Of the amount requested, \$15 million is for the FHAP (state/local enforcement) and \$24 million is for the FHIP (public/private initiatives).

D. 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.

VIII. DEPARTMENT OF LABOR (DOL)

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS (OFCCP) OFFICE OF CIVIL RIGHTS

A. Structure

- The enforcement authority of OFCCP encompasses several statutes and Executive Order 11246, as amended, to ensure nondiscrimination in employment based on race, sex, religion, color, national origin, disability or veteran status by Federal contractors at 290,000 sites with a total workforce of 22 million people.
- OFCCP is also responsible for reviewing employers policies and practices for adherence to the Family and Medical Leave Act of 1993.
- The Office of Civil Rights that is charged with ensuring compliance with Title VI and other nondiscrimination provisions in programs receiving federal financial assistance from DOL, as well as handling internal EEOC compliance.

B. Process

The enforcement activities of OFCCP focus in primarily four areas:

- conducting compliance reviews and investigating complaints,
- negotiating compliance agreements and letters of commitment, and monitoring subsequent compliance;
- providing technical assistance to contractors; and
- recommending enforcement actions by DOL or Justice.

C. Current Status

- In FY 1998, OFCCP requested a budget of \$69 million, an increase of \$10 million over FY 1997
- In 1998, OFCCP will conduct approximately 6,000 compliance reviews, 900 complaint investigations, and 4,100 other compliance actions.
- In FY 1998, the Office of Civil Rights requested a budget of \$4 million, a decrease of \$1 million from 1997.

D. Potential Improvements

- 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

IX. TREASURY/COMPTROLLER OF THE CURRENCY (OCC)

A. Structure/Process

- As with all federal agencies, Treasury must enforce Title VI provisions that prohibit discrimination in programs and activities receiving federal financial assistance.
- The Community Redevelopment Act (CRA) regulates banks and other financial institutions to ensure that fair-lending practices are followed.
- The Office of the Comptroller of the Currency, an independent office within Treasury, responsible for regulating commercial banks, promulgates and enforces CRA regulations. Treasury and Justice also pursue investigations against financial institutions that are violating fair-lending practices.
- Internal EEOC enforcement is part of Treasury's departmental management and administration function.

B. Current Status

- Line-item data on civil rights enforcement activities at Treasury was not provided in its FY 1998 budget.
- OCC has made enhanced CRA regulations and enforcement a priority.

X. INTERIOR - BUREAU OF INDIAN AFFAIRS (BIA)

A. Structure/Process

- The Indian Civil Rights Act of 1968 (ICRA) imposed restrictions on tribal governments similar to those found in the Bill of Rights.
- Other than *habeas corpus* actions, enforcement of ICRA takes place in tribal forums, tribal courts and Courts of Indian Offenses. Interior does not enforce or oversee enforcement of ICR. Exception: Tribes without their own courts can go to BIA courts for ICRA actions. The Office of Tribal Justice at DOJ reviews the administration of tribal justice across the federal government.
- Interior is also responsible for enforcing Title VI nondiscrimination requirements for all programs and activities that receive federal financial assistance.

B. Current Status

- BIA is working on a initiative to improve the way tribal courts provide services to tribe members.

C. Potential Improvements

- Enhance programs to strengthen tribal courts

XII. USDA - CIVIL RIGHTS ACTION TEAM

A. Structure

- Over the years, USDA has had a number of different offices responsible for Title VI and EEOC concerns at the agency.
- Title VI requires that programs and activities receiving funds from USDA be delivered free of discrimination. The Equal Credit Opportunity Act makes discrimination in USDA lending programs illegal as well.
- In December 1996, a group of black farmers demonstrated outside the White House calling for fair treatments in agricultural lending programs. The Civil Rights Action Team (CRAT) was appointed to report on civil rights issues across the agency and make recommendations for changes. Included in their report was a recommendation for a

consolidated, visible Office of Civil Rights.

B. Procedure

- Currently, USDA has a civil rights policy office, civil rights enforcement (which is handled in regional offices), small & disadvantaged business office and a National Appeals Division.
- The CRAT report points out that the process for filing Title VI complaints at USDA is fragmented --generally, complaints are filed with the agency within USDA responsible for the program/activity at issue.

C. Current Status

- The budget requests for civil rights at USDA is not separately reported. The U.S. Commission on Civil Rights expressed concern that absence of specific funding for Title VI contributed to inadequate enforcement.
- The CRAT issued its report in February 1997, which documents the absence of adequate Title VI and EEOC enforcement at the agency.

D. Possible Improvements

- Implementation of centralized office for civil rights enforcement.
- Compilation and dissemination of reliable data on civil rights enforcement within USDA.
- Revision of regulations -- according to CRAT, the civil rights enforcement regulations have not been revised since 1973.

XIII. OTHER AGENCIES

In addition to enforcing Title VI protections for their programs and activities, these other agencies are also active on a variety of civil rights matters:

- **Small Business Administration** -- provides assistance to Section 8 disadvantaged businesses, many of which are minority-owned.
- **Commerce** -- has programs to provide assistance to minority owned businesses.
- **EPA** -- pursues "environmental justice" cases. Minority communities have alleged that their communities are being used as dumping grounds for toxic substances, or are last priority for clean-ups of hazardous materials.
- **Transportation** -- complaints have been filed by communities alleging discrimination in the placement service delivery and maintenance of roads and public transit systems.

- **FCC** -- faces controversial issues around ensuring that minority broadcasters have access to wireless telephone, data-service, radio and other communication licenses.

XIV. POSSIBLE NEXT STEPS

- Initial planning meeting in early August with agency race initiative contacts and possibly one person from the agency's civil rights office. Possible participants:

<u>Agency</u>	<u>Race Initiative Contact</u>	<u>Office of Civil Rights</u>
Education	Leslie Thornton	Norma Cantu
EEOC	[Not listed by Cabinet Affairs]	
HHS	Clay Simpson	
HUD	Mercedes Marquez	
Labor	Virigina Apuzzo	
Justice	David Ogden	
Interior	David Montoya	
Treasury	Michael Froman	
USDA	Reba Evans	

- Follow-Up Meetings by mid-September:
 1. Agencies -- discuss preliminary recommendations for improvements
 2. Outreach -- meet with groups monitoring civil rights enforcement for suggestions of possible improvements, such as:
 - Citizen's Commission on Civil Rights
 - ACLU
 - American Council on Education
 - NAACP
 - National Urban League
 - National Council of La Raza
 - National Asian-Pacific American Legal Consortium
 - Urban Institute
 3. Coordination Issues -- possible separate discussion with Justice on coordination of civil rights effort across the government.
- Feedback to agencies on improvement proposals in early October.
- Progress meetings on implementation of improvement proposals/ideas in Oct-Dec.

APPENDIX A

Major congressional and presidential landmarks affecting civil rights enforcement are the:

- Equal Pay Act of 1963
- Civil Rights Act of 1964
- Voting Rights Act of 1965
- President Johnson's Executive Order 11246 in 1965
- Age Discrimination in Employment Act of 1967
- Title VIII of the Civil Rights Act of 1968
- Equal Employment Opportunity Act of 1972
- Title IX of the Education Amendments Act of 1972
- Rehabilitation Act of 1973
- Voting Rights Act Amendments of 1975
- Age Discrimination Act of 1975
- President Carter's Reorganization Plan No. 1 and equal opportunity executive orders
- Voting Rights Amendments of 1982
- Civil Rights for Institutionalized Person Act of 1986
- Housing and Community Development Act of 1987
- Civil Rights Restoration Act of 1987
- Civil Liberties Act of 1988
- Fair Housing Amendments Act of 1988
- Americans with Disabilities Act of 1990
- Civil Rights Act of 1991
- Voting Rights Language Assistance Act of 1992

Civil Rights, 1999

CIVIL RIGHTS ENFORCEMENT FUNDING (Budget Authority, in millions of dollars)							
Agency	FY 98 Enacted	FY 99 Proposed	Proposed Change	Percent Proposed Change	FY 1999 Likely	Likely Change	Percent Likely Change
EEOC	242	279	37	15 %	279	37	15 %
HUD-Fair Housing Activities	30	52	22	73 %	40	10	33 %
DOJ-Civil Rights Division	65	72	7	10 %	67	2	3 %
Labor-OFCCP	62	68	6	10 %	65	3	5 %
Education-Office for Civil Rights	62	68	6	10 %	66	4	6 %
HHS-Office of Civil Rights	20	21	1	5 %	21	1	5 %
Agriculture-Civil Rights Programs	17 ^{1/}	19	4	27 %	19	4	27 %
U.S. Commission on Civil Rights	9	11	2	22 %	9	0	0%
DOT-Office of Civil Rights	6	7	1	17 %	7	1	17%
Labor-Civil Rights Center	5	3	0	0	5	0	0 %
Total	516	602	86	17 %	578	62	12 %

1/ The FY 1998 supplemental bill added \$2 million to civil rights programs at the Department of Agriculture, bringing the FY 1998 enacted level to \$17 million, from \$15 million. The President's initiative included the original \$15 million for the Department of Agriculture, which is the number used in the totals on this spreadsheet

October 16, 1998
c:\work\civilrights\crappro1.wpd
htf:smc

Cm 13, 14

	1998 Actual	1999 Enacted	2000 Passback	12/11 Tentative 2000 Settlement
Civil Rights Enforcement:				
EEOC.....	242	279	288	288
HUD: Fair Housing Activities.....	30	40	42	42
DOJ: Civil Rights Division.....	65	69	76	80
Labor: OFCCP.....	62	65	74	74
Education: Office for Civil Rights.....	62	66	71	71
HHS: Office of Civil Rights.....	20	21	22	22
Agriculture: Civil Rights Programs.....	17	21	23	24
U.S. Commission on Civil Rights.....	9	9	11	11
DOT: Office of Civil Rights.....	6	7	7	8
Labor: Civil Rights Center.....	5	5	6	6
EPA: Office of Civil Rights.....	2	2	2	2
Subtotal, Civil Rights Enforcement.....	520	584	622	628

Economic Development/Urban Programs:

HUD: Urban Initiative.....	---	---	100	100
HUD: Empowerment Zones 1/.....	5	45	150	150
1/ Empowerment Zones are funded on the mandatory side starting in Year 2000.				
HUD: Brownfields	25	25	25	25
EPA: Brownfields	88	91	91	91
HUD: Regional Opportunity Counseling.....	---	10	20	20
Community Development Financial Institutions.....	80	95	100	100
Commerce: Minority Business Development Agency.....	25	27	27	27
Transportation: Minority Business Resource Center.....	5	5	5	5
SBA: Minority Economic Development Program:				
8(a) business development program.....	5	5	5	5
7(j) technical assistance program.....	3	3	5	5
SBA: New Market Ventures.....	---	---	17	21
EPA: Environmental Justice Programs.....	2	2	3	3

	1998 Actual	1999 Enacted	2000 Passback	12/11 Tentative 2000 Settlement
Documenting Discrimination:				
Tier I - Labor: Bureau of Labor Statistics.....	---	---	0.5	0.5
Tier II - Labor: OFCCP - Employment Testers proposal.	---	---	0.1	0.1
Tier III - HUD Fair Housing audits (non-add).....	---	[7.5]	[7.5]	[7.5]
Education:				
Strengthening Historically Black Colleges & Universities.	118	165	172	172
GEAR UP.....	---	120	200	240
Early Information/Awareness Campaign.....	---	---	15	15
Advanced Placement Courses.....	3	4	4	4
TRIO Programs.....	530	600	600	612
Initiatives placeholder.....	---	---	500	distributed
Title I LEA Grants.....	7,375	7,676	7,676	7,876
Migrant Education	305	355	355	380
Pell Grants (program level).....	7,345	7,704	8,009	8,009
Federal Work Study.....	830	870	934	934
America Reads/Reading Excellence.....	---	260	260	260
21st Century Community Learning Centers/After School.	40	200	250	350
Bilingual and Immigrant Education.....	354	380	380	415
Adult Education	361	385	385	405
Hispanic Serving Institutions.....	12	28	28	33
Minority Science.....	5	8	8	8
Strengthening Tribal Colleges and Universities.....	---	3	3	6
Magnet Schools.....	101	104	114	114

	1998 Actual	1999 Enacted	2000 Passback	12/11 Tentative 2000 Settlement
Criminal Justice:				
DOJ: Civil Rights Division [non-add].....	[65]	[69]	[76]	[80]
DOJ: FBI - Hate Crimes Initiatives.....	29	30	31	31
Other:				
Justice: Community Relations Service 1/.....	7	7	10	10
1/ Legislative language will be proposed to give the Attorney General authority to transfer \$3 m from other accounts to CRS.				
Commerce: Census - Improving Poverty Measurement..	---	---	5	5
Agriculture:				
Farm Service Agency - Direct Farm Loans.....	6	8	11	11
Rural Development - Farm Labor Housing.....	24	30	45	45
Cooperative State Research, Education and Extension Service (historically black land-grant institutions and Tuskegee University).....	53	56	53	53
Central Administration - Outreach for Socially Disadvantaged Farmers.....	3	3	6	10
Labor:				
Workforce Investment Act (WIA) adult programs.....	955	955	955	955
WIA formula grant youth programs.....	1,001	1,001	981	981
WIA Rewarding Achievement of Youth.....	---	---	20	20
WIA youth opportunity areas.....	---	250	250	250
Job Corps.....	1,246	1,308	1,308	1,308
HHS:				
Race and Health Initiative.....	---	65	85	85
Head Start 1/.....	4,347	4,680	4,997	4,997
Total, Race / Civil Rights Crosscut.....	25,807	28,125	29,820	29,574

U.S. Department of Labor
Employment Standards Administration
Federal Contractor Equal Employment Opportunity Standards Enforcement

Decision Paper: Compliance Assistance Initiative¹

Proposal: To provide \$13,795,000 and 44 FTE to continue the Office of Federal Contract Compliance Programs' (OFCCP) compliance strategy that addresses pay equity and workplace discrimination, expanding efforts to end systemic occupational segregation, and challenge discrimination in nontraditional jobs. OFCCP will evaluate program effectiveness and efficiency and strengthen inter and intra agency coordination as a way of furthering the effort. This strategy is designed to encourage compliance among federal contractors through self-certification, compliance evaluations, education and technical assistance as well as interactive use of technology. The strategic goal is to achieve equal employment opportunity and to prevent discrimination on the basis of race, religion, national origin, gender, disability or veterans' status. When successful, this proposal will contribute to a better quality workplace based on merit - one of the three strategic goals for the Department of Labor.

Rationale: The OFCCP provides protection from discrimination for 22 million workers at 200,000 federal contractor establishments. This proposal is designed to increase compliance by improving efficiency and customer service in the National Office and in each of the Regional Offices. The resources will give added impetus to the technical assistance effort to assist Federal contractors in understanding the regulatory requirements. Specific emphasis will continue the support and assistance to smaller companies that may not have the expertise to develop Affirmative Action Programs, enhance compliance in glass ceiling and pay equity issues as well as eliminating systemic discrimination in nontraditional jobs. Moreover, OFCCP will maintain reduced reporting requirements for small companies. The staff will provide grassroots seminars and technical assistance training sessions for contractors, contracting agencies, government agencies, and constituency groups through continued development and use of existing information technology.

¹ This approach includes \$6.8 mil and 22 FTE for women in nontraditional areas; and 447K and 3 FTE for Alternative Dispute Resolution (Innovative Enforcement).

This compliance strategy will allow:

- continued monitoring of pay equity to reduce occupational segregation and to assure that appropriate criteria are used for setting salaries for women, minorities, or employees with disabilities. OFCCP, in conjunction with the Women's Bureau and the Employment Training Administration, and other governmental contracting agencies, will develop and provide guidelines via the Internet and will conduct internal and external awareness seminars. This will reduce the wage gap by the year 2002.² OFCCP will continue to educate employers to make employment decisions without regard to differences and to enforce merit-based employment practices.
- increased monitoring of contractor compliance in equal employment opportunities for women in non-traditional occupations. The resources will give added impetus in assisting Federal contractors in understanding their regulatory requirements relating to women working in non-traditional occupations. Specific emphasis will continue the support and assistance to smaller companies that may not have the expertise to develop Affirmative Action Programs, enhance compliance in glass ceiling issues as well as eliminating systemic discrimination in non-traditional jobs. Moreover, OFCCP will maintain reduced reporting requirements for small companies. OFCCP will become more actively involved in the strategic planning and recruitment for female nontraditional employment areas by identifying and pursuing a wide range of recruitment sources and publishing a recruitment directory. The staff will provide grassroots seminars and technical assistance training sessions for contractors, contracting agencies, government agencies, and constituency groups through continued development and use of existing information technology.
- interactive technical assistance through technology on regulatory requirements (E-laws) relating to Vietnam era veterans, disability, gender, race, national origin and religious discrimination. Contractors may use this interactive model to train employees in affirmative action. We will conduct disability and Vietnam era veteran availability research by geographic area to strengthen enforcement efforts.

²President Clinton supports pay equity legislation which will heighten awareness and the need to intensify efforts to identify and rectify compensation related discrimination.

Focus on
women

EW →

Civ. Rights
199

U.S. Department of Labor
Employment Standards Administration
Federal Contractor Equal Employment Opportunity Standards Enforcement

Decision Paper: Women in Non-Traditional Occupations Initiative

Proposal:

To provide \$6.8 million and 22 FTE to continue the Office of Federal Contract Compliance Programs' (OFCCP) compliance strategy that addresses workplace discrimination, expanding efforts to end systemic occupational discrimination, interactive technical assistance and recognizing best practices initiatives for women in non-traditional careers. OFCCP, working in concert with the Employment and Training Administration (ETA) and the Women's Bureau (WB) will build on partnerships with employers, industry associations, labor unions, educational institutions, and with other organizations to create employment linkages to remove workplace barriers. This will identify and develop model projects which will improve women's access to and experiences in non-traditional occupations. This initiative will stimulate the provision of employment career breakthroughs to raise women's interest in and reinforce expectations that they can succeed in nontraditional employment.

OFCCP plans to initiate an estimated twelve projects to identify best practices and models, emphasize anti-discrimination and anti-harassment activities, and explore incentives to improve access to and acceptance of women into glass ceiling and nontraditional opportunities - high growth, high pay, high skill careers.

Rationale:

The OFCCP provides protection from discrimination for all workers, including women in non-traditional careers at federal contractor establishments. This proposal is designed to achieve contractor compliance in the arena of equal employment opportunities. The resources will give added impetus in assisting Federal contractors in understanding their regulatory requirements relating to women working in non-traditional occupations. Specific emphasis will continue the support and assistance to smaller companies that may not have the expertise to develop Affirmative Action Programs, enhance glass ceiling and compliance as well as eliminating systemic discrimination in nontraditional jobs.

271 - 169
295

Moreover, OFCCP will maintain reduced reporting requirements for small companies. The staff will provide grassroots seminars and technical assistance training sessions for contractors, contracting agencies, government agencies, and constituency groups through continued development and use of existing information technology.

This approach will allow for:

- expanded use of the mega-project strategy in construction, "high tech" and scientific, manufacturing, and service industries, to increase the presence of women in non-traditional jobs through the formation of contractor linkages. An example of this DOL cross cutting initiative is the Transportation Equity Act for the 21st Century legislation (TEA-21). This legislation not only includes the $\frac{1}{2}$ of 1 percent funding for training support services, but also includes mega-construction projects. By developing model projects in collaboration with several DOL agencies such as ETA and WB, and other governmental contracting agencies such as the Department of Transportation, federal contractors, community based organizations and unions, early identification and coordination of these mega-projects through pre-bid seminars will greatly assist contractors in identifying resources for recruiting (welfare to work participants) and developing qualified women for non-traditional jobs. Enhance the mega construction MIS system to track the female participation and retention rates in nontraditional jobs;
- providing existing Compliance Officers (Cos) enhanced skills training in identifying high impact systemic and occupational discrimination and developing enforcement packages. Due to the complexity of enforcement actions, more expert witnesses will be required to solidify enforcement cases involved in litigation. Evaluation of the role of expert witnesses and the efficiency of Alternative Dispute Resolution (ADR) will be necessary to determine future program mediation direction;
- implementing an electronic Affirmative Action Program Summary. This summary will facilitate the electronic submission of compliance related data by federal contractors and allow OFCCP to electronically verify the data, thereby increasing OFCCP's efficiency and effectiveness to monitor Federal contractors efforts to increase opportunities for women in non-traditional occupations. This will improve OFCCP's targeting of contractors for evaluation, as it allows database analysis of information. The results of that analysis will be the basis for OFCCP's new tiered review compliance

process including compliance checks, off-site record reviews, focused reviews, and compliance reviews;

- interactive technical assistance through technology on regulatory requirements (E-laws) relating to non-traditional occupational discrimination. Contractors may use this interactive model to train employees in affirmative action. OFCCP will analyze participation rates, review results, and expand the concept of welfare to work which has resulted in placing women in nontraditional areas. OFCCP will invest resources to develop and track the referral, selection, and retention rates in nontraditional employment areas, including corporate management reviews (glass ceiling), and share results with ETA, BLS, Women's Bureau, and other appropriate agencies and constituent groups;
- enhanced "Best Practices" which cross all mission and functional areas will be used to document the existence of non-traditional occupational discrimination in the workplace and help determine the industries and geographic locations where OFCCP's technical assistance is most needed. Early case intervention, focused accountability reviews, and developing MIS systems will assist OFCCP to investigate multiple discrimination issues and measure program effectiveness to eradicate discrimination. This information will be made available to employers and employer associations through a variety of means, including the use of WEB technology, OFCCP publication, and sharing with other DOL agencies for utilization in their awareness and community outreach projects; and
- enhance outreach efforts, such as research and public education grants on gender on mega construction projects, corporate management reviews (glass ceiling), and welfare to work participation; as well as technical and educational brochures that will keep the public informed about the various OFCCP requirements. These efforts will also be used to inform the contracting community of the programs' accomplishments and provide candidates for employment. Also, the effort will be used to develop models in partnership with community based organizations (CBO) and Regional Industry Liaison Groups (ILG) to deliver technical assistance to CBO and ILG members and employees.

Budget Discussion/Implications: The "Women in Non-Traditional Occupations Initiative" increases OFCCP's allocation by 22 FTE and \$6,800,000. Incorporated within the requested level is; \$3.817M and 15 FTE for construction contractor compliance to advance representation of women in non-traditional jobs; \$200K for strategic litigation;

\$200K for Alternative Dispute Resolution; \$200K for the AAP Summary report; \$600K for interactive technical assistance; \$1.4M and 7 FTE for best practices; and \$383K for outreach and education grants.

Impact on Agency Strategic Goals:

This initiative will strengthen the agency's, and DOL related agencies, activities in providing technical assistance to contractors in the formulation of Affirmative Action Plans, reducing the pay gap, eliminating occupational segregation, improving work benefits, and enhancing employees skills. This is especially true for small and emerging contractors unfamiliar with their responsibilities; identifying and resolving systemic discrimination; assisting contractors in identifying resources for recruiting and developing qualified individuals into non-traditional and glass ceiling jobs; through the wide spread and varied "best practices" guidelines and determining the industries and geographic locations needing technical assistance; through our working with ETA and WB, educating employers and constituency groups on non-discriminatory employment practices through outreach; and continuing the development of partnerships with community based organizations.

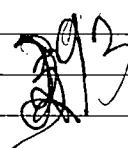
Civil Rts.
1995

	A	B	C
1			
2		DISCUT FUNDING SUMMARY	
3		(in millions of dollars)	
4			
5			
6			1998
7			Actual
8			
9		Civil Rights Enforcement:	
10			
11		EEOC.....	242
12		HUD: Fair Housing Activities.....	30
13		DOJ: Civil Rights Division.....	65
14		Labor: OFCCP.....	62
15		Education: Office for Civil Rights.....	62
16		HHS: Office of Civil Rights.....	20
17		Agriculture: Civil Rights Programs.....	17
18		U.S. Commission on Civil Rights.....	9
19		DOT: Office of Civil Rights.....	6
20		Labor: Civil Rights Center.....	5
21		EPA: Office of Civil Rights.....	2
22			-----
23		Subtotal, Civil Rights Enforcement.....	520
24			
25			
26		Economic Development/Urban Programs:	
27			
28		HUD: Urban Initiative.....	0
29			
30		HUD: Empowerment Zones 1/.....	5
31		1/ Empowerment Zones are funded on the mandatory side starting in Year 20	
32			
33		HUD: Brownfields	25
34			
35		EPA: Brownfields	88
36			
37		HUD: Regional Opportunity Counseling.....	0
38			
39		Community Development Financial Institutions.....	80
40			
41		Commerce: Minority Business Development Agency.....	25

B

10
13

23

	D	E	F	G
1				
2				
3				
4				
5				
6	1999	2000	12/11 Tentative	
7	Enacted	Passback	2000 Settlement	
8				
9				
10				
11	279	288	288	
12	40	42	42	
13	69	76	80	
14	65	74	74	
15	66	71	71	
16	21	22	22	
17	21	23	24	
18	9	11	11	
19	7	7	8	
20	5	6	6	
21	2	2	2	
22	-----	-----	-----	
23	584	622	628	
24				
25				
26				
27				
28	0	100	100	
29				
30	45	150	150	
31				
32				
33	25	25	25	
34				
35	91	91	91	
36				
37	10	20	20	
38				
39	95	100	100	
40				
41	27	27	27	

	A	B	C
42			
43		Transportation: Minority Business Resource Center.....	5
44			
45		SBA: Minority Economic Development Program:	
46		8(a) business development program.....	5
47		7(j) technical assistance program.....	3
48			
49		SBA: New Market Ventures.....	0
50			
51		EPA: Environmental Justice Programs.....	2
52			
53		Documenting Discrimination:	
54			
55		Tier I - Labor: Bureau of Labor Statistics.....	0
56			
57		Tier II - Labor: OFCCP - Employment Testers proposal.....	0
58			
59		Tier III - HUD Fair Housing audits [non-add].....	0
60			
61			
62		Education:	
63			
64		Strengthening Historically Black Colleges & Universities..	118
65			
66		GEAR UP.....	0
67			
68		Early Information/Awareness Campaign.....	0
69			
70		Advanced Placement Courses.....	3
71			
72		TRIO Programs.....	530
73			
74		Initiatives placeholder.....	0
75			
76		Title I LEA Grants.....	7,375
77			
78		Migrant Education	305
79			
80		Pell Grants (program level).....	7,345
81			
82		Federal Work Study.....	830

	D	E	F	G
42				
43	5	5	5	
44				
45				
46	5	5	5	
47	3	5	5	
48				
49	0	17	21	
50				
51	2	3	3	
52				
53				
54				
55	0	0.5	0.5	
56				
57	0	0.1	0.1	
58				
59	[7.5]	[7.5]	[7.5]	
60				
61				
62				
63				
64	165	172	172	
65				
66	120	200	240	
67				
68	0	15	15	
69				
70	4	4	4	
71				
72	600	600	612	
73				
74	0	500	distributed	
75				
76	7,676	7,676	7,676	
77				
78	355	355	380	
79				
80	7,704	8,009	8,009	
81				
82	870	934	934	

	A	B	C
83			
84		America Reads/Reading Excellence.....	0
85			
86		21st Century Community Learning Centers/After School.....	40
87			
88		Bilingual and Immigrant Education.....	354
89			
90		Adult Education	361
91			
92		Hispanic Serving Institutions.....	12
93			
94		Minority Science.....	5
95			
96		Strengthening Tribal Colleges and Universities.....	0
97			
98		Magnet Schools.....	101
99			
100			
101			
102		Criminal Justice:	
103			
104		DOJ: Civil Rights Division [non-add].....	[65]
105			
106		DOJ: FBI - Hate Crimes Initiatives.....	29
107			
108			
109		Other:	
110			
111		Justice: Community Relations Service 1/.....	7
112		1/ Legislative language will be proposed to give the Attorney General authority	
113			
114		Commerce: Census - Improving Poverty Measurement.....	0
115			
116		Agriculture:	
117			
118		Farm Service Agency - Direct Farm Loans.....	6
119			
120		Rural Development - Farm Labor Housing.....	24
121			
122		Cooperative State Research, Education and	
123		Extension Service (historically black land-grant	

	D	E	F	G
83				
84	260	260	260	
85				
86	200	250	350	
87				
88	380	380	415	
89				
90	385	385	405	
91				
92	28	28	33	
93				
94	8	8	8	
95				
96	3	3	6	
97				
98	104	114	114	
99				
100				
101				
102				
103				
104	[69]	[76]	[80]	
105				
106	30	31	31	
107				
108				
109				
110				
111	7	10	10	
112				
113				
114	0	5	5	
115				
116				
117				
118	8	11	11	
119				
120	30	45	45	
121				
122				
123				

	A	B	C
124		institutions and Tuskegee University).....	53
125			
126		Central Administration - Outreach for Socially	
127		Disadvantaged Farmers.....	3
128			
129		Labor:	
130			
131		Workforce Investment Act (WIA) adult programs.....	955
132			
133		WIA formula grant youth programs.....	1,001
134			
135		WIA Rewarding Achievement of Youth.....	0
136			
137		WIA youth opportunity areas.....	0
138			
139		Job Corps.....	1,246
140			
141		HHS:	
142			
143		Race and Health Initiative.....	0
144			
145		Head Start 1/.....	4,347
146			
147			
148			
149			-----
150		Total, Race / Civil Rights Crosscut.....	25,807
151			
152			
153			
154			
155			
156			
157			
158			
159			
160			
161			
162			
163			
164			

	D	E	F	G
124	56	53	53	
125				
126				
127	3	6	10	
128				
129				
130				
131	955	955	955	
132				
133	1,001	981	981	
134				
135	0	20	20	
136				
137	250	250	250	
138				
139	1,308	1,308	1,308	
140				
141				
142				
143	65	85	85	
144				
145	4,660	4,997	4,997	
146				
147				
148				
149	-----	-----	-----	
150	28,125	29,820	29,574	
151				
152				
153				
154				
155				
156				
157				
158				
159				
160				
161				
162				
163				
164				

	A	B	C
165			
166			

	D	E	F	G
165				
166				